

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8323



City Council Tentative Agenda

Tuesday, March 11, 2025

4:30 PM

City Hall Room 219

City Council Members

Council Member Robert B. Stafford Ward 1

Council Member Dr. D'Andre Jones Ward 1

Council Member Sarah Moore Ward 2

Council Member Mike Wiederkehr Ward 2

Council Member Scott Berna Ward 3

Council Member Sarah Bunch Ward 3

Council Member Teresa Turk Ward 4

Council Member Min. Monique Jones Ward 4

Mayor Molly Rawn

City Attorney Kit Williams

City Clerk Treasurer Kara Paxton

MEETING INFORMATION:

1. **WEBINAR ID: 841 8333 8578**

[PUBLIC REGISTRATION LINK: HTTPS://US06WEB.ZOOM.US/WEBINAR/REGISTER/WN_WW1YFN7NTPMOGZKYDCVGOA](https://us06web.zoom.us/webinar/register/jn1YFN7NTPMOGZKYDCVGOA)

AGENDAITEMCOMMENT@FAYETTEVILLE-AR.GOV

CALL TO ORDER**ROLL CALL****PLEDGE OF ALLEGIANCE****MAYOR' S ANNOUNCEMENTS, PROCLAMATIONS AND RECOGNITIONS**

1. **STATE OF THE CITY ADDRESS - MAYOR MOLLY RAWN**

CITY COUNCIL MEETING PRESENTATIONS, REPORTS AND DISCUSSION ITEMS

1. **NOMINATING COMMITTEE REPORT - COMMITTEE CHAIR**

A. CONSENT

- A.1. APPROVAL OF THE MARCH 4, 2025 CITY COUNCIL MEETING MINUTES**

- A.2. FLINTCO, LLC. (SERVICE CONTRACT):**

A RESOLUTION TO AWARD RFP 24-15 AND APPROVE A CONTRACT WITH FLINTCO, LLC. IN THE AMOUNT OF \$1.00 TO PROVIDE CONSTRUCTION MANAGER AT RISK SERVICES FOR IMPROVEMENTS TO MAPLE STREET (2025-292)

- A.3. J L BRYSON, INC. (SERVICE CONTRACT):**

A RESOLUTION TO AWARD BID #25-31 AND AUTHORIZE A CONTRACT WITH J L BRYSON, INC. IN THE AMOUNT OF \$672,789.02 FOR THE TRANSFER STATION IMPROVEMENTS, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$67,000.00 (2025-296)

- A.4. HAWKINS-WEIR ENGINEERS, INC. (AMENDMENT NO. 2):**

A RESOLUTION TO APPROVE AMENDMENT NO. 2 TO THE ENGINEERING SERVICES CONTRACT WITH HAWKINS-WEIR ENGINEERS, INC. IN AN AMOUNT NOT TO EXCEED \$65,900.00 FOR ADDITIONAL DESIGN AND CONSTRUCTION SERVICES ASSOCIATED WITH THE FAYETTEVILLE

RECYCLING AND TRASH COLLECTIONS DIVISION (2025-297)

A.5. I-49 AND MLK EASEMENT CONDEMNATIONS (UTILITY RELOCATIONS):

A RESOLUTION TO AUTHORIZE THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY INDIVIDUALS NEEDED FOR THE I-49/MLK UTILITY RELOCATIONS PROJECT (2025-302)

A.6. HIGHWAY 112 EASEMENT CONDEMNATIONS (UTILITY RELOCATIONS):

A RESOLUTION TO AUTHORIZE THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY INDIVIDUALS NEEDED FOR THE HIGHWAY 112 UTILITY RELOCATIONS PROJECT, AND TO APPROVE A BUDGET ADJUSTMENT (2025-303)

A.7. 2025 STORMWATER EDUCATION (SERVICE AGREEMENT):

A RESOLUTION TO WAIVE COMPETITIVE BIDDING AND APPROVE AN AGREEMENT WITH THE NORTHWEST ARKANSAS REGIONAL PLANNING COMMISSION FOR A STORMWATER EDUCATION PROGRAM TO BE PROVIDED BY THE UNIVERSITY OF ARKANSAS COOPERATIVE EXTENSION SERVICE IN THE AMOUNT OF \$44,705.91 (2025-232)

A.8. WATERSHED CONSERVATION RESOURCE CENTER (TASK ORDER #14):

A RESOLUTION TO APPROVE TASK ORDER NO. 14 WITH THE WATERSHED CONSERVATION RESOURCE CENTER IN THE AMOUNT OF \$37,000.00 FOR CONTINUING NATIVE VEGETATION ESTABLISHMENT EFFORTS AND PERFORMING MINOR ADJUSTMENTS WITHIN THE STREAM AS NECESSARY TO ENSURE THE CONTINUED SUCCESS OF COMPLETED RESTORATION PROJECTS (2025-233)

A.9. MOTOROLA, INC. (SERVICE AGREEMENT):

A RESOLUTION TO WAIVE COMPETITIVE BIDDING AND APPROVE A FIVE-YEAR SERVICE AGREEMENT WITH MOTOROLA, INC. IN THE TOTAL AMOUNT OF \$266,631.92 FOR MAINTENANCE OF THE CITY'S MOTOROLA DISPATCH RADIO EQUIPMENT (2025-235)

B. UNFINISHED BUSINESS**B.1. DISCLOSURE OF RENTAL FEES AND COSTS (ORDINANCE):**

AN ORDINANCE TO ENACT § 120.03 TRUTH IN LEASING; DISCLOSURE OF RENTAL FEES AND COSTS FOR LEASED RESIDENTIAL PROPERTIES IN THE CITY OF FAYETTEVILLE (2025-231)

AT THE MARCH 4, 2025 CITY COUNCIL MEETING THIS ORDINANCE WAS

LEFT ON THE FIRST READING

C. NEW BUSINESS

C.1. ADMINISTRATIVE ITEM (AMEND CHAPTER 94 - FIRE PREVENTION):

AN ORDINANCE TO AMEND CHAPTER 94, FIRE PREVENTION OF THE FAYETTEVILLE CODE OF ORDINANCES TO MODIFY EXISTING FEES AND CREATE A FEE SCHEDULE (2025-294)

C.2. VACATION-2025-0001: (1278 W. VAN ASCHE DR./LISA ACADEMY HIGH SCHOOL, 171):

AN ORDINANCE TO APPROVE VAC-25-01 FOR PROPERTY LOCATED AT 1278 WEST VAN ASHE DRIVE IN WARD 2 TO VACATE 0.06 ACRES OF SANITARY SEWER EASEMENT (2025-274)

C.3. VACATION-2024-0028: (1001 W BULLDOG BLVD./FAYETTEVILLE HIGH SCHOOL, 522):

AN ORDINANCE TO APPROVE VAC-24-28 FOR PROPERTY LOCATED AT 1001 WEST BULLDOG BOULEVARD IN WARD 1 TO VACATE 0.05 ACRES OF UTILITY EASEMENT (2025-273)

C.4. VACATION-2025-0006: (1795 N. LEVERETT AVE./HOGWILDHOUSING LLC, 366):

AN ORDINANCE TO APPROVE VAC-25-06 FOR PROPERTY LOCATED AT 1795 NORTH LEVERETT AVENUE IN WARD 2 TO VACATE 0.04 ACRES OF ACCESS EASEMENT (2025-293)

C.5. REZONING-2025-0001: (903 W. NORTH ST./JORDAN GROUP LLC, 444):

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2025-01 FOR APPROXIMATELY 0.11 ACRES LOCATED AT 903 WEST NORTH STREET IN WARD 2 FROM R-O, RESIDENTIAL-OFFICE TO RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE (2025-262)

C.6. REZONING-2024-0058: (123 E. 15TH ST./KOMANDER, 602):

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2024-58 FOR APPROXIMATELY 3.14 ACRES LOCATED AT 123 EAST 5TH STREET IN WARD 1 FROM R-A, RESIDENTIAL-AGRICULTURAL TO DG, DOWNTOWN GENERAL (2025-275)

PROPOSED AGENDA ADDITIONS

D. CITY COUNCIL AGENDA SESSION PRESENTATIONS

D.1. SHORT-TERM RENTAL COMPLIANCE UPDATE - Z. WALKER

E. CITY COUNCIL TOUR

F. ANNOUNCEMENTS

G. ADJOURNMENT



MEETING OF MARCH 11, 2025

TO: Mayor Rawn and City Council

THRU: Chris Brown, Public Works Director
Keith Macedo, Interim Chief of Staff

FROM: Matt Mihalevich, Active Transportation Manager

SUBJECT: **FLINTCO, LLC. (SERVICE CONTRACT):**

RECOMMENDATION:

Staff recommends approval of a contract with Flintco, LLC, who was selected by RFP 24-15 to provide Construction Manager at Risk (CMAR) services for the Maple Street Improvements for pre-construction services for the amount of \$1.00.

BACKGROUND:

The City of Fayetteville and the University of Arkansas have been working together over the past 7 years toward a common goal of improving the section of Maple Street from the Razorback Greenway west to Garland Ave. to create a multi-modal street with a focus on safety of all users.

On March, 31st 2020 the Transportation Committee reviewed the Maple Street project and forwarded a recommendation to the City Council to apply for grant funding and authorize the allocation of 2019 bond funds as matching funds for the project. Committee members expressed support for the vegetation buffer and recommended the wider crosswalk striping.

On December 4th, 2024 resolution 301-24 was approved to accept Federal aid funding in the amount of \$25,000,000 from the Department of Transportation Federal Highway Administration through the Safe Streets and Roads for all program. This funding will be used for 5 construction projects with a focus on safety. The Maple Street Improvements will be the first of the 5 projects to go to construction with a goal of starting work when the University of Arkansas Students are out for the summer of 2025.

DISCUSSION:

The proposed improvements to Maple Street include 2,475-linear feet of new roadway surface, upgraded traffic signals, storm drainage, 8-foot-wide senior walk sidewalks on the north and south sides and a separated two-way cycle track along the south side extending from the Razorback Greenway to Garland Avenue. Maple Street has been identified as a catalyst project in the Northwest Arkansas Regional Bicycle and Pedestrian Master Plan. Currently bicycle access to the University of Arkansas campus core and the surrounding neighborhoods is limited. The addition of the Maple Street connection will greatly improve the accessibility from the trail system to this major destination for the campus's faculty, staff, visitors and students. The safety upgrades will include a low vegetation buffer between the cycle track and the road. In addition, enhanced mid-block crosswalks are proposed with decorative pavement markings and passive detection bollards for activation of beacons.

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

The design plans for the Maple Street project are currently being finalized by Olsson. To prepare for the construction phase of the project, it is necessary to have a construction manager at risk on board to evaluate the final design, recommend localized construction methods and materials and develop the construction cost.

A request for proposals (RFP 24-15) was advertised in late 2024 and qualifications were received from four construction management companies. On February 24th, 2025, a selection committee composed of staff representatives from the City of Fayetteville and non-voting members from the University of Arkansas selected Flintco, LLC for the construction management of the Maple Street Improvements.

The contract for consideration with this proposal consists of pre-construction services including working closely with Olsson on phasing plans, traffic control, evaluate best construction methods and bidding of the project to provide a Guaranteed Maximum Price (GMP). The City will then negotiate the final construction costs which will be reflected in the guaranteed Maximum Price (GMP). The GMP proposal will include all costs associated with the construction of the Maple Street Improvements for approval by the City Council.

BUDGET/STAFF IMPACT:

The City has been awarded Federal funding for this project through the Safe Streets and Roads for all program (SS4A) and approved by resolution 301-24. The contract for pre-construction services by Flintco is \$1.00.

ATTACHMENTS: SRF (#3) , UofA Connections Map 8.5 x 11 (#4), RFP 24-15 - Voting Results (#5), RFP 24-15 Contract - Flintco Signed (#6), RFP 24-15 - Appendix A - Scope or Work (#7), RFP 24-15 - Appendix B - Pre-Con Cost (#8), RFP 24-15 - Appendix C - City Issued RFP (#9), RFP 24-15 - Submittal (#10)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2025-292

FLINTCO, LLC. (SERVICE CONTRACT):

A RESOLUTION TO AWARD RFP 24-15 AND APPROVE A CONTRACT WITH FLINTCO, LLC. IN THE AMOUNT OF \$1.00 TO PROVIDE CONSTRUCTION MANAGER AT RISK SERVICES FOR IMPROVEMENTS TO MAPLE STREET

WHEREAS, the City and the University of Arkansas have been working together over the past 7 years toward a common goal of improving the section of Maple Street from the Razorback Greenway west to Garland Avenue to create a multi-modal street with a focus on safety of all users; and

WHEREAS, on March 31, 2020, the Transportation Committee recommended the City Council apply for grant funding and authorize the allocation of 2019 bond funds as matching funds for the project; and

WHEREAS, on December 4, 2024 City Council approved Resolution 301-24 that accepted Federal aid funding in the amount of \$25,000,000.00 from the Department of Transportation Federal Highway Administration through the Safe Streets and Roads for all program; and

WHEREAS, Maple Street has been identified as a catalyst project in the NWA Regional Bicycle and Pedestrian Master Plan and the addition of the Maple Street connection will greatly improve the accessibility from the trail system to this major destination for the campus's faculty, staff, visitors and students; and

WHEREAS, the proposed improvements to Maple Street include 2,475-linear feet of new roadway surface, upgraded traffic signals, storm drainage, 8-foot-wide senior walk sidewalks, a separated two-way cycle track, enhanced mid-block crosswalks with decorative pavement markings and passive detection bollards for activation of beacons; and

WHEREAS, a request for proposals for construction manager at risk services was advertised in late 2024 and on February 24th, 2025, a selection committee composed of staff representatives from the City of Fayetteville and non-voting members from the University of Arkansas selected Flintco, LLC for the construction management of the Maple Street Improvements; and

WHEREAS, the initial contract consists of pre-construction services including working closely with design engineer Olsson, Inc. on phasing plans, traffic control, evaluate best construction methods and bidding of the project to provide a Guaranteed Maximum Price (GMP).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby awards RFP 24-15 and authorizes Mayor Rawn to sign a contract with Flintco, LLC in the amount of \$1.00 to provide construction manager at risk services for improvements to Maple Street.

City of Fayetteville Staff Review Form

2025-292

Item ID

3/18/2025

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Matt Mihalevich

2/27/2025

ENGINEERING (621)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of a contract with Flintco, LLC who was selected by RFQ 24-15 to provide Construction Manager at Risk (CMAR) services for the Maple Street Improvements in the amount of \$1.00.

Budget Impact:

2235.900.9223-5814.05

Safe Streets and Roads Grant

Account Number

Fund

32401.9223

Safe Streets and Roads Grant - W Maple St

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 26,250,000.00

Expenses (Actual+Encum)

\$ -

Available Budget

\$ 26,250,000.00

Does item have a direct cost? Yes

Item Cost

\$ 1.00

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 26,249,999.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



CITY OF
FAYETTEVILLE
ARKANSAS

SELECTION COMMITTEE - VOTING RESULTS

Selection Description: RFP 24-15, CMAR for Maple Street
Improvements

Selection Committee Date/Time: 02/24/2025 at 3:45 PM in Room #326

Firms are listed in alphabetical order			
Overall RANK	1	2	3
	Flintco, LLC	Nabholz Construction	
1st			
2nd			
3rd			

OVERALL RANK SUMMARY SCORING

1st ranked firm:

Flintco, LLC

2nd ranked firm:

Nabholz Construction

Tallied by:

Kenny Fitch
Kenny Fitch, Sr. Procurement Agent

Date: 2 / 25 / 25

Amanda Beilfuss
Amanda Beilfuss, Procurement Director

Date: 2 / 25 / 25



**CITY OF
FAYETTEVILLE
ARKANSAS**

Contract for Construction
Manager at Risk Services
Maple Street Improvements
BETWEEN City of Fayetteville, Arkansas and
Flintco, LLC

THIS AGREEMENT is made this _____ day of _____, 2025, by and between **City of Fayetteville**, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE or CITY) and **Flintco, LLC**, (construction manager at risk, hereinafter called CMAR, Construction Manager, Flintco OR VENDOR), and CITY OF FAYETTEVILLE from time to time requires professional CMAR services in connection with the evaluation, design, and/or construction supervision of capital improvement projects. Therefore, CITY OF FAYETTEVILLE and CMAR in consideration of their mutual covenants agree as follows:

CMAR shall serve as CITY OF FAYETTEVILLE's professional CMAR consultant in those assignments to which this Agreement applies and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of services defined in the scope of work. All services shall be performed under the direction of a CMAR registered in the State of Arkansas and licensed by the Arkansas Contractor's Licensing Board with a Municipal and Utility Construction classification.

1. Contracted parties and relationship:

- a. This agreement shall be binding between all parties. Fees for CMAR services shall be provided as identified in appendices.
 - i. **Flintco's** Tax identification number (TIN) ending in 1079
 - ii. **Flintco's** Arkansas Contractor License No. 1976870625
 - iii. **Flintco's** Secretary of State Filing No. 800188970
- b. Parties agree to act on the basis of mutual trust, good faith, and fair dealing, and perform in a fiscally responsible and timely manner. Parties shall each endeavor to promote harmony and cooperation among all Project participants.

2. Entire Agreement and Exhibits: This Agreement sets forth the entire agreement and understanding between the parties on the subject matter of this Agreement. Neither party shall be bound by any conditions, definitions, representations or warranties with respect to the subject matter of this Agreement other than those as expressly provided herein.

- a. Appendices included under this agreement include the following:
 - i. **Appendix A:** Scope of Services
 - ii. **Appendix B:** CMAR Fee Schedule
 - iii. **Appendix C:** RFP 24-15, Construction Manager at Risk for Maple Street Improvements
 - iv. **Appendix D:** **Flintco's** Response to RFP 24-15
 - v. **Appendix E:** **Flintco's** current Certificate of Insurance
- b. This agreement may be modified only by a duly executed written instrument signed by the CITY and CMAR.
- c. **ORDER OF PRECEDENCE:** In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the documents shall govern in the following order: (a) Change Orders, affidavits, and written amendments to this Agreement which are executed by all parties; (b) the Agreement; (c) CMAR's response to RFP 24-15 (d) City's published RFP 24-15 and associated Addenda and attachments.

3. Notices: Any notice required under this Agreement shall be in writing, address to the appropriate party at the following addresses:

- a. City of Fayetteville: Attention: Mayor Molly A. Rawn, 113 W. Mountain, Fayetteville, AR 72701
- b. Flintco, LLC.: Attention: Brent Farmer, 184 E. Fantinel Blvd., Springdale, AR 72762

4. General Provisions:

- a. **ETHICS:** All parties shall perform with integrity. Each shall avoid conflicts of interest and promptly disclose to any other part any conflicts that may arise. All parties warrant that it has not and shall not pay or receive any contingent fees or gratuities to or from any other party, including agents, officer's employers, Subcontractors, Sub subcontractors, Suppliers, Volunteers, Elected Officials, or Others to secure preferential treatment.
- b. When the Construction Documents, Guaranteed Maximum Price (GMP), and other descriptive documents defining the work are complete, they shall be identified and included in this Agreement by mutually agreed upon amendment to this Agreement.
- c. **Workmanship:** The Work shall be executed in accordance with the Contract Documents in a workmanlike manner. All materials used in the Work shall be furnished in sufficient quantities to facilitate the proper and expeditious execution of the Work and shall be new except as otherwise provided in the Contract Documents.
- d. **MATERIALS FURNISHED BY OWNER OR OTHERS:** If the Work includes installation of materials or equipment furnished by City or Others, it shall be the responsibility of Construction Manager to examine the items so provided and thereupon handle, store, and install the items, unless otherwise provided in the Contract Documents, with such skill and care as to provide a satisfactory and proper installation. Loss or damage due to acts or omissions of Construction Manager shall be the responsibility of Construction Manager and may be deducted from any amounts due or to become due Construction Manager. Any defects discovered in such materials or equipment shall be reported at once to the City and the City's contracted third-party Design Professional. Following receipt of written notice from Construction Manager of defects, City and Design Professional shall promptly inform Construction Manager what action, if any, Construction Manager shall take with regard to the defects.
- e. **WORKSITE VISIT:** Construction Manager acknowledges that it has visited, or has had the opportunity to visit, the Worksite to visually inspect the general and local conditions which could affect the Work.
- f. If applicable, Construction Manager shall perform cutting, fitting, and patching necessary to coordinate the various parts of the Work and to prepare its Work for the work of City or Others.
 - i. Cutting, patching, or altering the work of City or Others shall be done with the prior written approval of City and Design Professional. Such approval shall not be unreasonably withheld.
- g. **COMPLIANCE WITH LAWS:** Construction Manager shall comply with all the Law at its own cost. Construction Manager shall be liable to City for all loss, cost, or expense attributable to any acts or omissions by Construction Manager, its employees, subcontractors, suppliers, and agents for failure to comply with Laws, including fines, penalties, or corrective measures.
 - i. **CHANGES IN THE LAW:** The GMP, estimated Cost of the Work, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion, and, if appropriate, the Compensation for Preconstruction Services shall be equitably adjusted for additional costs or time needed resulting from Laws enacted after the date of this Agreement, including taxes.
- h. **COST OF CORRECTING DAMAGED OR DESTROYED WORK:** With regard to damage or loss attributable to the acts or omissions of City or Others and not to Construction Manager, City may either (a) promptly remedy

the damage or loss and assume affected warranty responsibilities, (b) accept the damage or loss, or (c) issue a Change Order to remedy the damage or loss. If Construction Manager incurs costs or is delayed due to such loss or damage, Construction Manager may seek an equitable adjustment in the GMP, estimated Cost of the Work, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion, and, if appropriate, the Compensation for Preconstruction Services under this Agreement. Any equitable adjustment shall be approved by all parties.

- i. Taxes and Permits: Construction Manager shall give public authorities all notices required by law and shall obtain and pay for all necessary permits, licenses, taxes, and renewals pertaining to the Work. Construction Manager shall provide to City copies of all notices, permits, licenses, and renewals required under this Agreement.
- j. DISCOUNTS: All discounts for prompt payment shall accrue to City. All trade discounts, rebates, and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work, or directly to the City after final payment.
- k. City may occupy or use completed or partially completed portions of the Work when (a) the portion of the Work is designated in a Certificate of Substantial Completion, (b) appropriate insurer(s) consent to the occupancy or use, and (c) public authorities authorize the occupancy or use. Construction Manager shall not unreasonably withhold consent to partial occupancy or use.
- l. JOINT DRAFTING: All Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms before execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party but shall be construed in a neutral manner.
- m. EXTENT OF AGREEMENT: Except as expressly provided, this Agreement is for the exclusive benefit of all Parties, and not the benefit of any third party. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement and each and every provision is for the exclusive benefit of all Parties and not for the benefit of any third party.
- n. ASSIGNMENT: Except as to the assignment of proceeds, no Party shall assign their interest in this Agreement without the written consent of the other Party. The terms and conditions of this Agreement shall be binding upon all Parties, their partners, successors, assigns, and legal representatives. No Party shall assign the Agreement without written consent of the other.
- o. Where figures are given, they shall be preferred to scaled dimensions.
- p. The drawings and specifications are complementary. If Work is shown only on one but not on the other, Construction Manager shall perform the Work as though fully described on both. CMAR shall seek clarification from Design Professional for any discrepancies.
- q. In case of conflicts between the drawings and specifications, the specifications shall govern. In any case of omissions or errors in figures, drawings, or specifications, Construction Manager shall immediately submit the matter to City and Design Professional for clarification. Design Professional's clarifications are final and binding.
- r. DEBARMENT AND SUSPENSION: By execution of this agreement, CMAR certifies that to the best of its knowledge and belief that the CMAR and its principals:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - ii. Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with

obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- iii. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
- iv. (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
- v. CMAR understands that a false statement on certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine. I further certify that I will obtain a similar certification for each subcontract awarded in excess of \$25,000.
- vi. Certifications for subcontracts or sub subcontracts executed under this agreement shall include all language in this section.

5. Definitions:

- a. Unless otherwise specifically defined in this Agreement, any terms that have well-known technical or trade meanings shall be interpreted in accordance with their well-known meanings.
- b. "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.
- c. A "Change Order" is a written order signed by all Parties after execution of this Agreement, indicating changes in the scope of the Work, the GMP and Date of Substantial Completion or Date of Final Completion.
- d. "Contract Time" is the period between the Date of Notice to Proceed and the total time authorized to achieve Final Completion.
- e. "Cost of the Work" means the sum of all allowed direct and indirect costs necessarily and reasonably incurred and paid by CMAR in the performance of the Work including those set forth in the Guaranteed Maximum Price Amendment.
- f. The "Construction Manager at Risk" (CMAR or CM) is the person or entity identified in this contract and includes Construction Manager's Representative.
- g. "Day" means a calendar day unless otherwise specified.
- h. "Defective Work" is any portion of the Work that that does not conform with the requirements of the Contract Documents.
- i. "Design Professional" means the licensed engineer and its subconsultants retained by the City and its subconsultants, to perform design services for the Project.
- j. "Final Completion" occurs on the date when CMAR's obligations under this Agreement are complete and accepted by City and final payment becomes due and payable. This date shall be confirmed by a Certificate of Final Completion signed by all Parties.
- k. "Hazardous Material" is any substance or material identified now or in the future as hazardous under the Law, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or cleanup.

- l. "Interim Directive" is a written order containing change to the Work directed by and in consultation with City and Design Professional after execution of this Agreement and before Substantial Completion. Interim Directives shall be consolidated and formalized in a change order to be signed by all parties.
- m. "Law" means federal, state, or local laws, ordinances, codes, rules, and regulations applicable to the Work with which Construction Manager must comply that are enacted as of the Agreement date.
- n. "Others" means City's other: (a) contractors/constructors, (b) suppliers, (c) subcontractors, sub subcontractors, or suppliers of (a) and (b); and others employed directly or indirectly by (a), (b), or (c) or any by any of them or for whose acts any of them may be liable.
- o. "Overhead" means (a) payroll costs, burden, and other compensation of CMAR's employees in CMAR's principal and branch offices for work associated with this project.
- p. "Owner" is the City of Fayetteville, Arkansas (City).
- q. The "Parties" are collectively City and CMAR.
- r. The "Project," is the building, facility, or other improvements for which CMAR is to perform Work under this Agreement. It may also include construction by Owner or Others.
- s. The "Schedule of the Work" is the document prepared by CMAR that specifies the dates on which CMAR plans to begin and complete various parts of the Work, including dates on which information and approvals are required from City.
- t. "Subcontractor" is a person or entity retained by CMAR as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. The term Subcontractor does not include Design Professional or Others.
- u. "Substantial Completion" of the Work, or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that City may occupy or utilize the Work, or a designated portion, for the use for which it is intended, without unapproved disruption. This date shall be confirmed by a certificate of Substantial Completion signed by all Parties.
- v. A "Sub subcontractor" is a person or entity who has an agreement with a Subcontractor or another sub subcontractor or Supplier to perform a portion of the Subcontractor's Work or supply material or equipment.
- w. A "Supplier" is a person or entity retained by CMAR to provide material or equipment for the Work.
- x. "Terrorism" means a violent act, or an act that is dangerous to human life, property, or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States government as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.
- y. "Work" means the construction and administrative and management services necessary or incidental to fulfill Construction Manager's obligations for the Project in accordance with and reasonably inferable from the Contract Documents. The Work may refer to the whole Project or only a part of the Project if work is also being performed by Owner or Others.
- z. "Worksite" means the area of the Project where the Work is to be performed.
- aa. "Bi-monthly basis" means every fourteen to sixteen calendar days.

6. Contract Document Review and Administration

- a. Before commencing the Work, Construction Manager shall examine and compare the drawings and specifications with information furnished by the City and Design Professional that are considered Contract Documents, relevant field measurements made by Construction Manager, and any visible conditions at the Worksite affecting the Work.
- b. Should Construction Manager discover any errors, omissions, or inconsistencies in the Contract Documents, Construction Manager shall promptly report them to the City and Design Professional. Following receipt of written notice from Construction Manager of defects, City shall promptly inform Construction Manager what action, if any, Construction Manager shall take with regard to the defect.
- c. Nothing in this section shall relieve CMAR of responsibility for its own errors, inconsistencies, or omissions.
- d. COST REPORTING: Construction Manager shall maintain complete, accurate, and current records that comply with generally accepted accounting principles and calculate the proper financial management under this Agreement. Construction Manager shall maintain a complete set of all books and records prepared or used by Construction Manager with respect to the Project. City shall be afforded access to all of Construction Manager's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to this Agreement. Construction Manager shall preserve all such records for a period of three years after the final payment or longer where required by Law.

7. Warranty

- a. Construction Manager warrants all materials and equipment furnished under the Construction Phase of this Agreement will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. At City or Design Professional request, Construction Manager shall furnish satisfactory evidence of the quality and type of materials and equipment furnished. Construction Manager further warrants all Work shall be free from material defects not intrinsic in the design or materials required in the Contract Documents. Construction Manager's warranty does **not include** remedies for defects or damages caused by normal wear and tear during normal usage beyond the warranty period, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by the City or others, or abuse. Construction Manager's warranty shall commence on the Date of Final Completion of the Project.
- b. To the extent products, equipment, systems, or materials incorporated in the Work are specified and purchased by the City, they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face of any such warranty. For such incorporated items, ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.
- c. Construction Manager shall obtain from its Subcontractors and Suppliers any special or extended warranties required by the Contract Documents. Construction Manager's liability for such warranties shall be limited to the one-year correction period, as further defined in this Agreement. After that period Construction Manager shall provide full and comprehensive assistance to the City in enforcing the obligations of Subcontractors or Suppliers for such extended warranties.
- d. Correction of Work within Two Years
 - i. If before Substantial Completion or within two-years after the date of Final Completion of the Work any Defective Work is found, City shall promptly notify Construction Manager in writing. Unless City provides written acceptance of the condition, Construction Manager shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible. If within the two-year correction

period City discovers and does not promptly notify Construction Manager or give Construction Manager an opportunity to test or correct Defective Work as reasonably requested by Construction Manager, City waives Construction Manager's obligation to correct that Defective Work as well as City's right to claim a breach of the warranty with respect to that Defective Work.

- ii. If Construction Manager fails to correct Defective Work within a reasonable time after receipt of written notice from City before final payment, City may correct it in accordance with Owner's right to carry out the Work. In such case, an appropriate Change Order shall be issued deducting the cost of correcting the Defective Work from payments then or thereafter due Construction Manager. If payments then or thereafter due Construction Manager are not sufficient to cover such amounts, Construction Manager shall pay the difference to City.
- iii. Construction Manager's obligations and liability, if any, with respect to any Defective Work discovered after the two-year correction period shall be determined by the Law. If, after the two-year correction period but before the applicable limitation period has expired, City discovers any Work which City considers Defective Work, City shall, unless the Defective Work requires emergency correction, promptly notify Construction Manager and allow Construction Manager an opportunity to correct the Work if Construction Manager elects to do so. If Construction Manager elects to correct the Work, it shall provide written notice of such intent within fourteen (14) Days of its receipt of notice from City and shall complete the correction of Work within a mutually agreed timeframe. If Construction Manager does not elect to correct the Work, City may have the Work corrected by itself or Others, and, if City intends to seek recovery of those costs from Construction Manager, City shall promptly provide Construction Manager with an accounting of the actual correction costs.
- iv. If Construction Manager's correction or removal of Defective Work causes damage to or destroys other completed or partially completed work or existing building, Construction Manager shall be responsible for the cost of correcting the destroyed or damaged property.
- v. The two-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of Construction Manager's other obligations under the Contract Documents.
- vi. Before final payment, at City option and with Construction Manager's agreement, City may elect to accept Defective Work rather than require its removal and correction. In such cases the GMP shall be equitably adjusted for any diminution in the value, as determined by City, of the Project caused by such Defective Work.

8. Safety of Persons and Property

- a. **SAFETY PROGRAMS:** Construction Manager holds overall responsibility for safety programs. However, such obligation does not relieve Subcontractors of their safety responsibilities and to comply with the Law. Construction Manager shall prevent against injury, loss, or damage to persons or property by taking reasonable steps to protect: (a) its employees and other persons at the Worksite; (b) materials and equipment stored at onsite or offsite locations for use in performing the Work; and (c) property located at the Worksite and adjacent to work areas, whether or not the property is part of the Worksite.
- b. **CONSTRUCTION MANAGER'S SAFETY REPRESENTATIVE:** Construction Manager shall designate an individual at the Worksite in its employ as its safety representative. Unless otherwise identified by Construction Manager in writing to City, Construction Manager's project superintendent shall serve as its safety representative. Construction Manager shall report promptly in writing all recordable accidents and injuries occurring at the Worksite. When Construction Manager is required to file an accident report with a public authority, Construction Manager shall furnish a copy of the report to City.

- c. Construction Manager shall provide City with copies of all notices required of Construction Manager by the Law. Construction Manager's safety program shall comply with the requirements of governmental and quasi-governmental authorities having jurisdiction.
 - i. Damage or loss not insured under property insurance that may arise from the Work, to the extent caused by negligent or intentionally wrongful acts or omissions of Construction Manager, or anyone for whose acts Construction Manager may be liable, shall be promptly remedied by Construction Manager.
- d. If City deems any part of the Work or Worksite unsafe, City, without assuming responsibility for Construction Manager's safety program, may require Construction Manager to stop performance of the Work, take corrective measures satisfactory to City. If Construction Manager does not adopt corrective measures, City may perform them and deduct their cost from the GMP. Construction Manager agrees to make no claim for damages, or an increase in the GMP, or for a change in the Dates of Substantial or Final Completion based on Construction Manager's compliance with City's reasonable request.

9. Subcontracts:

- a. **BINDING OF SUBCONTRACTORS AND SUPPLIERS:** Construction Manager agrees to bind every Subcontractor and Supplier and require every Subcontractor to so bind its subcontractors and significant supplier, to the Contract Documents as they apply to the Subcontractor's or Supplier's applicable provisions to that portion of the Work.
- b. Construction Manager agrees not to subcontract construction manager at risk related services without prior written consent from the City.

10. Fees, Expenses, and Payments: The maximum not-to-exceed amount authorized for this agreement is included in the breakdown shown below. Fees shall be paid to the CMAR as described in Appendix B.

a. **Phase 1: Pre-Construction Services**

- i. The maximum not-to-exceed amount authorized for this phase is **\$1.00 US Dollar**. Fees shall be paid to the CMAR from the City based Lump Sum basis as described in Appendix B.

b. **Phase 2: Guaranteed Maximum Price (GMP)**

- i. If this Agreement is executed before establishment of the Guaranteed Maximum Price and its acceptance by the City, then the GMP and its basis shall be set forth in a GMP Change Order.
- ii. The GMP proposal shall include the cost of the Work, Construction Manager's Fee, the clarifications upon which it is based, but shall not include compensation for Preconstruction Services (Phase 1).
- iii. **FAILURE TO ACCEPT THE GMP PROPOSAL:** Unless the City accepts the GMP Proposal in writing the GMP Proposal shall not be effective. If City fails to accept the GMP Proposal, or rejects the GMP Proposal, City shall have the right to:
 - 1. suggest modifications to the GMP Proposal
 - 2. terminate the Agreement for convenience
- iv. **PRE-GMP WORK:** Before City acceptance of the GMP Proposal, Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work, except as provided in this Agreement or by change order executed by the Parties.
- v. GMP shall be itemized, including but not limited to:
 - 1. Wages for labor directly employed by Construction Manager in the performance of the Scope of Services.

2. Salaries of Construction Manager's employees when stationed at the field office, in whatever capacity employed, employees engaged on the road expediting the production or transportation of material and equipment, and employees from the principal or branch office as mutually agreed by the Parties in writing.
3. Cost of all employee benefits and taxes, including but not limited to, workers' compensation, unemployment compensation, social security, health, welfare, retirement, and other fringe benefits as required by law, labor agreements, or paid under Construction Manager's standard personnel policy, insofar as such costs are paid to employees of Construction Manager who are included in the Cost of the Work.
4. Transportation, travel, hotel, and moving expenses of Construction Manager's personnel incurred in connection with the Work.
5. Cost of all materials, supplies, and equipment incorporated in the Work, including costs of inspection and testing if not provided by City, transportation, storage, and handling.
6. Payments made by Construction Manager to Subcontractors for work performed under this Agreement.
7. Cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers that are used or consumed in the performance of the Work, less salvage value or residual value; and cost less salvage value on such items used, but not consumed that remain the property of Construction Manager.
8. Rental charges of all necessary machinery and equipment, exclusive of hand tools owned by workers, used at the Worksite, whether rented from Construction Manager or others, including installation, repair, and replacement, dismantling, removal, maintenance, transportation, and delivery costs at competitive market rates.
9. Cost of the premiums for all insurance and surety, performance or payment bonds which Construction Manager is required to procure or deems necessary and approved by City including any additional premium incurred as a result of any increase in the GMP at fixed rates approved by the City.
10. Sales, use, gross receipts, or other taxes, tariffs, or duties related to the Work for which Construction Manager is liable.
11. Permits, taxes, fees, licenses, tests, royalties.
12. Losses, expenses, or damages to the extent not compensated by insurance or otherwise, and the cost of corrective work during the Construction Phase and for the warranty period.
13. Costs associated with establishing, equipping, operating, maintaining, mobilizing and demobilizing the field office.
14. Water, power, and fuel costs necessary for the Work.
15. Cost of removal of all nonhazardous substances, debris, and waste materials
16. Costs incurred due to an emergency affecting the safety of persons or property.
17. Costs directly incurred in the performance of the Work or in connection with the Project, and not included in Construction Manager's Fee, which are reasonably inferable from the Contract Documents.

- c. Fees set for the construction of this project are intended to be executed upon agreement of all parties in a not to exceed form via change order. Due to the funding nature of this project, all parties agree payment to the CMAR shall be made as follows:
 - i. The City shall be responsible for a not to exceed cap.
 - ii. Final amounts shall be identified with a Change Order, pursuant to agreement of all parties of a Guaranteed Maximum Price.
- d. CMAR shall track, log and report expenses directly related to this Agreement along with invoice which shall include schedule of values for payment for each month. Invoices shall be itemized. Invoice and payment requests shall not exceed the percentage of work completed as defined.
- e. Payment Terms: All invoices are payable upon approval and due within thirty (30) calendar days. If a portion of an invoice or statement is disputed by CITY, the undisputed portion shall be paid. CITY OF FAYETTEVILLE shall advise CMAR in writing of the basis for any disputed portion of any invoice. CITY shall make reasonable effort to pay invoices within 30 calendar days of date the invoice is approved.
- f. STORED MATERIALS AND EQUIPMENT: Unless otherwise provided in the contract documents, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and suitably stored onsite or offsite including applicable insurance, storage, and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for stored materials and equipment stored offsite shall be conditioned on a submission by Construction Manager of bills of sale and proof of required insurance, or such other documentation satisfactory to City to establish the proper valuation of the stored materials and equipment, City's title to such materials and equipment, and to otherwise protect City's interests therein, including transportation to the Worksite. Materials and equipment stored offsite shall be in a bonded and insured secure facility.
- g. Monthly invoices for each calendar month shall be submitted to City or such parties as City may designate for professional services consistent with CMAR's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Invoices shall be made in accordance with a format to be developed by CMAR and approved by City. Applications for payment shall be accompanied each month by the updated project schedule as the basis for determining the value earned as the work is accomplished. Final payment for professional services shall be made upon CITY OF FAYETTEVILLE'S approval and acceptance with the satisfactory completion of professional services for the Project.
 - i. Retainage in the amount of five percent (5%) will be withheld from each payment until project final completion.
 - ii. Upon Substantial Completion, the City may release retainage on that portion of the Work a Subcontractor has completed in whole or in part, and which City have accepted.
- h. Final Payment: Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, CMAR shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by CMAR to be set forth therein.
 - i. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against CMAR or sureties under this Agreement.

11. Project Bonding: Performance and payment bonding. After execution of this contract by all parties, CMAR shall provide 100% **separate** performance and payment bonds from a bonding company, licensed to do business in the state of Arkansas, to the City of Fayetteville after being file marked at the Washington County Circuit Clerk's Office. Bonds shall be inclusive of any approved contingency. Bonds shall be provided within ten (10) calendar days after GMP change order has been executed and approved by all parties.

- a. Construction contracts for the project shall not be entered into between the CMAR and sub-contractor without 100% payment and performance bonds in the amount of the contract (including any approved contingency) and any amendments thereto and shall provide for the manner in which the construction shall be managed and supervised. Bonds shall be valid and exchanged between all parties prior to the start of work.
- b. A maintenance bond shall be provided for the duration of the entire warranty period.
- c. All bonds shall be listed with the U.S. Treasury Department listing of approved surety's (T-List) and shall be rated A+ minimum by A. M. Best.

12. Time:

- a. SUBSTANTIAL and FINAL COMPLETION: Date of Substantial Completion and the Date of Final Completion shall be established in a GMP Change Order to this Agreement (GMP) as a hard not to exceed date. If such dates are not established upon the execution of this Agreement, at such time as GMP is accepted a Date of Substantial Completion and Date of Final Completion of the Work shall be established in a GMP Change Order.
- b. Time is of the essence with regards to the obligations of the Contract Documents.
- c. Unless instructed by City in writing, Construction Manager shall not knowingly commence the Work before the effective date of Construction Manager's required insurance and bonds.
- d. Schedule of Work: Before submitting its first application for payment, Construction Manager shall submit to City and, if directed, Design Professional a Schedule of the Work showing the dates on which Construction Manager plans to begin and complete various parts of the Work, including dates on which information and approvals are required from City. Except as otherwise directed by City, Construction Manager shall comply with the approved Schedule of the Work or Construction Manager.
 - i. Unless otherwise agreed, the Schedule of the Work shall be formatted in a detailed precedence-style critical path method that (a) provides a graphic representation of all activities and events, including float values that will affect the critical path of the Work, and (b) identifies dates that are critical to ensure timely and orderly completion of the Work.
 - ii. Construction Manager shall update the Schedule of the Work on a bi-monthly basis or as mutually agreed by all Parties.
 - iii. City may determine the sequence in which the Work shall be performed, provided it does not unreasonably interfere with the approved project schedule. City may require Construction Manager to make reasonable changes in the sequence at any time during the performance of the Work in order to facilitate the performance of work by City or Others. If Construction Manager consequently incurs additional costs or is delayed, Construction Manager may seek equitable adjustment of the GMP or the Dates of Substantial or Final Completion, or both.
- e. NOTICE OF DELAY CLAIMS: If Construction Manager requests an equitable extension of the Contract Time or an equitable adjustment in the GMP as a result of a delay described, Construction Manager shall give City written notice of the claim. If Construction Manager causes delay in the completion of the Work, City shall be entitled to recover its additional costs.

- f. **MONITORING PROGRESS AND COSTS:** Following acceptance by City of the GMP, Construction Manager shall establish a process for monitoring actual costs against the GMP and actual progress against the Schedule of Work. Construction Manager shall provide written reports to City at intervals as agreed to by all Parties on the status of the Work, showing variances between actual costs and the GMP and actual progress as compared to the Schedule of Work, including estimates of future costs and recovery programs if actual progress indicates that the Dates of Substantial Completion or Final Completion may not be met.

13. Substantial Completion:

- a. Construction Manager shall notify City and, if directed, Design Professional when it considers Substantial Completion of the Work or a designated portion to have been achieved. City, with the assistance of its Design Professional, shall promptly conduct an inspection to determine whether the Work or designated portion can be occupied or used for its intended use by City without excessive interference in completing any remaining unfinished Work. If City determines the Work or designated portion has not reached Substantial Completion, City, with the assistance of its Design Professional, shall promptly compile a list of items to be completed or corrected so City may occupy or use the Work or designated portion for its intended use. Construction Manager shall promptly and accurately complete all items on the list.
- b. When Substantial Completion of the Work or a designated portion is achieved, Construction Manager shall prepare a Certificate of Substantial Completion establishing the date of Substantial Completion and the respective responsibilities of each Party for interim items such as security, maintenance, utilities, insurance, and damage to the Work, and fixing the time for completion of all items on the list accompanying the Certificate. The Certificate of Substantial Completion shall be submitted by Construction Manager to City and, if directed, to Design Professional for written acceptance of responsibilities assigned in the Certificate of Substantial Completion.
- c. Upon City's written acceptance of the Certificate of Substantial Completion, City shall pay to Construction Manager the remaining retainage held by City for the Work described in the Certificate of Substantial Completion less a sum equal to one hundred and fifty percent (150%) of the estimated cost of completing or correcting remaining items on that part of the Work, as agreed to by the Parties as necessary to achieve Final Completion, including all close outs. Uncompleted items shall be completed by Construction Manager in a mutually agreed upon timeframe.

14. Final Completion:

- a. Upon notification from Construction Manager that the Work is complete and ready for final inspection and acceptance, City, with the assistance of its Design Professional shall promptly conduct an inspection to determine if the Work has been completed and is acceptable under the Contract Documents.
- b. When the Work is complete, Construction Manager shall prepare for City's written acceptance a final application for payment stating that to the best of Construction Manager's knowledge, and based on City's inspections, the Work has reached Final Completion in accordance with the Contract Documents.
- c. Final payment of the balance of the GMP shall be made to Construction Manager within thirty (30) Days after Construction Manager has submitted an application for final payment, pending the application has been approved by the City, including submissions required, and a Certificate of Final Completion has been executed by all Parties.
- d. Final payment shall be due on Construction Manager's submission of the following to the City:
 - i. an affidavit declaring any indebtedness connected with the Work, to have been paid, satisfied, or to be paid with the proceeds of final payment, so as not to encumber City property;

- ii. as-built drawings, manuals, copies of warranties, and all other close-out documents required by the Contract Documents;
 - iii. release of any liens, conditioned on final payment being received;
 - iv. consent of any surety; and
 - v. any outstanding known and unreported accidents or injuries experienced by Construction Manager or its Subcontractors at the Worksite.
- e. If, after Substantial Completion of the Work, the Final Completion of a portion of the Work is materially delayed through no fault of Construction Manager. The City may pay the balance due for any portion of the Work fully completed and accepted. If the remaining contract balance for Work not fully completed and accepted is less than the retained amount before payment, Construction Manager shall submit to City and, if directed, Design Professional the written consent of any surety to payment of the balance due for portions of the Work that are fully completed and accepted. Such payment shall not constitute a waiver of claims.
- f. Warranties required by the Contract Documents shall commence on the date of Final Completion of the Work or a designated portion.
- g. ACCEPTANCE OF FINAL PAYMENT: Unless Construction Manager provides written identification of unsettled claims with an application for final payment, its acceptance of final payment constitutes a waiver of such claims.
- h. CMAR shall ensure that the City of Fayetteville receives lien waivers from all material suppliers, subcontractors and sub-subcontractors and **before** work begins on the project. The contractor shall give written notice to the material suppliers, subcontractors and sub-subcontractors providing work on the project that states the following:
- i. *'According to Arkansas law, it is understood that no liens can be filed against public property if valid and enforceable payment and performance bond is in place. Regarding this Project and Agreement, the valid and enforceable bonds are with (name of surety).'*
 - ii. CMAR shall direct its subcontractors to obtain a written receipt evidencing acknowledgment of this statement from sub-subcontractors.

15. Notices: Any notice required to be given under this Agreement to either party to the other shall be sufficient if addressed and mailed, certified mail, postage paid, delivery, fax or e-mail (receipt confirmed), or overnight courier.

16. Jurisdiction: Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.

17. Venue: Venue for all legal disputes shall be Washington County, Arkansas.

18. Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the CMAR shall do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.

19. Changes in Scope or Price: Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost or fees.

20. Insurance:

- a. Before starting the Work and as a condition precedent to payment, Construction Manager shall procure and maintain in force Workers' Compensation Insurance, Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance ("CGL"). The CGL policy shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, contractual liability, pollution coverage, and broad form property damage. Construction Manager shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer. Construction Manager's Employers' Liability, Business Automobile Liability and CGL policies shall be written with at least the limits of liability presented in **Appendix C**.
- b. Employers' Liability, Business Automobile Liability, and CGL coverages required may be provided by a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella liability policies.
- c. Construction Manager shall maintain in effect all insurance coverage required with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located. If Construction Manager fails to obtain or maintain any insurance coverage required under this Agreement, City may purchase such coverage and charge the expense to Construction Manager or terminate this Agreement.
- d. To the extent commercially available to Construction Manager from its current insurance company, insurance policies required shall contain a provision that the insurance company or its designee shall give City written notice transmitted in paper and electronic format: (a) 30 Days before coverage is nonrenewed by the insurance company and (b) within 10 Business Days after cancelation of coverage by the insurance company. Before commencing the Work and upon renewal or replacement of the insurance policies, Construction Manager shall furnish City with certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance policy required is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, Construction Manager shall give City prompt written notice upon actual or constructive knowledge of such condition.
- e. Certificates of Insurance shall list the City as Additional Insured Parties.
- f. **PROPERTY INSURANCE:**
 - i. At no time shall any policy be covered by self-insurance or in a self-insured format. All policies shall be covered by an approved commercial insurance professional properly licensed to do business in Arkansas.
 - ii. Unless otherwise directed in writing by City, before starting the Work, CMAR shall obtain and maintain a Builder's Risk Policy upon the entire Project for the full cost of replacement at the time of loss, including existing structures. This insurance shall also (a) name Construction Manager, Subcontractors, Sub subcontractors, and Design Professional as named insureds; (b) be written in such form to cover all risks of physical loss except those specifically excluded by the policy; and (c) insure at least against and **not** exclude:
 1. the perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft (except aircraft, including helicopter, operated by or on behalf of Construction Manager) and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, wind damage, testing if applicable, collapse, however caused;
 2. damage resulting from defective design, workmanship, or material;

3. coverage extension for damage to existing buildings, plant, or other structures at the Worksite, when the Project is contained within or attached to such existing buildings, plant or structures. Coverage shall be to the extent loss or damage arises out of Constructor's activities or operations at the Project;
 4. equipment breakdown, including mechanical breakdown, electrical injury to electrical devices, explosion of steam equipment, and damage to steam equipment caused by a condition within the equipment;
 5. testing coverage for running newly installed machinery and equipment at or beyond the specified limits of their capacity to determine whether they are fit for their intended use; and
 6. physical loss resulting from Terrorism.
- iii. The Party that is the primary cause of a Builder's Risk Policy claim shall be responsible for any deductible amounts or coinsurance payments. If no Party is the primary cause of a claim, then the Party obtaining and maintaining the Builder's Risk Policy shall be responsible for the deductible amounts or coinsurance payments. This policy shall provide for a waiver of subrogation. This insurance shall remain in effect until final payment has been made or until no person or entity other than City has an insurable interest in the property to be covered by this insurance, whichever is sooner. Partial occupancy or use of the Work shall not commence until City has secured the consent of the insurance company or companies providing the coverage required in this subsection. Before commencing the Work, City shall provide a copy of the property policy or policies obtained.
 - iv. If City elects to purchase the property insurance required by this Agreement, including all of the coverages and deductibles for the same durations specified, City shall give written notice to Construction Manager before the Work is commenced and provide a copy of the property policy or policies obtained in compliance with this agreement. City may then provide insurance to protect its interests and the interests of the Constructor, Subcontractors, Suppliers, and Sub subcontractors. The cost of this insurance shall be paid by City in a Change Order. If City gives written notice of its intent to purchase property insurance required by this Agreement and fails to purchase or maintain such insurance, City shall be responsible for costs reasonably attributed to such failure.
 - v. The Parties each waive all rights against each other and their respective employees, agents, contractors, subcontractors, suppliers, sub subcontractors, and design professionals for damages caused by risks covered by the property insurance, except such rights as they may have to the proceeds of the insurance.
 1. To the extent of the limits of Construction Manager's Commercial General Liability Insurance, Construction Manager shall indemnify and hold harmless City against any and all liability, claims, demands, damages, losses, and expenses, including attorneys' fees, in connection with or arising out of any damage or alleged damage to any of City's existing adjacent property, including personal property, that may arise from the performance of the Work, to the extent caused by the negligent or intentionally wrongful acts or omissions of Construction Manager, Subcontractor, Supplier, Sub subcontractor, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.
 - g. RISK OF LOSS: Except to the extent a loss is covered by applicable insurance, risk of loss from damage to the Work shall be upon the Party obtaining and maintaining the Builder's Risk until the Date of Final Completion.

- h. **ADDITIONAL GENERAL LIABILITY COVERAGE:** City shall require Construction Manager to purchase and maintain additional liability coverage. Construction Manager shall provide:
 - i. **Additional Insured.** City shall be named as an additional insured on Construction Manager's Commercial General Liability (CGL) specified, for on-going operations and completed operations, excess/umbrella liability, commercial automobile liability, and any required pollution liability, but only with respect to liability for bodily injury, property damage, or personal and advertising injury to the extent caused by the negligent acts or omissions of Construction Manager, or those acting on Construction Manager's behalf, in the performance of Construction Manager's work for Owner at the Worksite. The insurance of the Construction Manager and its Subcontractors (both primary and excess) shall be primary to any insurance available to the Additional Insureds. Any insurance available to the Additional Insureds shall be excess and non-contributory.
 - ii. **OCP.** Construction Manager shall provide an Owners' and Contractors' Protective Liability Insurance ("OCP") policy with limits equal to the limits on CGL specified, or limits as otherwise required by Owner.
- i. Any documented additional cost in the form of a surcharge associated with procuring the additional liability coverage in accordance with this subsection shall be paid by CMAR. Before commencing the Work, Construction Manager shall provide either a copy of the OCP policy, or a certificate and endorsement evidencing that City has been named as an additional insured, as applicable.
 - i. **ROYALTIES, PATENTS, AND COPYRIGHTS:** Construction Manager shall pay all royalties and license fees , unless otherwise specified in the Contract Documents, which may be due on the inclusion of any patented or copyrighted materials, methods, or systems selected by Construction Manager and incorporated in the Work. Construction Manager shall defend, indemnify, and hold City harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection unless such design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in documents prepared by the Owner.
- j. **PROFESSIONAL LIABILITY INSURANCE:** To the extent Construction Manager is required to procure design services, Construction Manager shall require its design professionals to obtain a commercial professional liability insurance for claims arising from the negligent performance of professional services under this Agreement, with a company reasonably satisfactory to City, including coverage for all professional liability caused by any consultants to Construction Manager's design professional, written for not less than one million US dollars (\$1,000,000) per claim and in the aggregate. Construction Manager's design professional shall pay the deductible. The Professional Liability Insurance shall contain a retroactive date providing prior acts coverage sufficient to cover all Services performed by the Constructor's design professional for this Project. Coverage shall be continued in effect for the entire warranty period.

21. Professional Responsibility: CMAR will exercise reasonable skill, care, and diligence in the performance of services and will carry out its responsibilities in accordance with customarily accepted professional practices. CITY OF FAYETTEVILLE will promptly report to CMAR any defects or suspected defects in services of which CITY OF FAYETTEVILLE becomes aware, so CMAR can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of CMAR.

22. Responsibility of the City of Fayetteville

- a. CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of CMAR:
 - i. Provide full information as to the requirements for the Project.

- ii. Assist CMAR by placing at CMAR's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
- iii. Assist CMAR in obtaining access to property reasonably necessary for CMAR to perform its services.
- iv. Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by CMAR and render in writing decisions pertaining thereto.
- v. Review all documents and provide written comments to CMAR in a timely manner.
- vi. The City of Fayetteville Public Works Director, or their designee, is the project representative with respect to the services to be performed under this Agreement. The Public Works Director shall have complete authority to transmit instructions, receive information, interpret and define policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

23. Cost Opinions and Projections: Cost opinions and projections prepared by the CMAR relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, cost estimating, and operating results are based on CMAR's experience, qualifications, and judgment as a CMAR professional.

24. Period of Service: This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.

- a. The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. CMAR shall proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed.

25. Termination:

- a. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:
 - i. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.
- b. This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that CMAR is given:
 - i. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.
- c. If termination for default is affected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but
 - i. No amount shall be allowed for anticipated profit on unperformed services or other work,
 - ii. Any payment due to CMAR at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of CMAR's default.

- d. If termination for default is affected by CMAR, or if termination for convenience is affected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to CMAR for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by CMAR relating to commitments which had become firm prior to the termination.
- e. Upon receipt of a termination action under Paragraphs above, CMAR shall:
 - i. Promptly discontinue all affected work (unless the notice directs otherwise),
 - ii. Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by CMAR in performing this Agreement, whether completed or in process.
- f. Upon termination under sections above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- g. If, after termination for failure of CMAR to fulfill contractual obligations, it is determined that CMAR had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in this agreement.

26. Delays

- a. In the event the services of CMAR are suspended or delayed by CITY OF FAYETTEVILLE, or by other events beyond CMAR's reasonable control, CMAR shall be entitled to additional compensation and time for reasonable documented costs incurred by CMAR in temporarily closing down or delaying the Project.
- b. In the event the services are suspended or delayed by CMAR, CITY shall be entitled to compensation and time for reasonable costs incurred in temporarily closing down or delaying the Project.

27. Rights and Benefits: CMAR's services shall be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

28. Dispute Resolution

- a. Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and CMAR which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or CMAR in the performance of this Agreement, and disputes concerning payment.
- b. Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given as described in this agreement, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in this agreement have been complied with.
- c. Notice of Dispute
 - i. For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice.
 - ii. For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give CMAR written Notice at the address listed in this agreement within thirty (30) calendar days after occurrence of any incident, accident, or first observance of defect or damage. In both

instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

- iii. **Negotiation:** Within seven (7) calendar days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and CMAR shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of CMAR, and the Mayor of CITY OF FAYETTEVILLE or his or her designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 calendar days of the written request to resolve the dispute.

29. Sufficient Funds: The CITY represents to have sufficient funds or the means of obtaining funds to remit payment to CMAR for services rendered by CMAR. All parties agree if funding should become insufficient to complete the project, CMAR shall be notified in a timely manner.

30. Publications: Recognizing the importance of professional services on the part of CMAR's employees and the importance of CMAR's public relations, CMAR may prepare publications, such as technical papers, articles for periodicals, promotional materials, and press releases, in electronic or other format, pertaining to CMAR's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to CMAR, CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. Approved materials may be used in a variety of situations and do not require additional review or approval for each use. The cost of CMAR's activities pertaining to any such publication shall be for CMAR's account.

31. Indemnification: To the fullest extent permitted by law, the CMAR shall indemnify and hold harmless the City from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death or injury to or destruction of tangible property (other than the Work itself) but only to the extent caused by the negligent acts or omissions of the CMAR, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Agreement.

32. Ownership of Documents:

- a. All documents provided by CITY OF FAYETTEVILLE including original drawings, CAD drawings, estimates, field notes, and project data are and remain the property of CITY OF FAYETTEVILLE. CMAR may retain reproduced copies of drawings and copies of other documents.
- b. Engineering and architectural documents, computer models, drawings, specifications and other hard copy or electronic media prepared by CMAR as part of the Services shall become the property of CITY OF FAYETTEVILLE when CMAR has been compensated for all Services rendered, provided, however, that CMAR shall have the unrestricted right to their use. CMAR shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of CMAR.
- c. Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. CMAR makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

33. Additional Responsibilities of CMAR:

- a. Review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder by CITY shall not in any way relieve CMAR of responsibility for the technical adequacy of the work. Review, approval or acceptance of, or payment for any of the services by CITY shall not be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- b. CMAR shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by CMAR's negligent performance, except beyond the CMAR's normal standard of care, of any of the services furnished under this Agreement, and except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.
- c. CMAR's obligations under this clause are in addition to CMAR's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against CMAR for faulty materials, equipment, or work.

34. Audit and Access to Records:

- a. CMAR shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement.
- b. CMAR shall also maintain the financial information and data used by CMAR in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. CMAR will provide proper facilities for such access and inspection.
- c. Records shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.
- d. This right of access clause (with respect to financial records) applies to:
 - i. Negotiated prime agreements
 - ii. Negotiated change orders or agreement amendments affecting the price of any formally advertised, competitively awarded, fixed price agreement
 - iii. Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier sub agreement or purchase order awarded after effective price competition, except:
 - 1. With respect to record pertaining directly to sub agreement performance, excluding any financial records of CMAR;
 - 2. If there is any indication that fraud, collusion, gross abuse or corrupt practices may be involved;
 - 3. If the sub agreement is terminated for default or for convenience.

35. Covenant Against Contingent Fees: CMAR warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by CMAR for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

36. Gratuities:

- a. If CITY OF FAYETTEVILLE finds after a notice and hearing that CMAR or any of CMAR agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE or related third party contractor associated with this project, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to CMAR terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.
- b. The CITY may pursue the same remedies against CMAR as it could pursue in the event of a breach of the Agreement by CMAR. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount, as determined by CITY, which shall be not less than three nor more than ten times the costs CMAR incurs in providing any such gratuities to any such officer or employee.

37. Clarification and Understanding of all parties:

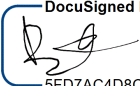
- a. The citizens of Fayetteville voted to authorize the Fayetteville City Council to issue bonds to fund this project.
- b. All parties agree and acknowledge that all funds derived from the City's sale of the bonds may only be spent or used for purposes authorized by the City voters and applicable state law.

IN WITNESS WHEREOF, **CITY OF FAYETTEVILLE, ARKANSAS** by and through its Mayor, and **FLINTCO, LLC.** by its authorized officer have made and executed this Agreement as of the day and year first above written

CITY OF FAYETTEVILLE, ARKANSAS

FLINTCO, LLC.

By: _____
Molly A. Rawn, Mayor

DocuSigned by:

By: _____
Brent Farmer, Vice President/Area Manager

ATTEST:

Date Signed: 2/26/2025 | 9:42 AM PST

By: _____
Kara Paxton, City Clerk-Treasurer

Date Signed: _____

APPENDIX A – SCOPE OF WORK

for

RFP 24-15, CMAR for Maple Street Improvements

1. PROJECT SUMMARY

Flintco, LLC. shall provide construction management at risk (CMAR) services for the Maple Street Improvements Project. The project includes storm drainage, sidewalks, protected bike lane, enhanced crosswalks, turn lanes, new traffic signals, street lighting and landscaping.

2. SCOPE OF WORK

- a. **Overview:** Anticipated phases are identified below with associated scope of work. Scope of work is not limited to any additional industry standard scope of work necessary to complete each phase. **Flintco, LLC shall coordinate with the design team composed of Olsson Inc., the City of Fayetteville, and the University of Arkansas in order to achieve best value for the overall success of the project, including working to achieve maximum cost savings. Coordination with design team is critical for all phases.**
- b. **Phase 1: Design Development and Construction Drawings from the Current Plans to Final Plans**
 - i. **Construction Documents Phase**
 - 1. CMAR shall develop a construction phasing plan
 - 2. CMAR shall develop a construction schedule
 - 3. CMAR shall develop cost estimates for the most current design set and specifications and evaluate cost reduction alternatives and control.
 - 4. Provide industry standard construction manager services, including but not limited to development of costs, identifying potential design changes which could result in cost savings or construction efficiencies, interact with the design team for review of documents, etc.
 - 5. Coordinate with Olsson on Final Design Document sets, Final Specifications, and Cost Estimates and Schedule to present to the Design Team. (90% plan review).
 - 6. After receiving 90% design review comments, meet with applicable City of Fayetteville and University of Arkansas Staff to resolve comments.
 - 7. Assist Olsson in responding in writing to all City of Fayetteville and University of Arkansas comments on plans.
 - 8. Assist Olsson in coordinating with City-owned utilities, University of Arkansas utilities, private utilities, and service providers.
 - 9. Attend follow up meetings with the design team.
 - 10. Construction Documents/Plans, Specifications and Project Drawings shall be routed through the City of Fayetteville and University of Arkansas for required approvals.
 - 11. Assist Olsson and the City with the bid form and identify all separate trade packages.
 - 12. Facilitate with Olsson and the Design Team in conducting cost-benefit analyses to understand construction costs, life-cycle cost impacts and long-term maintenance costs.

13. Coordinate with the design team to create plans for closure and detour of both pedestrian and street zones based on construction phasing.
14. Provide pedestrian access and ADA accessibility plan for construction duration.

ii. **Bid Phase**

1. Coordinate with City Purchasing Division to ensure all procedures followed for this phase meet state laws and City of Fayetteville Purchasing Policies.
2. Provide services for reproduction and dissemination of bid sets (project manual and stamped drawings) to the City Design Team [PM (1), Purchasing (1) and interested bidders]. Documents should be made available to any interested party electronically at no cost.
3. Provide distribution of plans to all interested parties:
 - a. Maintain open communication with the City of Fayetteville Purchasing Division throughout the bidding process.
 - b. Distribution of all documents shall be done in a fair and unbiased manner while keeping all interested parties on equal terms.
 - c. Document and keep an updated accurate record of plan holder's and provide updated listings to all interested parties in a timely manner.
 - d. Answers to questions and inquiries shall be made in the form of an addendum and shall be provided to all interested parties at the same time.
4. Coordinate with City Purchasing Division during pre-bid meeting, facilitate and attend the Bid Opening.
5. Maintain open communication with the City Purchasing Division during any process involving Request for Information (RFI).
6. Any addenda shall be provided to the Purchasing Division for review and approval in advance of issuance. Bidders, interested parties, and plan holders shall receive all information included in addenda at the time addenda is issued.
7. In the event the CMAR desires to self-perform a portion of the work or a trade package, the CMAR shall submit a bid package in the same time and manner as other interested parties.
8. Assist with the design of all Bid Proposals.
9. Review Olsson's Recommendation of Award Letter that includes the following required content (and assist with):
 - a. Check for math errors and reconcile any mathematical discrepancies,
 - b. Review for unbalance bid items,
 - c. Coordinate with the City Purchasing Division in finalizing a Certified Bid Tabulation including Engineer's estimate,
 - d. Review of contractor's financial standing and references provided,
 - e. Explanation of discrepancies between the Engineer's estimate and bids, and
 - f. Meet with the City to provide a formal written recommendation of award.
10. Attend City Council meeting(s) for the recommendation for award of Contract(s) for construction.
 - a. Be able to provide a completed Affidavit of Compliance with each Change Order that includes bids.

c. Phase 2: Guaranteed Maximum Price and Construction Administration Phase

i. Construction Administration Phase

1. Put forth diligent and fiscally responsible efforts to ensure the project will be completed on time and within budget.
2. Attend pre-construction meeting and conduct regular update meetings as jointly determined by the design team and contracted construction companies.
3. Coordinate with Olsson and the Design Team on all Request for Change Proposals, Change Orders, etc. including maintaining a log of all such documents.
4. The City of Fayetteville and the University of Arkansas intends to provide regular construction administration services. Olsson will provide field services, progress meetings, and progress payment review and assistance on a bi-monthly basis.
5. Review site visit report from the Olsson, City of Fayetteville and University of Arkansas staff team at least twice (2) per month.
6. Coordinate with the Design Team to conduct Substantial Completion Inspection, coordinate with architect to create punch list, substantiate that items noted are completed, and issue Substantial Completion Certificate.
7. The Design Team shall be notified to attend all on-site meetings, review and approve all pay requests, and change order review prior to Mayor's approval.
8. Coordinate with the design team to create plans for closure and detour of both pedestrian and street zones based on construction phasing.

ii. Project Close Out

1. Provide Warranty Services during the entire Warranty Period. Olsson to issue Warranty Reports and review items after the CM has notified the City that these items are complete.
2. Provide support services as needed during the project close out process.
3. Provide close-out submittal to Olsson for completeness before transmitting to the City which include but are not limited to:
 - a. Contractor's red lines and as-built notes
 - b. Provide as-built record drawings noting any changes to the plans prepared by Olsson (both hard copy and digital formats)
 - c. Produce a project narrative that provides a comprehensive review of the construction activities for the project with a project narrative submitted for City approval at the completion of each contract phase.

Cost

Flintco greatly respects and appreciates our relationship with City of Fayetteville. We look forward to each project as an opportunity to prove ourselves and showcase our team. For the City of Fayetteville Maple Street Improvements project, **Flintco's preconstruction fee is \$1.00.** There are no other fees solely associated with preconstruction.



CITY OF
FAYETTEVILLE
ARKANSAS

City of Fayetteville, Arkansas
Purchasing Division – Room 306
113 W. Mountain
Fayetteville, AR 72701
Phone: 479.575.8256

TDD (Telecommunication Device for the Deaf): 479.521.1316

RFP (REQUEST FOR PROPOSAL)

**Request for Proposal: RFP 24-15, CMAR for
Maple Street Improvements**

DEADLINE: Tuesday, January 7, 2025 before 2:00 PM, local time

PRE-PROPOSAL CONFERENCE: Tuesday, December 17, 2024, at 10:00 AM, in
Room #326 of Fayetteville City Hall

SR. PURCHASING AGENT: Amanda Beilfuss, abeilfuss@fayetteville-ar.gov

DATE OF ISSUE AND ADVERTISEMENT: 12/08/24, 12/09/24, 12/10/24

REQUEST FOR PROPOSAL
RFP 24-15, CMAR for Maple Street Improvements

No late proposals shall be accepted. RFPs shall be submitted through the City's third-party electronic bidding platform or by submitting a sealed physical proposal to the City of Fayetteville, Purchasing Division at the below location.

City of Fayetteville
Purchasing Division – Room 306
113 West Mountain Street
Fayetteville, AR 72701

All proposals shall be submitted in accordance with the attached City of Fayetteville specifications and documents attached hereto. Each Proposer is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection. The City of Fayetteville shall not be responsible for lost or misdirected proposals, or for failure of proposer's technical equipment.

The undersigned hereby offers to furnish & deliver the articles or services as specified, at the prices & terms stated herein, and in strict accordance with the specifications and general conditions of bidding, all of which are made a part of this offer. This offer is not subject to withdrawal unless upon mutual written agreement by the Proposer/Bidder and City Purchasing Director.

**City of Fayetteville, AR
Request for Proposal
RFP 24-15, CMAR for Maple Street Improvements**

The City of Fayetteville is accepting proposals from construction management firms licensed to do business within the State of Arkansas to provide, construction management / general contractor (CM/GC) services as a construction management at risk (CMAR) / guaranteed maximum (GMP) project for the reconstruction of 2,500 linear feet of Maple Street from Gregg Avenue to Garland Avenue. The project includes storm drainage, sidewalks, protected bike lane, enhanced crosswalks, turn lanes, new traffic signals, street lighting and landscaping. Any questions regarding this RFP shall be directed to Amanda Beilfuss, City of Fayetteville Sr. Purchasing Agent at abeilfuss@fayetteville-ar.gov or (479) 575-8220.

Solicitation documents and addenda shall be obtained at the City of Fayetteville Purchasing Division's electronic bidding platform at www.fayetteville-ar.gov/bids. All proposals shall be received by **Tuesday, January 7, 2025 before 2:00 PM, Local Time** utilizing the electronic bidding software or by submitting a sealed physical proposal to the City of Fayetteville, Purchasing Division. All proposals are due before the time stated. No late proposals shall be accepted. Submitting electronically is strongly encouraged. The City of Fayetteville shall not be responsible for lost or misdirected proposals, or for failure of proposer's technical equipment.

A non-mandatory Pre-proposal conference will be held **Tuesday, December 17, 2024 at 10:00 AM** in Room #326 of Fayetteville City Hall. Information regarding the pre-bid meeting is available on the project page on the City's electronic bidding platform. All interested parties are encouraged to attend.

All interested parties shall be qualified to do business and licensed in accordance with all applicable laws of the state and local governments where the project is located. A one hundred percent (100%) performance bond and separate payment bond is required with the contract awarded. Proposers shall have a current, valid registration with the Arkansas Secretary of State at time of RFP deadline OR be able to provide proof of registration before recommendation of award to Fayetteville City Council. Registration and good standing in the System for Award Management (SAM) will also be required prior to contract execution.

The City of Fayetteville reserves the right to reject any or all Proposals and to waive irregularities therein, and all parties agree that such rejection shall be without liability on the part of the City of Fayetteville for any damage or claim brought by any interested party because of such rejections, nor shall any interested party seek any recourse of any kind against the City of Fayetteville because of such rejections. The filing of any Statement in response to this invitation shall constitute an agreement of the interested party to these conditions.

The City of Fayetteville hereby notifies all proposers that this contract is subject to applicable labor laws, non-discrimination provisions, wage rate laws, and other federal laws including, but not limited to, the Uniform Administrative Requirements, Cost Principles, Audit Requirements for Federal Awards (2 CFR part 200), National Environmental Policy Act, and Build America, Buy America Act.

This project is a Federal-Aid contract. This project requires wage rates to be paid according to Davis-Bacon Federal Wage Rates.

City of Fayetteville

By: Amanda Beilfuss, Sr. Purchasing Agent

P: 479.575.8220 abeilfuss@fayetteville-ar.gov

TDD (Telecommunications Device for the Deaf): (479) 521-1316

Date of advertisement: 12/08/24, 12/09/24, 12/10/24

This publication was paid for by the Purchasing Division of the City of Fayetteville, Arkansas.

Amount paid: \$734.44

Appendix C
RFP 24-15, CMAR for
Maple Street Improvements
City Issued RFP

1. SUBMISSION OF A PROPOSAL SHALL INCLUDE:

Each proposal shall contain the following at a minimum. Proposer must also address detailed requirements as specified in the Scope of Work.

- a. A written narrative describing the method or manner in which the Proposer proposes to satisfy requirements of this RFP in the most cost-effective manner. The term Proposer shall be in reference to a firm or individual responding to this solicitation.
- b. A description of the Proposer's experience in providing the same or similar services as outlined in the RFP. This description should include the names of the person(s) who will provide the services, their qualifications, and the years of experience in performing this type of work. Also, include the reference information requested in this RFP.
- c. The complete fee and cost to the City for all services outlined in this RFP.
- d. Statement should be no more than twenty-five (25) pages; single sided, standard, readable, print on standard 8.5x11 documents. Proposers shall also submit a three (3) page (maximum) executive summary. The following items will not count toward the twenty-five-page limitation: appendix, cover sheet, 3-page executive summary, resumes (resumes shall be no more than 1 page per person), and forms provided by the City for completion.
 - i. **Submitting and responding to this RFP:** Proposals shall be prepared simply and economically, providing a straightforward, concise description of its ability to meet the requirements for the project. Fancy bindings, colored displays, and promotional material are not required. Emphasis should be on completeness and clarity of content. All documents physically submitted should be typewritten on standard 8 1/2" x 11" white papers and bound in one volume. Exceptions would be schematics, exhibits, one-page resumes, and City required forms. Limit proposal to twenty-five (25) pages or less, excluding one-page team resumes, references, and forms required by the City for completion. All proposals shall be sealed upon delivery to the City of Fayetteville.
 1. Option 1 –Electronic Submittal (*strongly encouraged*): Proposers can go to www.fayetteville-ar.gov/bids and follow the prompts to submit a proposal within the electronic bidding platform. If a proposal is submitted electronically, a physical submission is not necessary. All Proposers must register in order to be able to submit. There is no fee for registration.
 2. Option 2 – Physical Submittal: All Proposers shall submit one (1) original copy of their proposal as well as one (1) electronic copy on a properly labeled USB or other electronic media device. The electronic copy submitted shall be contained into one single electronic file and shall be identical to the hard copies provided. The use of Adobe PDF documents is strongly recommended. Files contained on an USB or electronic media shall not be restricted against saving or printing. Electronic copies shall not be submitted via e-mail to City employees by the Proposer and shall be provided to the City in a sealed manner. FedEx,

UPS, USPS, or other packages should be clearly marked with the RFP number on the outside of the mailing package.

- e. Proposals will be reviewed following the stated deadline, as shown on the cover sheet of this document. Only the names of Proposer's will be available after the deadline until a contract has been awarded by the Fayetteville City Council. All interested parties understand proposal documents will not be available until after a valid contract has been executed.
- f. Proposers shall submit a proposal based on documentation published by the Fayetteville Purchasing Division.
- g. Proposals must follow the format of the RFP. Proposers should structure their responses to follow the sequence of the RFP.
- h. Proposers shall have experience in work of the same or similar nature and must provide references that will satisfy the City of Fayetteville. Proposer shall furnish a reference list of clients for whom they have performed similar services and must provide information as requested in this document.
- i. Proposer is advised that exceptions to any of the terms contained in this RFP or the attached service agreement must be identified in its response to the RFP. Failure to do so may lead the City to declare any such term non-negotiable. Proposer's desire to take exception to a non-negotiable term will not disqualify it from consideration for award.
- j. Local time shall be defined as the time in Fayetteville, Arkansas on the due date of the deadline. Documents shall be received before the deadline time as shown by the atomic clock located in the Purchasing Division Office or electronic clock located in the City's third-party bidding software.

2. WRITTEN REQUESTS FOR INTERPRETATIONS OR CLARIFICATION:

No oral interpretations will be made to any firms as to the meaning of specifications or any other contract documents. All questions pertaining to the terms and conditions or scope of work of this proposal must be sent in writing via e-mail to the Purchasing Department. Responses to questions may be handled as an addendum if the response would provide clarification to the requirements of the proposal. All such addenda shall become part of the contract documents. The City will not be responsible for any other explanation or interpretation of the proposed RFP made or given prior to the award of the contract.

3. DESCRIPTION OF SUPPLIES AND SERVICES:

Any manufacturer's names, trade name, brand name, catalog number, etc. used in specifications are for the purpose of describing and establishing general quality levels. Such references are NOT intended to be restrictive. Proposals shall be considered for all brands that meet the quality of the specifications listed for any items.

4. RIGHTS OF CITY OF FAYETTEVILLE IN REQUEST FOR PROPOSAL PROCESS:

In addition to all other rights of the City of Fayetteville, under state law, the City specifically reserves the right to the following:

- a. The City of Fayetteville reserves the right to rank firms and negotiate with the highest-ranking firm. Negotiation with an individual Proposer does not require negotiation with others.
- b. The City of Fayetteville reserves the right to select the proposal it believes will serve the best interest of the City.
- c. The City of Fayetteville reserves the right to accept or reject any or all proposals.
- d. The City of Fayetteville reserves the right to cancel the entire request for proposal.
- e. The City of Fayetteville reserves the right to remedy or waive technical or immaterial errors in the request for proposal or in proposals submitted.
- f. The City of Fayetteville reserves the right to request any necessary clarifications, additional information or proposal data without changing the terms of the proposal.
- g. The City of Fayetteville reserves the right to make selection of the Proposer to perform the services required on the basis of the original proposals without negotiation.
- h. The City reserves the right to ask for a best and final offer from one or more Proposers. The best and final offer process is not guaranteed; therefore, Proposers shall submit and respond to this RFP on the most favorable terms available.

5. EVALUATION CRITERIA:

The evaluation criterion defines the factors that will be used by the selection committee to evaluate and score responsive, responsible and qualified proposals. Proposers shall include sufficient information to allow the selection committee to thoroughly evaluate and score proposals. Each proposal submitted shall be evaluated and ranked by a selection committee. The contract will be awarded to the most qualified Proposer, per the evaluation criteria listed in this RFP. Proposers are not guaranteed to be ranked.

6. COSTS INCURRED BY PROPOSERS:

All expenses involved with the preparation and submission of proposals to the City, or any work performed in connection therewith, shall be borne solely by the Proposer(s). No payment will be made for any responses received, or for any other effort required of, or made by, the Proposer(s) prior to contract commencement.

7. ORAL PRESENTATION:

An oral presentation and/or interview may be requested of any firm, at the selection committee's discretion.

8. CONFLICT OF INTEREST:

- a. The Proposer represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided in City of Fayetteville Code Section 34.26 titled "Limited Authority of City Employee to Provide Services to the City".
- b. The Proposer shall promptly notify Amanda Beilfuss, City Sr. Purchasing Agent, in writing, of all potential conflicts of interest for any prospective business association, interest, or other circumstance which may

influence or appear to influence the Proposer's judgment or quality of services being provided. Such written notification shall identify the prospective business association, interest or circumstance, the nature of which the Proposer may undertake and request an opinion to the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the Proposer. The City agrees to communicate with the Proposer its opinion via e-mail or first-class mail within thirty days of receipt of notification.

9. WITHDRAWAL OF PROPOSAL:

A proposal may be withdrawn prior to the time set for the proposal submittal based on a written request from an authorized representative of the firm; however, a proposal shall not be withdrawn after the time set for the proposal.

10. LATE PROPOSAL OR MODIFICATIONS:

- a. Proposal and modifications received after the time set for the proposal submittal shall not be considered. Modifications in writing received prior to the deadline will be accepted. The City will not be responsible for misdirected bids. Proposers refer to their submission status in the online bidding portal or call the Purchasing Division at (479) 575-8220 to ensure receipt of their submittal documents prior to opening time and date listed.
- b. The time set for the deadline shall be local time for Fayetteville, AR on the date listed. All proposals shall be received in the Purchasing Division BEFORE the deadline stated. The official clock to determine local time shall be the atomic clock located in the Purchasing Division, Room 306 of City Hall, 113 W. Mountain, Fayetteville, AR.

11. CONSTITUTIONAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS:

The laws of the State of Arkansas apply to any purchase made under this request for proposal. Proposers shall comply with all constitutional, state, and federal directives, orders and laws as applicable to this proposal and subsequent contract(s) including but not limited to Equal Employment Opportunity (EEO), Disadvantaged Business Enterprises (DBE), & OSHA as applicable to this contract.

12. PROVISION FOR OTHER AGENCIES:

Unless otherwise stipulated by the Proposer, the Proposer agrees to make available to all Government agencies, departments, municipalities, and counties, the proposal prices submitted in accordance with said proposal terms and conditions therein, should any said governmental entity desire to buy under this proposal. Eligible users shall mean all state of Arkansas agencies, the legislative and judicial branches, political subdivisions (counties, local district school boards, community colleges, municipalities, counties, or other public agencies or authorities), which may desire to purchase under the terms and conditions of the contract.

13. COLLUSION:

The Proposer, by affixing his or her signature to this proposal, agrees to the following: "Proposer certifies that their proposal is made without previous understanding, agreement, or connection with any person, firm or corporation making a proposal for the same item(s) and/or services and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action."

14. RIGHT TO AUDIT, FOIA, AND JURISDICITON:

- a. The City of Fayetteville reserves the privilege of auditing a Contractor's records as such records relate to purchases between the City and said Contractor.
- b. Freedom of Information Act: City contracts and documents prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the (contractor) will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.
- c. Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.

15. CITY INDEMNIFICATION:

The successful Proposer(s) agrees to indemnify the City and hold it harmless from and against all claims, liability, loss, damage or expense, including but not limited to counsel fees, arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon, with respect to the services or any part thereof covered by this order, and such obligation shall survive acceptance of the services and payment thereof by the City.

16. VARIANCE FROM STANDARD TERMS & CONDITIONS:

All standard terms and conditions stated in this request for proposal apply to this contract except as specifically stated in the subsequent sections of this document, which take precedence, and should be fully understood by Proposers prior to submitting a proposal on this requirement.

17. ADA REQUIREMENT FOR PUBLIC NOTICES & TRANSLATION:

Persons with disabilities requiring reasonable accommodation to participate in this proceeding/event, should call 479.521.1316 (telecommunications device for the deaf), no later than seven days prior to the deadline. Persons needing translation of this document shall contact the City of Fayetteville, Purchasing Division, immediately.

18. PAYMENTS AND INVOICING:

The Proposer must specify in their proposal the exact company name and address which must be the same as invoices submitted for payment as a result of award of this RFP. Further, the successful Proposer is responsible for immediately notifying the Purchasing Division of any company name change, which would cause invoicing to change from the name used at the time of the original RFP. Payment will be made within thirty days of invoice received. The City of Fayetteville is very credit worthy and will not pay any interest or penalty for untimely payments. **Payments can be processed through Proposer's acceptance of Visa at no additional costs to the City for expedited payment processing.** The City will not agree to allow any increase in hourly rates by the contract without PRIOR Fayetteville City Council approval.

19. CANCELLATION:

- a. The City reserves the right to cancel this contract without cause by giving thirty (30) days prior notice to the Contractor in writing of the intention to cancel or with cause if at any time the Contractor fails to fulfill or abide by any of the terms or conditions specified.

- b. Failure of the contractor to comply with any of the provisions of the contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of the City of Fayetteville.
- c. In addition to all other legal remedies available to the City of Fayetteville, the City reserves the right to cancel and obtain from another source, any items and/or services which have not been delivered within the period of time from the date of order as determined by the City of Fayetteville.
- d. In the event sufficient budgeted funds are not available for a new fiscal period, the City shall notify the Contractor of such occurrence and contract shall terminate of the last day of the current fiscal period without penalty or expense to the City.

20. ASSIGNMENT, SUBCONTRACTING, CORPORATE ACQUISITIONS AND/OR MERGERS:

- a. The Contractor shall perform this contract. No assignment of subcontracting shall be allowed without prior written consent of the City. If a Proposer intends to subcontract a portion of this work, the Proposer shall disclose such intent in the proposal submitted as a result of this RFP.
- b. In the event of a corporate acquisition and/or merger, the Contractor shall provide written notice to the City within thirty (30) calendar days of Contractor's notice of such action or upon the occurrence of said action, whichever occurs first.

21. NON-EXCLUSIVE CONTRACT:

Award of this RFP shall impose no obligation on the City to utilize the Contractor for all work of this type, which may develop during the contract period. This is not an exclusive contract. The City specifically reserves the right to concurrently contract with other companies for similar work if it deems such an action to be in the City's best interest. In the case of multiple-phase contracts, this provision shall apply separately to each item.

22. LOBBYING:

Lobbying of selection committee members, City of Fayetteville employees, or elected officials regarding request for proposals, request for qualifications, bids or contracts, during the pendency of bid protest, by the bidder/proposer/protestor or any member of the bidder's/proposer's/protestor's staff, and agent of the bidder/proposer/protestor, or any person employed by any legal entity affiliated with or representing an organization that is responding to the request for proposal, request for qualification, bid or contract, or has a pending bid protest is strictly prohibited either upon advertisement or on a date established by the City of Fayetteville and shall be prohibited until either an award is final or the protest is finally resolved by the City of Fayetteville; provided, however, nothing herein shall prohibit a prospective/bidder/proposer from contacting the Purchasing Division to address situations such as clarification and/or questions related to the procurement process. For purposes of this provision lobbying activities shall include but not be limited to, influencing or attempting to influence action or non-action in connection with any request for proposal, request for qualification, bid or contract through direct or indirect oral or written communication or an attempt to obtain goodwill of persons and/or entities specified in this provision. Such actions may cause any request for proposal, request for qualification, bid or contract to be rejected.

23. ADDITIONAL REQUIREMENTS:

The City reserves the right to request additional services relating to this RFP from the Proposer. When approved by the City as an amendment to the contract and authorized in writing prior to work, the Contractor shall provide such additional requirements as may become necessary.

24. SERVICES AGREEMENT:

A written agreement, in substantially the form attached, incorporating the RFP and the successful proposal will be prepared by the City, signed by the successful Proposer and presented to the City of Fayetteville for approval and signature of the Mayor.

25. INTEGRITY OF REQUEST FOR PROPOSAL (RFP) DOCUMENTS:

Proposers shall use the original RFP form(s) provided by the Purchasing Division and enter information only in the spaces where a response is requested. Proposers may use an attachment as an addendum to the RFP form(s) if sufficient space is not available on the original form for the Proposer to enter a complete response. **Any modifications or alterations to the original RFP documents by the Proposer, whether intentional or otherwise, will constitute grounds for rejection of such RFP response.** Any such modifications or alterations a Proposer wishes to propose shall be clearly stated in the Proposer's RFP response and presented in the form of an addendum to the original RFP documents.

26. INSURANCE:

Any project selected under this RFP shall require professional liability insurance in the amount of \$5 million US dollars, at minimum. Such Certificate of Insurance shall list the City as an additional insured and not be required unless firm is awarded a contract. Certificate of insurance shall be provided within 10 (ten) calendar days after contract award. The City reserves the right to provide builder's risk insurance in the event it results in a cost savings to the overall project.

- i. Professional/Comprehensive General Liability Insurance: Minimum \$5 million
- ii. Builder's Risk
- iii. Worker's Compensation: Statutory amount
- iv. General Automotive Insurance as required by state law

27. OTHER GENERAL CONDITIONS:

- a. Proposers shall provide documentation that their firm currently has or has applied for a valid Arkansas Contractor's License and is currently registered and in good standing or has applied with the Arkansas Secretary of State.
- b. Proposers must provide the City with their proposals signed by an employee having legal authority to submit proposals on behalf of the Proposer. The entire cost of preparing and providing responses shall be borne by the Proposer.
- c. The City reserves the right to request any additional information it deems necessary from any or all Proposers after the submission deadline.
- d. This solicitation is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the City to pay for any costs incurred by Proposer in preparation. It shall be clearly understood that any costs incurred by the Proposer in responding to this request for proposal is at the Proposer's own

risk and expense as a cost of doing business. The City of Fayetteville shall not be liable for reimbursement to the Proposer for any expense so incurred, regardless of whether or not the proposal is accepted.

- e. If products, components, or services other than those described in this bid document are proposed, the Proposer must include complete descriptive literature for each. All requests for additional information must be received within five working days following the request.
- f. **Any uncertainties shall be brought to the attention to Amanda Beilfuss immediately via telephone (479.575.8220) or e-mail (abeilfuss@fayetteville-ar.gov). It is the intent and goal of the City of Fayetteville Purchasing Division to provide documents providing a clear and accurate understanding of the scope of work to be completed and/or goods to be provided. We encourage all interested parties to ask questions to enable all Proposers to be on equal terms.**
- g. Any inquiries or requests for explanation in regard to the City's requirements should be made promptly to Amanda Beilfuss, City of Fayetteville, Sr. Purchasing Agent via e-mail (abeilfuss@fayetteville-ar.gov) or telephone (479.575.8220). No oral interpretation or clarifications will be given as to the meaning of any part of this request for proposal. All questions, clarifications, and requests, together with answers, if any, will be provided to all firms via written addendum. Names of firms submitting any questions, clarifications, or requests will not be disclosed until after a contract is in place.
- h. At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews.
- i. Any information provided herein is intended to assist the Proposer in the preparation of proposals necessary to properly respond to this RFP. The RFP is designed to provide qualified Proposers with sufficient basic information to submit proposals meeting minimum specifications and/or test requirements but is not intended to limit a RFP's content or to exclude any relevant or essential data.
- j. Proposers irrevocably consent that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract shall be controlled by Arkansas law. Proposer hereby expressly and irrevocably waives any claim or defense in any said action or proceeding based on any alleged lack of jurisdiction or improper venue or any similar basis.
- k. The successful Proposer shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of City of Fayetteville. In case the successful Proposer assigns all or any part of any monies due or to become due under this Contract, the Instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the successful Proposer shall be subject to prior liens of all persons, firms, and corporations for services rendered or materials supplied for the performance of the services called for in this contract.
- l. The successful Proposer's attention is directed to the fact that all applicable Federal and State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the services shall apply to the contract throughout, and they will be deemed to be included in the contract as though written out in full herein. The successful Proposer shall keep himself/herself fully informed of all laws, ordinances and regulations of the Federal, State, and municipal governments or authorities in any manner

affecting those engaged or employed in providing these services or in any way affecting the conduct of the services and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency should be discovered in these Contract Documents or in the specifications herein referred to, in relation to any such law, ordinance, regulation, order or decree, s/he shall herewith report the same in writing to the City of Fayetteville.

END OF GENERAL TERMS AND CONDITIONS

1. PROJECT SUMMARY:

- a. The City of Fayetteville is accepting statements of qualifications from licensed professionals to provide construction management at risk (CMAR) services for the reconstruction of 2,500 linear feet Maple Street from Gregg Avenue to Garland Avenue for the City of Fayetteville. The project includes storm drainage, sidewalks, protected bike lane, enhanced crosswalks, turn lanes, new traffic signals, street lighting and landscaping.
- b. Olsson, Inc. is serving as lead design professional for this project.
- c. **Phasing and Award:** One (1) contract will be awarded with multiple phases. Phase 1 will include pre-construction services as outlined below. Phase 2 will include Change Order #1 for the Guaranteed Maximum price for construction of the project.
- d. **Project Funding:** The total project funding is 75% Federal through the Safe Streets for All Program and 25% matching to be split by the University of Arkansas and the City of Fayetteville.

2. PROJECT INFORMATION & REQUIREMENTS:

- a. Request for Proposal (RFP) responses shall be submitted from one single primary construction manager firm with each additional contracted third party as a subcontractor to the primary. The primary firm, in addition to any contracted third party, shall be disclosed with the RFP response and be considered the project team for the overall construction scope of the project. This requirement to provide sub-consultant professionals does not include subcontractor trades for the actual construction items (Electrical, Masonry etc.) as those items will be bid by the CMAR after contract award.
- b. It is the intent of this solicitation to enter into a mutually beneficial agreement indicated by the draft provided with this RFP.
- c. The primary responding firm shall be experienced in constructing a wide variety of streetscape elements such as; street reconstruction, shared-use paved trails, sidewalks, stormwater infrastructure, lighting, signalization, landscaping, irrigation and specific pavement materials. Respondents to this RFP shall submit at least three (3) similar type projects within the past ten (10) years that demonstrates successful street projects. Projects listed shall have been completed by the employees/associates that will be assigned to this project.

3. SCOPE OF WORK:

- a. **Overview:** Anticipated phases are identified below with associated scope of work. Scope of work is not limited to any additional industry standard scope of work necessary to complete each phase. **Selected Primary firm shall coordinate with the design team composed of Olsson Inc., the City of Fayetteville, and the University of Arkansas in order to achieve best value for the overall success of the project, including working to achieve maximum cost savings. Coordination with design team is critical for all phases.**

b. Phase 1: Design Development and Construction Drawings from the Current Plans to Final Plans

i. Construction Documents Phase

1. CMAR shall develop a construction phasing plan
2. CMAR shall develop a construction schedule
3. CMAR shall develop cost estimates for the most current design set and specifications and evaluate cost reduction alternatives and control.
4. Provide industry standard construction manager services, including but not limited to development of costs, identifying potential design changes which could result in cost savings or construction efficiencies, interact with the design team for review of documents, etc.
5. Coordinate with Olsson on Final Design Document sets, Final Specifications, and Cost Estimates and Schedule to present to the Design Team. (90% plan review).
6. After receiving 90% design review comments, meet with applicable City of Fayetteville and University of Arkansas Staff to resolve comments.
7. Assist Olsson in responding in writing to all City of Fayetteville and University of Arkansas comments on plans.
8. Assist Olsson in coordinating with City-owned utilities, University of Arkansas utilities, private utilities, and service providers.
9. Attend follow up meetings with the design team.
10. Construction Documents/Plans, Specifications and Project Drawings shall be routed through the City of Fayetteville and University of Arkansas for required approvals.
11. Assist Olsson and the City with the bid form and identify all separate trade packages.
12. Facilitate with Olsson and the Design Team in conducting cost-benefit analyses to understand construction costs, life-cycle cost impacts and long-term maintenance costs.
13. Coordinate with the design team to create plans for closure and detour of both pedestrian and street zones based on construction phasing.
14. Provide pedestrian access and ADA accessibility plan for construction duration.

ii. Bid Phase

1. Coordinate with City Purchasing Division to ensure all procedures followed for this phase meet state laws and City of Fayetteville Purchasing Policies.
2. Provide services for reproduction and dissemination of bid sets (project manual and stamped drawings) to the City Design Team [PM (1), Purchasing (1) and interested bidders]. Documents should be made available to any interested party electronically at no cost.
3. Provide distribution of plans to all interested parties:

- a. Maintain open communication with the City of Fayetteville Purchasing Division throughout the bidding process.
 - b. Distribution of all documents shall be done in a fair and unbiased manner while keeping all interested parties on equal terms.
 - c. Document and keep an updated accurate record of plan holder's and provide updated listings to all interested parties in a timely manner.
 - d. Answers to questions and inquiries shall be made in the form of an addendum and shall be provided to all interested parties at the same time.
4. Coordinate with City Purchasing Division during pre-bid meeting, facilitate and attend the Bid Opening.
5. Maintain open communication with the City Purchasing Division during any process involving Request for Information (RFI).
6. Any addenda shall be provided to the Purchasing Division for review and approval in advance of issuance. Bidders, interested parties, and plan holders shall receive all information included in addenda at the time addenda is issued.
7. In the event the CMAR desires to self-perform a portion of the work or a trade package, the CMAR shall submit a bid package in the same time and manner as other interested parties.
8. Assist with the design of all Bid Proposals.
9. Review Olsson's Recommendation of Award Letter that includes the following required content (and assist with):
 - a. Check for math errors and reconcile any mathematical discrepancies,
 - b. Review for unbalance bid items,
 - c. Coordinate with the City Purchasing Division in finalizing a Certified Bid Tabulation including Engineer's estimate,
 - d. Review of contractor's financial standing and references provided,
 - e. Explanation of discrepancies between the Engineer's estimate and bids, and
 - f. Meet with the City to provide a formal written recommendation of award.
10. Attend City Council meeting(s) for the recommendation for award of Contract(s) for construction.

c. Phase 2: Guaranteed Maximum Price and Construction Administration Phase

i. Construction Administration Phase

1. Put forth diligent and fiscally responsible efforts to ensure the project will be completed on time and within budget.
2. Attend pre-construction meeting and conduct regular update meetings as jointly determined by the design team and contracted construction companies.

3. Coordinate with Olsson and the Design Team on all Request for Change Proposals, Change Orders, etc. including maintaining a log of all such documents.
4. The City of Fayetteville and the University of Arkansas intends to provide regular construction administration services. Olsson will provide field services, progress meetings, and progress payment review and assistance on a bi-monthly basis.
5. Review site visit report from the Olsson, City of Fayetteville and University of Arkansas staff team at least twice (2) per month.
6. Coordinate with the Design Team to conduct Substantial Completion Inspection, coordinate with architect to create punch list, substantiate that items noted are completed, and issue Substantial Completion Certificate.
7. The Design Team shall be notified to attend all on-site meetings, review and approve all pay requests, and change order review prior to Mayor's approval.
8. Coordinate with the design team to create plans for closure and detour of both pedestrian and street zones based on construction phasing.

ii. Project Close Out

1. Provide Warranty Services during the entire Warranty Period. Olsson to issue Warranty Reports and review items after the CM has notified the City that these items are complete.
2. Provide support services as needed during the project close out process.
3. Provide close-out submittal to Olsson for completeness before transmitting to the City which include but are not limited to:
 - a. Contractor's red lines and as-built notes
 - b. Provide as-built record drawings noting any changes to the plans prepared by Olsson (both hard copy and digital formats)
 - c. Produce a project narrative that provides a comprehensive review of the construction activities for the project with a project narrative submitted for City approval at the completion of each contract phase.

4. PROFESSIONAL SERVICES AND ADDITIONAL REQUIREMENTS:

- a. Any entity responding to this RFP shall be a current licensed contractor with the State of Arkansas Contractor's Licensing Board. Failure to hold a current contractor's license shall result in submittal rejection. All subcontractors on the project shall be properly licensed by the State of Arkansas Contractor's Licensing Board.
- b. Any industry standard cost share or savings incentive practices desired for discussion during contract negotiations should be disclosed with RFP response. Cost sharing practice shall be presented in the format of a general best practices approach and contract terms. Pricing and fees are part of the selection criteria and shall be included with RFP submittal.
- c. Estimating

- d. After a contract has been awarded to the selected construction manager (CM) and within ten (10) calendar days of the final construction contract being finalized, provide a 100% separate performance and payment bond to the City of Fayetteville after being file marked at the Washington County Circuit Clerk's Office.
- i. Construction contracts for the project shall not be entered into between the CM and sub-contractor without a 100% payment and performance bond in the amount of the contract and any amendments thereto and shall provide for the manner in which the construction shall be managed and supervised. Bonds shall be valid and exchanged between all parties prior to the start of work.
- e. After contract award, the awarded CM shall furnish a certificate of insurance showing that insurance policies are carried in amounts acceptable to the City. Forms of insurance shall be, Comprehensive General Liability, Builder's Risk, Property Damage Insurance, Worker's Compensation, and Automobile coverage. Such insurance shall be kept in full force and in effect until all work has been satisfactorily completed and accepted. All certificates of insurance shall list the City of Fayetteville as an additional insured. The City of Fayetteville reserves the right to bind builder's risk insurance for this project in the event it results in a cost savings to the City.
- f. Ensure all funds spent are in accordance with State of Arkansas procurement laws, including but not limited to
- i. Ensuring CMAR maintains a proper license with the Arkansas Contractors Licensing Board
- ii. Ensuring all subcontractors on the project are properly licensed by the Arkansas Contractors Licensing Board
- iii. Compliance with Arkansas state law, including but not limited to sections:
1. A.C.A. § 14-58-1001
 2. A.C.A. § 19-11-801
 3. A.C.A. § 17-25-101
 4. A.C.A. § 17-38-101
 5. A.C.A. § 17-33-101
 6. A.C.A. § 12-13-101
 7. A.C.A. § 12-80-101
 8. A.C.A. § 22-9-101
 9. A.C.A. § 22-9-103
 10. A.C.A. § 22-9-104
 11. A.C.A. § 22-9-213
 12. A.C.A. § 22-9-401
 13. A.C.A. § 22-9-501
 14. A.C.A. § 22-9-601

15. A.C.A. § 22-9-701

16. All competitive bidding statutes shall remain in full force and effect and not be affected hereby

17. This project shall not authorize a design-build project contract or sub-contracts

g. Project and change order pricing

h. Schedule control

i. Cost reduction and control

j. Project coordination

k. Project close-out

l. Warranty

5. SUBMITTAL REQUIREMENTS:

The Proposer shall provide adequate information that will render it qualified and capable of effectively accomplishing the scope of services. The proposal will be reviewed by a Selection Committee which could include ranking. Since there is no assurance of the Proposer having any other opportunity to communicate its ability, the proposal response shall negate any ambiguity with respect to the Proposer's ability and approach.

a. All Proposers shall submit the following information with proposal, at a minimum:

- i. Title Page: Show the name of firm, address, telephone number, name of contact person, date, and subject: RFP 24-15, CMAR for Maple Street Improvements.
- ii. Table of Contents: Include a clear identification of the material by section and by page number.
- iii. Letter of Interest: Provide relevant information regarding previous experience related to developing similar projects. All Proposers shall submit a minimum of four (4) references within the past five (5) years. In addition, provide in this section, your firm's primary business interest and/or operations including any affiliations.
- iv. Project Team Organization – Provide an organizational chart indicating the relationship between the Submitter's staff members who have responsibilities related to this project. Indicate on the chart the names of key personnel and their titles. Submit professional qualifications and resumes of staff to be assigned to this project, showing where they have performed work on similar projects including Construction Management GMP projects.
- v. Specialized and Past Experience: Provide information regarding your firm's past experience in providing the services requested in this RFP including information pertaining to customer satisfaction, timely completion, and meeting budgets on similar projects executed under a GMP contracting format.

- vi. Schedule: Submitter shall provide a general schedule for the completion of the scope of the specified project.
- vii. Cost: Total listing of fee for pre-construction services, and any additional fees associated with that pre-construction services only.
- viii. Additional Background: All Proposers are invited to include a maximum of two (2) pages of information not included above which may be useful and applicable to the project.

b. Proposals shall include the following in addition to the other requirements specified:

- i. Prior experience construction streetscape and similar project types
- ii. Statement regarding understanding of pre-construction services and approach to billing for pre-construction services. Included as part of this statement should include a clear definition of understanding for what a Guaranteed Maximum Price (GMP) means.
- iii. Records of management teams on similar projects with timely completion, and high-quality workmanship
- iv. Records of previous similar projects with owner verification and contact information. Please provide contact information including reference contacts of the owner and architect on at least three (3) projects. These projects should be within the past five (5) years.
- v. Current and projected workload
- vi. Current maximum bonding capacity and rate

6. CONTRACT FORMATION:

If the negotiation produces mutual agreement, a contract will be considered for approval by the City of Fayetteville City Council. If negotiations with the highest-ranking Proposer fail, negotiations may be initiated with the next highest-ranking Proposer until an agreement is reached. The City reserves the right to reject all offers and end the process without executing a contract.

7. CONTRACT ADMINISTRATION:

The Contract Administrator for this Request for Proposal (RFP) shall be the City of Fayetteville's assigned Project Manager, Wade Abernathy, Bond Project and Construction Director. The City's selected Project Manager will:

- a. Provide the successful Proposer direction and monitor the results within the limits of the Contract's terms and conditions.
- b. Manage issues which may arise as to quality and acceptability of services performed.
- c. Judge as to the accuracy of quantities submitted by the successful Proposer in payment requests and the acceptability of the services which these quantities represent.

- d. Serve as the point of contact for developing contract changes and amendments to be approved by the City of Fayetteville.
- e. Act as the City of Fayetteville's representative during the execution of any subsequent contract and related amendments. All questions arising, subsequent to the contract award, shall be addressed to the Purchasing Division.

8. SELECTION CRITERIA:

The following criteria will be used by the City to evaluate and score responsive proposals. Proposers shall include sufficient information to allow the City to thoroughly evaluate and score the proposal. Each proposal submitted is not required to be ranked by the selection committee. The contract may be awarded to the most qualified firm, per the evaluation criteria listed below, based on the evaluation of the selection committee. Following the evaluation of the proposals, the Selection Committee may request that the top-ranking firm(s) make an oral presentation or be interviewed. If presentations are necessary, they will take place in Fayetteville, Arkansas. Notices will be sent by the Purchasing Division.

- 1) 30% **Qualifications in Relation to Specific Project to be Performed:** Information reflecting qualifications of the firm and project team. Indicated specialized experience and technical competence of the firm in connection with the type and complexity of the service required. Subcontractors, if used, shall be listed with information on their organization.
- 2) 25% **Experience, Competence, and Capacity for Performance:** Information reflecting the names, titles, and qualifications (including experience and technical competence) of the major personnel assigned to this specific project.
- 3) 20% **Proposed Method of Doing Work:** A proposed work plan (description of how the project would be conducted as well as other facts concerning approach to scope) indicating methods and schedules for accomplishing scope of work. Include with this the amount of work presently underway.
- 4) 15% **Past Performance:** Previous evaluations shall be considered a significant factor. If previous evaluations with the City are not available, the professional firm's past performance records with City and others will be used, including quality of work, timely performance, diligence, and any other pertinent information. Firm will provide a list of similar jobs performed and person whom the City can contact for information.
- 5) 10% **Cost/Fees:** Complete costs and fees as described in this RFP and for delivery of the proposal including fiscal feasibility and financial stability. All fees shall be clearly identified with RFP response and be itemized as much as possible.

END OF SCOPE OF SERVICES AND GENERAL INFORMATION

1. DISCLOSURE INFORMATION

- a. Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Proposer response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.
- i. If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

PLEASE CHECK ONE OF THE FOLLOWING TWO OPTIONS, AS IT APPROPRIATELY APPLIES TO YOUR FIRM:

_____ 1) NO KNOWN RELATIONSHIP EXISTS

_____ 2) RELATIONSHIP EXISTS (Please explain):

- b. I certify that; as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein is accurate and true; and my organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.
- c. Proposer agrees that they shall have a current, valid registration with the Arkansas Secretary of State at time of RFP deadline OR be able to provide proof of registration before recommendation of award to Fayetteville City Council.
- d. Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.
- e. Pursuant Arkansas Code Annotated §25-1-1002, the Contractor agrees and certifies that they do not currently boycott Energy, Fossil Fuel, Firearms, and Ammunition Industries during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-1002. If at any time during the contract the contractor decides to boycott Energy, Fossil Fuel, Firearms, and/or Ammunition Industries, the contractor must notify the contracted public entity in writing.

2. PRIMARY CONTACT INFORMATION

At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews. **NOTE: Each Proposer shall submit to the City a primary contact name, e-mail address, and phone number (preferably a cell phone number) where the City selection committee can call for clarification or interview via telephone.**

Corporate Name of Firm: _____

Primary Contact: _____ Title of Primary Contact: _____

Phone#1 (cell preferred): _____ Phone#2: _____

E-Mail Address: _____

3. ACKNOWLEDGEMENT OF ADDENDA

Acknowledge receipt of addenda for this invitation to bid, request for proposal, or request for qualification by signing and dating below. All addendums are hereby made a part of the bid or RFP documents to the same extent as though it were originally included therein. Proposers/Bidders should indicate their receipt of same in the appropriate blank listed herein. Failure to do so may subject Contractor to disqualification.

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE ACKNOWLEDGED

4. DEBARMENT CERTIFICATION:

- As an interested party on this project, you are required to provide debarment/suspension certification indicating compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.
- Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.
- Signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

5. SIGNATURE SUBMITTAL:

NAME OF COMPANY: _____

PHYSICAL ADDRESS: _____

MAILING ADDRESS: _____

TAX ID #: _____ AR. SECRETARY OF STATE FILING #: _____

PHONE: _____ SAM UEI #: _____

E-MAIL: _____

By submitting your response, you certify that you are authorized to represent and bind your company :

SIGNATURE: _____

PRINTED NAME: _____

TITLE: _____ DATE: _____

Appendix C
RFP 24-15, CMAR for
Maple Street Improvements
City Issued RFP

END OF RFP DOCUMENT



Appendix A: Contract Provisions for Non-Federal Entity Contracts Under Federal Awards
CODE OF FEDERAL REGULATIONS
TITLE 2 – GRANTS AND AGREEMENTS
PART 200, APPENDIX II

[Appendix II to Part 200, Title 2 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards](https://www.govinfo.gov/content/pkg/CFR-2021-title2-vol1/pdf/CFR-2021-title2-vol1-part200.pdf)
<https://www.govinfo.gov/content/pkg/CFR-2021-title2-vol1/pdf/CFR-2021-title2-vol1-part200.pdf>

Contractors and vendors shall comply with the following federal guidelines, in accordance with the most recent published version of Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. The definition of a “non-Federal entity” in this section shall mean the City of Fayetteville, AR. Language in this Appendix shall override and supersede any language contained in the bid documents. All parties shall understand the terms “vendor” and “contractor” may apply to a design firm, construction contractor and/or sub-contractor. Language in this appendix shall apply as it is applicable to federal law. Design firms shall incorporate all applicable federal language into bid specifications, qualification requirements and contract documents prepared for City of Fayetteville projects.

1. **Simplified Acquisition Threshold:** Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
2. **Termination for Cause and Convenience**
 - a. The City of Fayetteville reserves the right to cancel this Contract, without cause, by giving thirty (30) days’ notice to the vendor of the intent to cancel, or with cause if at any time the vendor fails to fulfill or abide by any of the terms or conditions specified. This Agreement shall be automatically terminated if funds under federal award, number are discontinued by the awarding agency for any reason. Such termination shall take effect upon receipt of written notice. If there is a need to settle on an early termination, partial payment up to the termination date would be determined by incurrence of allowable cost, by completion of task, by percent of time completed up to the settlement, or some other method as defined by the City upon review of the vendor’s records.
 - a. Failure of the vendor to comply with any of the provisions of this contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of the City of Fayetteville.
 - b. In addition to all other legal remedies available to the City of Fayetteville, the City reserves the right to cancel and obtain from another source any services which have not been provided within the period of time stated in the proposal, or if no such time is stated, within a reasonable period of time from the date of order or request, as determined by the City.
3. **Equal Employment Opportunity** – Vendor shall comply with 41 CFR 60–1.4(b)
 - a. During the performance of this contract, the vendor agrees as follows:
 - (1) The vendor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The vendor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The vendor agrees to post in

conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The vendor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The vendor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the vendor's legal duty to furnish information.
- (4) The vendor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the vendor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The vendor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The vendor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the vendor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the vendor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The vendor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each sub-vendor or vendor. The vendor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:
 - a. Provided, however, that in the event a vendor becomes involved in, or is threatened with, litigation with a sub-vendor or vendor as a result of such direction by the administering agency, the vendor may request the United States to enter into such litigation to protect the interests of the United States.
 - b. The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.
 - c. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of vendors and sub vendors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the

administering agency in the discharge of the agency's primary responsibility for securing compliance.

- d. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a vendor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon vendors and sub-vendors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.
 - b. Subcontracts. Each nonexempt prime vendor or sub-vendor shall include the equal opportunity clause in each of its nonexempt subcontracts.
 - c. Inclusion of the equal opportunity clause by reference. The equal opportunity clause may be included by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Director of OFCCP may designate.
 - d. Incorporation by operation of the order. By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the vendor is written.
 - e. Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.
4. **Davis-Bacon Act**, as amended ([40 U.S.C. 3141](#)–3144, and 3146–3148) as supplemented by Department of Labor regulations ([29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"](#))
- a. See also [2 C.F.R. Part 200, Appendix II, 1.D.](#)
 - b. In accordance with the statute, vendors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, vendor must be required to pay wages not less than once a week.
 - c. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency:
 - i. **Contractors on projects shall reference the appendices containing Wage Determination Numbers and dates.**
5. **Copeland "Anti-Kickback" Act** ([40 U.S.C. 3145](#)), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").
- a. Each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
 - i. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
 - ii. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as may by appropriate instructions require, and also a clause requiring the subcontractors to

include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

- iii. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

6. Contract Work Hours and Safety Standards Act

- a. Where applicable (see [40 U.S.C. § 3701](#)), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E.
- b. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer based on a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- c. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- d. Compliance with the Contract Work Hours and Safety Standards Act
 - ii. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
 - iii. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
 - iv. Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
 - v. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

- 7. **Rights to Inventions Made Under a Contract or Agreement:** If the Federal award meets the definition of "funding agreement" under [37 CFR § 401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of [37 CFR Part 401](#), "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

8. **Clean Air Act [42 U.S.C. 7401](#):** Contracts in excess of \$150,000 shall comply with the following related to the Clean Air Act
- The vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
 - The vendor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
 - The vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance funding.
9. **Federal Water Pollution Control Act:** Contracts in excess of \$150,000 shall comply with the following related to the Federal Water Pollution Control Act
- The vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
 - The vendor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
 - The vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.
10. **Debarment and Suspension (Executive Orders 12549 and 12689)**
- This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the vendor is required to verify that none of the vendor/contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
 - A contract award (per [2 CFR 180.220](#)) shall not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
 - The vendor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
 - If it is later determined that the vendor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
 - The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.
11. **Byrd Anti-Lobbying Amendment [31 U.S.C. § 1352](#) (as amended)**
- Vendors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.
12. **Procurement of recovered materials ([§ 200.323](#))**
- A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors and vendors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and

Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

13. Prohibition on certain telecommunications and video surveillance services or equipment ([§ 200.216](#))

- a. Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
 - i. Procure or obtain;
 - ii. Extend or renew a contract to procure or obtain; or
 - iii. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (1) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (2) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (3) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- b. In implementing the prohibition under [Public Law 115-232](#), section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
- c. See [Public Law 115-232](#), section 889 for additional information.
- d. See also [§ 200.471](#).

14. Domestic preferences for procurements ([§ 200.322](#))

- a. As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- b. For purposes of this section:
 - i. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - ii. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

RFP 24-15, Addendum 1



CITY OF
FAYETTEVILLE
ARKANSAS

Date: Monday, December 23, 2024

To: All Prospective Vendors

From: Amanda Beilfuss – 479.575.8220 – abeilfuss@fayetteville-ar.gov

RE: RFP 24-15, CMAR for Maple Street Improvements

This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Interested parties should indicate their receipt of same in the appropriate blank of the RFP. **PROPOSERS SHOULD ACKNOWLEDGE THIS ADDENDUM ON THE DESIGNATED LOCATION ON THE BID PORTAL/FORM.**

1. A non-mandatory pre-proposal conference was held on Tuesday, December 17, 2024 at 10:00 AM in room #326 of Fayetteville City Hall. The listing of attendees is also attached to this addendum for disclosure to all interested parties (Attachment A).
 - a. Attendees:
 - i. City of Fayetteville and Project Representatives:
 1. Amanda Beilfuss, Procurement Director
 2. Kenny Fitch, Purchasing Agent
 3. Matt Mihalevich, Active Transportation Manager
 4. Kristen Knight, University of Arkansas – Associate Director
 - ii. Vendors:
 1. APAC-Central, Inc.
 2. Flintco
 3. Nabholz Construction Corp.
2. **DEADLINE EXTENSION:** The deadline to submit Proposals for this RFP has been extended. All Proposals shall be submitted by Tuesday, January 21, 2025 no later than 2:00 PM.
3. **CLARIFICATIONS:** The following is being provided as additional information and/or clarification:
 - a. The City of Fayetteville will hold and administer the CMAR contract.
 - b. Anticipated construction start time is May 2025.
 - c. Draft Contract – A draft contract for the CMAR for this project is attached to this addendum (Attachment B). Final contract is subject to change.

- d. Draft Plans/Drawings – The draft plans (NOT completed) for this CMAR project are being included in this addendum (see dropbox link below). Plans are subject to change.
 - i. Dropbox link for Plans/Drawings:
<https://www.dropbox.com/scl/fi/ab9otzggezclaj3mf82n/Maple-Street-Final-Plans-reduced-size.pdf?rlkey=w6ln5s6cfmf6vewfws58zkyq9&dl=0>

4. Attachments:

- a. Attachment A: Pre-Proposal Conference Sign-In Sheet
- b. Attachment B: Draft Contract

Appendix C
RFP 24-15, CMAR for
Maple Street Improvements
City Issued RFP



CITY OF
FAYETTEVILLE
ARKANSAS

City of Fayetteville, Arkansas

Attendance Sheet

BID/RFP/RFQ #: 24-15

Description: CMAR for Maple Street Improvements

Function (circle one) : Bid Opening, Selection Committee Meeting, Pre-Bid Interview

Date: 12 / 17 / 24

Time: 10:00 AM

City staff e-mail includes "@fayetteville-ar.gov"

	Name	Company	Title	Phone	Email
1	Amanda Beilfuss	CoF	Proc. Director	515-8220	abeilfuss@
2	Klint Kimball	Flintco	Recen Director	479-200-2164	klint.kimball@flintco.com
3	Tricia Shan	Flintco	Project Mgr.	479-445-2844	tricia.shan@flintco.com
4	Kevin Langston	Flintco	Project Coordinator	479-856-1495	klangston@flintco.com
5	Colton Horn	Nabholz	Assistant PM	479-438-3961	colton.horn@nabholz.com
6	JOE FIFER	NABHOLZ	SA PM	501-993-8749	joe.fifer@nabholz.com
7	GRANT FERGUSON	APAC	ESTIMATOR	479-263-9860	grant.ferguson@apac.com
8	Rueben Gastelum	APAC	Estimator	479-601-3216	rueben.gastelum@apac.com
9	Chad Crouch	Flintco	Project Director	918-284-9349	ccrouch@flintco.com
10	Dustin Maupin	Flintco	Superintendent	479-879-1764	dmaupin@flintco.com
11	KRISTEN KNIGHT	U of A	Assoc Director	479-445-9653	kristenk@uark.edu
12	KENNY FITCH	COF	PURCH AGENT	479-575-8258	kfitch@
13	MATT MIHALEVICH	COF			
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THIS AGREEMENT is made this _____ day of _____, 2025, by and between **City of Fayetteville**, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE or CITY) and ****Contractor**** (construction manager at risk, hereinafter called CMAR, Construction Manager, ****Contractor**** OR VENDOR), and CITY OF FAYETTEVILLE from time to time requires professional CMAR services in connection with the evaluation, design, and/or construction supervision of capital improvement projects. Therefore, CITY OF FAYETTEVILLE and CMAR in consideration of their mutual covenants agree as follows:

CMAR shall serve as CITY OF FAYETTEVILLE's professional CMAR consultant in those assignments to which this Agreement applies and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of services defined in the scope of work. All services shall be performed under the direction of a CMAR registered in the State of Arkansas and licensed by the Arkansas Contractor's Licensing Board.

1. Contracted parties and relationship:

- a. This agreement shall be binding between all parties. Fees for CMAR services shall be provided as identified in appendices.
 - i. **Contractor's** Tax Identification number (TIN) ending in #####
 - ii. **Contractor's** Arkansas Contractor License No. #####
 - iii. **Contractor's** Secretary of State Filing No. #####
- b. Parties agree to act on the basis of mutual trust, good faith, and fair dealing, and perform in a fiscally responsible and timely manner. Parties shall each endeavor to promote cooperation among all Project participants.

2. Entire Agreement and Exhibits: This Agreement sets forth the entire agreement and understanding between the parties on the subject matter of this Agreement. Neither party shall be bound by any conditions, definitions, representations or warranties with respect to the subject matter of this Agreement other than those as expressly provided herein.

- a. Appendices included under this agreement include the following:
 - i. **Appendix A:** Scope of Services
 - ii. **Appendix B:** CMAR Fee Schedule
 - iii. **Appendix C:** City issued solicitation for RFP 24-15, CMAR for Maple Street Improvements
 - iv. **Appendix D:** **Contractor's** Response to RFP 24-15
 - v. **Appendix E:** **Contractor's** current Certificate of Insurance
- b. This agreement may be modified only by a duly executed written instrument signed by the CITY and CMAR.

- c. ORDER OF PRECEDENCE: In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the documents shall govern in the following order: (a) Change Orders, affidavits, and written amendments to this Agreement which are executed by all parties; (b) the Agreement; (c) CMAR's response to RFP 24-15 (d) City's published RFP 24-15 and associated Addenda and attachments.

3. Notices: Any notice required under this Agreement shall be in writing, address to the appropriate party at the following addresses:

- a. City of Fayetteville: Attention: Mayor Molly Rawn, 113 W. Mountain, Fayetteville, AR 72701
- b. ****Contractor****: Attention: TBD, ****Contractor Address****

4. General Provisions:

- a. ETHICS: All parties shall perform with integrity. Each shall avoid conflicts of interest and promptly disclose to any other part any conflicts that may arise. All parties warrant that it has not and shall not pay or receive any contingent fees or gratuities to or from any other party, including agents, officer's employers, Subcontractors, Subsubcontractors, Suppliers, Volunteers, Elected Officials, or Others to secure preferential treatment.
- b. When the Construction Documents, Guaranteed Maximum Price (GMP), and other descriptive documents defining the work are complete, they shall be identified and included in this Agreement by mutually agreed upon amendment to this Agreement.
- c. Workmanship: The Work shall be executed in accordance with the Contract Documents in a workmanlike manner. All materials used in the Work shall be furnished in sufficient quantities to facilitate the proper and expeditious execution of the Work and shall be new except as otherwise provided in the Contract Documents.
- d. MATERIALS FURNISHED BY OWNER OR OTHERS: If the Work includes installation of materials or equipment furnished by City or Others, it shall be the responsibility of Construction Manager to examine the items so provided and thereupon handle, store, and install the items, unless otherwise provided in the Contract Documents, with such skill and care as to provide a satisfactory and proper installation. Loss or damage due to acts or omissions of Construction Manager shall be the responsibility of Construction Manager and may be deducted from any amounts due or to become due Construction Manager. Any defects discovered in such materials or equipment shall be reported at once to the City and the City's contracted third-party Design Professional. Following receipt of written notice from Construction Manager of defects, City and Design Professional shall promptly inform Construction Manager what action, if any, Construction Manager shall take with regard to the defects.
- e. WORKSITE VISIT: Construction Manager acknowledges that it has visited, or has had the opportunity to visit, the Worksite to visually inspect the general and local conditions which could affect the Work.
- f. Construction Manager shall perform cutting, fitting, and patching necessary to coordinate the various parts of the Work and to prepare its Work for the work of City or Others.
 - i. Cutting, patching, or altering the work of City or Others shall be done with the prior written approval of City and Design Professional. Such approval shall not be unreasonably withheld.

- g. COMPLIANCE WITH LAWS: Construction Manager shall comply with all the Law at its own cost. Construction Manager shall be liable to City for all loss, cost, or expense attributable to any acts or omissions by Construction Manager, its employees, subcontractors, suppliers, and agents for failure to comply with Laws, including fines, penalties, or corrective measures.
- i. CHANGES IN THE LAW: The GMP, estimated Cost of the Work, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion, and, if appropriate, the Compensation for Preconstruction Services shall be equitably adjusted for additional costs or time needed resulting from Laws enacted after the date of this Agreement, including taxes.
- h. COST OF CORRECTING DAMAGED OR DESTROYED WORK: With regard to damage or loss attributable to the acts or omissions of City or Others and not to Construction Manager, City may either (a) promptly remedy the damage or loss and assume affected warranty responsibilities, (b) accept the damage or loss, or (c) issue a Change Order to remedy the damage or loss. If Construction Manager incurs costs or is delayed due to such loss or damage, Construction Manager may seek an equitable adjustment in the GMP, estimated Cost of the Work, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion, and, if appropriate, the Compensation for Preconstruction Services under this Agreement. Any equitable adjustment shall be approved by all parties.
- i. Taxes and Permits: Construction Manager shall give public authorities all notices required by law and shall obtain and pay for all necessary permits, licenses, and renewals pertaining to the Work. Construction Manager shall provide to City copies of all notices, permits, licenses, and renewals required under this Agreement.
- i. Construction Manager shall pay applicable taxes and permit fees associated with the entire project.
- j. DISCOUNTS: All discounts for prompt payment shall accrue to City. All trade discounts, rebates, and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work, or directly to the City after final payment.
- k. City may occupy or use completed or partially completed portions of the Work when (a) the portion of the Work is designated in a Certificate of Substantial Completion, (b) appropriate insurer(s) consent to the occupancy or use, and (c) public authorities authorize the occupancy or use. Construction Manager shall not unreasonably withhold consent to partial occupancy or use.
- l. JOINT DRAFTING: All Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms before execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party but shall be construed in a neutral manner.
- m. EXTENT OF AGREEMENT: Except as expressly provided, this Agreement is for the exclusive benefit of all Parties, and not the benefit of any third party. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement and each and every provision is for the exclusive benefit of all Parties and not for the benefit of any third party.
- n. ASSIGNMENT: Except as to the assignment of proceeds, no Party shall assign their interest in this Agreement without the written consent of the other Party. The terms and conditions of this Agreement

shall be binding upon all Parties, their partners, successors, assigns, and legal representatives. No Party shall assign the Agreement without written consent of the other.

- o. Where figures are given, they shall be preferred to scaled dimensions.
- p. The drawings and specifications are complementary. If Work is shown only on one but not on the other, Construction Manager shall perform the Work as though fully described on both. CMAR shall seek clarification from Design Professional for any discrepancies.
- q. In case of conflicts between the drawings and specifications, the specifications shall govern. In any case of omissions or errors in figures, drawings, or specifications, Construction Manager shall immediately submit the matter to City and Design Professional for clarification. Design Professional's clarifications are final and binding.
- r. DEBARMENT AND SUSPENSION: By execution of this agreement, CMAR certifies that to the best of its knowledge and belief that the CMAR and its principals:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - ii. Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
 - iv. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
 - v. CMAR understands that a false statement on certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine. I further certify that I will obtain a similar certification for each subcontract awarded in excess of \$25,000.
 - vi. Certifications for subcontracts executed under this agreement shall include all language in this section.

5. Definitions:

- a. Unless otherwise specifically defined in this Agreement, any terms that have well-known technical or trade meanings shall be interpreted in accordance with their well-known meanings.
- b. "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.

- c. A "Change Order" is a written order signed by all Parties after execution of this Agreement, indicating changes in the scope of the Work, the GMP and Date of Substantial Completion or Date of Final Completion.
- d. "Contract Time" is the period between the Date of Notice to Proceed and the total time authorized to achieve Final Completion.
- e. "Cost of the Work" means the total costs and discounts charged to the City.
- f. The "Construction Manager at Risk" (CMAR or CM) is the person or entity identified in this contract and includes Construction Manager's Representative.
- g. "Day" means a calendar day unless otherwise specified.
- h. "Defective Work" is any portion of the Work that that does not conform with the requirements of the Contract Documents.
- i. "Design Professional" means the licensed architect retained by the City and its subconsultants, to perform design services for the Project.
- j. "Final Completion" occurs on the date when CMAR's obligations under this Agreement are complete and accepted by City and final payment becomes due and payable. This date shall be confirmed by a Certificate of Final Completion signed by all Parties.
- k. "Hazardous Material" is any substance or material identified now or in the future as hazardous under the Law, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or cleanup.
- l. "Interim Directive" is a written order containing change to the Work directed by and in consultation with City and Design Professional after execution of this Agreement and before Substantial Completion. Interim Directives shall be consolidated and formalized in a change order to be signed by all parties.
- m. "Law" means federal, state, or local laws, ordinances, codes, rules, and regulations applicable to the Work with which Construction Manager must comply that are enacted as of the Agreement date.
- n. "Others" means City's other: (a) contractors/constructors, (b) suppliers, (c) subcontractors, sub-subcontractors, or suppliers of (a) and (b); and others employed directly or indirectly by (a), (b), or (c) or any by any of them or for whose acts any of them may be liable.
- o. "Overhead" means (a) payroll costs, burden, and other compensation of CMAR's employees in CMAR's principal and branch offices for work associated with this project.
- p. "Owner" is the City of Fayetteville, Arkansas (City).
- q. The "Owner's Program" is an initial description of Owner's objectives, including budgetary and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, site requirements, and any requirements for phased occupancy.
- r. The "Parties" are collectively City and CMAR.
- s. The "Project," is the building, facility, or other improvements for which CMAR is to perform Work under this Agreement. It may also include construction by Owner or Others.

- t. The "Schedule of the Work" is the document prepared by CMAR that specifies the dates on which CMAR plans to begin and complete various parts of the Work, including dates on which information and approvals are required from City.
- u. "Subcontractor" is a person or entity retained by CMAR as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. The term Subcontractor does not include Design Professional or Others.
- v. "Substantial Completion" of the Work, or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that City may occupy or utilize the Work, or a designated portion, for the use for which it is intended, without unapproved disruption. This date shall be confirmed by a certificate of Substantial Completion signed by all Parties.
- w. A "Sub-subcontractor" is a person or entity who has an agreement with a Subcontractor or another sub-subcontractor or Supplier to perform a portion of the Subcontractor's Work or supply material or equipment.
- x. A "Supplier" is a person or entity retained by CMAR to provide material or equipment for the Work.
- y. "Terrorism" means a violent act, or an act that is dangerous to human life, property, or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States government as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.
- z. "Work" means the construction and administrative and management services necessary or incidental to fulfill Construction Manager's obligations for the Project in accordance with and reasonably inferable from the Contract Documents. The Work may refer to the whole Project or only a part of the Project if work is also being performed by Owner or Others.
- aa. "Worksite" means the area of the Project where the Work is to be performed.
- bb. "Bi-monthly basis" means every fourteen to sixteen calendar days.

6. Contract Document Review and Administration

- a. Before commencing the Work, Construction Manager shall examine and compare the drawings and specifications with information furnished by the City and Design Professional that are considered Contract Documents, relevant field measurements made by Construction Manager, and any visible conditions at the Worksite affecting the Work.
- b. Should Construction Manager discover any errors, omissions, or inconsistencies in the Contract Documents, Construction Manager shall promptly report them to the City and Design Professional. Following receipt of written notice from Construction Manager of defects, City shall promptly inform Construction Manager what action, if any, Construction Manager shall take with regard to the defect.
- c. Nothing in this section shall relieve CMAR of responsibility for its own errors, inconsistencies, or omissions.

- d. **COST REPORTING:** Construction Manager shall maintain complete, accurate, and current records that comply with generally accepted accounting principles and calculate the proper financial management under this Agreement. Construction Manager shall maintain a complete set of all books and records prepared or used by Construction Manager with respect to the Project. City shall be afforded access to all of Construction Manager's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to this Agreement. Construction Manager shall preserve all such records for a period of three years after the final payment or longer where required by Law.

7. Warranty

- a. Construction Manager warrants all materials and equipment furnished under the Construction Phase of this Agreement will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. At City or Design Professional request, Construction Manager shall furnish satisfactory evidence of the quality and type of materials and equipment furnished. Construction Manager further warrants all Work shall be free from material defects not intrinsic in the design or materials required in the Contract Documents. Construction Manager's warranty does **not include** remedies for defects or damages caused by normal wear and tear during normal usage beyond the warranty period, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by the City or others, or abuse. Construction Manager's warranty shall commence on the Date of Final Completion of the Project.
- b. To the extent products, equipment, systems, or materials incorporated in the Work are specified and purchased by the City, they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face of any such warranty. For such incorporated items, ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.
- c. Construction Manager shall obtain from its Subcontractors and Suppliers any special or extended warranties required by the Contract Documents. Construction Manager's liability for such warranties shall be limited to the one-year correction period, as further defined in this Agreement. After that period Construction Manager shall provide full and comprehensive assistance to the City in enforcing the obligations of Subcontractors or Suppliers for such extended warranties.
- d. **Correction of Work within Two Years**
- i. If before Substantial Completion or within two-years after the date of Final Completion of the Work any Defective Work is found, City shall promptly notify Construction Manager in writing. Unless City provides written acceptance of the condition, Construction Manager shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible. If within the two-year correction period City discovers and does not promptly notify Construction Manager or give Construction Manager an opportunity to test or correct Defective Work as reasonably requested by Construction Manager, City waives Construction Manager's obligation to correct that Defective Work as well as City's right to claim a breach of the warranty with respect to that Defective Work.

- ii. If Construction Manager fails to correct Defective Work within a reasonable time after receipt of written notice from City before final payment, City may correct it in accordance with Owner's right to carry out the Work. In such case, an appropriate Change Order shall be issued deducting the cost of correcting the Defective Work from payments then or thereafter due Construction Manager. If payments then or thereafter due Construction Manager are not sufficient to cover such amounts, Construction Manager shall pay the difference to City.
- iii. Construction Manager's obligations and liability, if any, with respect to any Defective Work discovered after the two-year correction period shall be determined by the Law. If, after the two-year correction period but before the applicable limitation period has expired, City discovers any Work which City considers Defective Work, City shall, unless the Defective Work requires emergency correction, promptly notify Construction Manager and allow Construction Manager an opportunity to correct the Work if Construction Manager elects to do so. If Construction Manager elects to correct the Work, it shall provide written notice of such intent within fourteen (14) Days of its receipt of notice from City and shall complete the correction of Work within a mutually agreed timeframe. If Construction Manager does not elect to correct the Work, City may have the Work corrected by itself or Others, and, if City intends to seek recovery of those costs from Construction Manager, City shall promptly provide Construction Manager with an accounting of the actual correction costs.
- iv. If Construction Manager's correction or removal of Defective Work causes damage to or destroys other completed or partially completed work or existing building, Construction Manager shall be responsible for the cost of correcting the destroyed or damaged property.
- v. The two-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of Construction Manager's other obligations under the Contract Documents.
- vi. Before final payment, at City option and with Construction Manager's agreement, City may elect to accept Defective Work rather than require its removal and correction. In such cases the GMP shall be equitably adjusted for any diminution in the value, as determined by City, of the Project caused by such Defective Work.

8. Safety of Persons and Property

- a. **SAFETY PROGRAMS:** Construction Manager holds overall responsibility for safety programs. However, such obligation does not relieve Subcontractors of their safety responsibilities and to comply with the Law. Construction Manager shall prevent against injury, loss, or damage to persons or property by taking reasonable steps to protect: (a) its employees and other persons at the Worksite; (b) materials and equipment stored at onsite or offsite locations for use in performing the Work; and (c) property located at the Worksite and adjacent to work areas, whether or not the property is part of the Worksite.
- b. **CONSTRUCTION MANAGER'S SAFETY REPRESENTATIVE:** Construction Manager shall designate an individual at the Worksite in its employ as its safety representative. Unless otherwise identified by Construction Manager in writing to City, Construction Manager's project superintendent shall serve as its safety representative. Construction Manager shall report promptly in writing all recordable accidents and

injuries occurring at the Worksite. When Construction Manager is required to file an accident report with a public authority, Construction Manager shall furnish a copy of the report to City.

- c. Construction Manager shall provide City with copies of all notices required of Construction Manager by the Law. Construction Manager's safety program shall comply with the requirements of governmental and quasi-governmental authorities having jurisdiction.
 - i. Damage or loss not insured under property insurance that may arise from the Work, to the extent caused by negligent or intentionally wrongful acts or omissions of Construction Manager, or anyone for whose acts Construction Manager may be liable, shall be promptly remedied by Construction Manager.
- d. If City deems any part of the Work or Worksite unsafe, City, without assuming responsibility for Construction Manager's safety program, may require Construction Manager to stop performance of the Work, take corrective measures satisfactory to City. If Construction Manager does not adopt corrective measures, City may perform them and deduct their cost from the GMP. Construction Manager agrees to make no claim for damages, or an increase in the GMP, or for a change in the Dates of Substantial or Final Completion based on Construction Manager's compliance with City's reasonable request.

9. Subcontracts:

- a. **BINDING OF SUBCONTRACTORS AND SUPPLIERS:** Construction Manager agrees to bind every Subcontractor and Supplier and require every Subcontractor to so bind its subcontractors and significant supplier, to the Contract Documents as they apply to the Subcontractor's or Supplier's applicable provisions to that portion of the Work.
- b. Construction Manager agrees not to subcontract construction manager at risk related services without prior written consent from the City.

10. Fees, Expenses, and Payments: The maximum not-to-exceed amount authorized for this agreement is included in the breakdown shown below. Fees shall be paid to the CMAR as described in Appendix B.

a. Phase 1: Pre-Construction Services

- i. The maximum not-to-exceed amount authorized for this phase is ##### USD. Fees shall be paid to the CMAR from the City based Lump Sum basis as described in Appendix B.

b. Phase 2: Guaranteed Maximum Price (GMP)

- i. If this Agreement is executed before establishment of the Guaranteed Maximum Price and its acceptance by the City, then the GMP and its basis shall be set forth in a GMP Change Order.
- ii. In the event all Parties agree the drawings and specifications are sufficiently complete after bids are received, Construction Manager shall prepare and submit to the City in writing a GMP. The GMP proposal shall include the cost of the Work, Construction Manager's Fee, the clarifications upon which it is based, but shall not include compensation for Preconstruction Services (Phase 1).
- iii. **FAILURE TO ACCEPT THE GMP PROPOSAL:** Unless the City accepts the GMP Proposal in writing the GMP Proposal shall not be effective. If City fails to accept the GMP Proposal, or rejects the GMP Proposal, City shall have the right to:

1. suggest modifications to the GMP Proposal
 2. terminate the Agreement for convenience
- iv. PRE-GMP WORK: Before City acceptance of the GMP Proposal, Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work, except as provided in this Agreement or as City may specifically authorize in advanced writing.
- v. GMP shall include an itemized cost items from the CMAR, including but not limited to:
1. Labor wages directly employed by Construction Manager in performing of the Work.
 2. Salaries of Construction Manager's employees when stationed at the field office, in whatever capacity employed, employees engaged on the road expediting the production or transportation of material and equipment, and employees from the principal or branch office as mutually agreed by the Parties in writing.
 3. Cost of all employee benefits and taxes, including but not limited to, workers' compensation, unemployment compensation, social security, health, welfare, retirement, and other fringe benefits as required by law, labor agreements, or paid under Construction Manager's standard personnel policy, insofar as such costs are paid to employees of Construction Manager who are included in the Cost of the Work.
 4. Transportation, travel, hotel, and moving expenses of Construction Manager's personnel incurred in connection with the Work.
 5. Cost of all materials, supplies, and equipment incorporated in the Work, including costs of inspection and testing if not provided by City, transportation, storage, and handling.
 6. Payments made by Construction Manager to Subcontractors for work performed under this Agreement.
 7. Cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers that are used or consumed in the performance of the Work, less salvage value or residual value; and cost less salvage value on such items used, but not consumed that remain the property of Construction Manager.
 8. Rental charges of all necessary machinery and equipment, exclusive of hand tools owned by workers, used at the Worksite, whether rented from Construction Manager or others, including installation, repair, and replacement, dismantling, removal, maintenance, transportation, and delivery costs at competitive market rates.
 9. Cost of the premiums for all insurance and surety, performance or payment bonds which Construction Manager is required to procure or deems necessary and approved by City including any additional premium incurred as a result of any increase in the GMP at fixed rates approved by the City.
 10. Sales, use, gross receipts, or other taxes, tariffs, or duties related to the Work for which Construction Manager is liable.

11. Permits, taxes, fees, licenses, tests, royalties.
 12. Losses, expenses, or damages to the extent not compensated by insurance or otherwise, and the cost of corrective work during the Construction Phase and for the warranty period.
 13. Costs associated with establishing, equipping, operating, maintaining, mobilizing and demobilizing the field office.
 14. Water, power, and fuel costs necessary for the Work.
 15. Cost of removal of all nonhazardous substances, debris, and waste materials
 16. Costs incurred due to an emergency affecting the safety of persons or property.
 17. Costs directly incurred in the performance of the Work or in connection with the Project, and not included in Construction Manager's Fee, which are reasonably inferable from the Contract Documents.
- c. Fees set for the construction of this project are intended to be executed upon agreement of all parties in a not to exceed form via change order. Due to the bond and federal funding nature of this project, all parties agree payment to the CMAR shall be made as follows:
- i. The City shall be responsible for a not to exceed cap.
 - ii. Final amounts shall be identified with a Change Order, pursuant to agreement of all parties of a Guaranteed Maximum Price.
- d. CMAR shall track, log and report expenses directly related to this Agreement along with invoice which shall include schedule of values for payment for each month. Invoices shall be itemized. Invoice and payment requests shall not exceed the percentage for work completed as defined.
- e. Payment Terms: All invoices are payable upon approval and due within thirty (30) calendar days. If a portion of an invoice or statement is disputed by CITY, the undisputed portion shall be paid. CITY OF FAYETTEVILLE shall advise CMAR in writing of the basis for any disputed portion of any invoice. CITY shall make reasonable effort to pay invoices within 30 calendar days of date the invoice is approved.
- f. STORED MATERIALS AND EQUIPMENT: Unless otherwise provided in the contract documents, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and suitably stored onsite or offsite including applicable insurance, storage, and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for stored materials and equipment stored offsite shall be conditioned on a submission by Construction Manager of bills of sale and proof of required insurance, or such other documentation satisfactory to City to establish the proper valuation of the stored materials and equipment, City's title to such materials and equipment, and to otherwise protect City's interests therein, including transportation to the Worksite. Materials and equipment stored offsite shall be in a bonded and insured secure facility.
- g. Monthly invoices for each calendar month shall be submitted to City or such parties as City may designate for professional services consistent with CMAR's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Invoices shall be made in

accordance with a format to be developed by CMAR and approved by City. Applications for payment shall be accompanied each month by the updated project schedule as the basis for determining the value earned as the work is accomplished. Final payment for professional services shall be made upon CITY OF FAYETTEVILLE'S approval and acceptance with the satisfactory completion of professional services for the Project.

- i. Retainage in the amount of five percent (5%) will be withheld from each payment until project final completion.
 - ii. Upon Substantial Completion, the City may release retainage on that portion of the Work a Subcontractor has completed in whole or in part, and which City have accepted.
- h. Final Payment: Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, CMAR shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by CMAR to be set forth therein.
 - i. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against CMAR or sureties under this Agreement.

11. Project Bonding: Performance and payment bonding. After execution of this contract by all parties, CMAR shall provide 100% **separate** performance and payment bonds from a bonding company, licensed to do business in the state of Arkansas, to the City of Fayetteville after being file marked at the Washington County Circuit Clerk's Office. Bonds shall be provided within ten (10) calendar days after GMP change order has been executed and approved by all parties.

- a. Construction contracts for the project shall not be entered into between the CMAR and sub-contractor without 100% payment and performance bonds in the amount of the contract and any amendments thereto and shall provide for the manner in which the construction shall be managed and supervised. Bonds shall be valid and exchanged between all parties prior to the start of work.
- b. A maintenance bond shall be provided for the duration of the entire warranty period.
- c. All bonds shall be listed with the U.S. Treasury Department listing of approved surety's (T-List) and shall be rated A+ minimum by A. M. Best.

12. Time:

- a. SUBSTANTIAL and FINAL COMPLETION: Date of Substantial Completion and the Date of Final Completion shall be established in a GMP Change Order to this Agreement (GMP) as a hard not to exceed date. If such dates are not established upon the execution of this Agreement, at such time as GMP is accepted a Date of Substantial Completion and Date of Final Completion of the Work shall be established in a GMP Change Order.
- b. Time is of the essence with regards to the obligations of the Contract Documents.

- c. Unless instructed by City in writing, Construction Manager shall not knowingly commence the Work before the effective date of Construction Manager's required insurance and bonds.
- d. Schedule of Work: Before submitting its first application for payment, Construction Manager shall submit to City and, if directed, Design Professional a Schedule of the Work showing the dates on which Construction Manager plans to begin and complete various parts of the Work, including dates on which information and approvals are required from City. Except as otherwise directed by City, Construction Manager shall comply with the approved Schedule of the Work or Construction Manager.
 - i. Unless otherwise agreed, the Schedule of the Work shall be formatted in a detailed precedence-style critical path method that (a) provides a graphic representation of all activities and events, including float values that will affect the critical path of the Work, and (b) identifies dates that are critical to ensure timely and orderly completion of the Work.
 - ii. Construction Manager shall update the Schedule of the Work on a bi-monthly basis or as mutually agreed by all Parties.
 - iii. City may determine the sequence in which the Work shall be performed, provided it does not unreasonably interfere with the approved project schedule. City may require Construction Manager to make reasonable changes in the sequence at any time during the performance of the Work in order to facilitate the performance of work by City or Others. If Construction Manager consequently incurs costs or is delayed, the GMP or the Dates of Substantial or Final Completion, or both, Construction Manager may seek equitable adjustment.
- e. NOTICE OF DELAY CLAIMS: If Construction Manager requests an equitable extension of the Contract Time or an equitable adjustment in the GMP as a result of a delay described, Construction Manager shall give City written notice of the claim. If Construction Manager causes delay in the completion of the Work, City shall be entitled to recover its additional costs.
- f. MONITORING PROGRESS AND COSTS: Following acceptance by City of the GMP, Construction Manager shall establish a process for monitoring actual costs against the GMP and actual progress against the Schedule of Work. Construction Manager shall provide written reports to City at intervals as agreed to by all Parties on the status of the Work, showing variances between actual costs and the GMP and actual progress as compared to the Schedule of Work, including estimates of future costs and recovery programs if actual progress indicates that the Dates of Substantial Completion or Final Completion may not be met.

13. Determination of Contract Time:

- a. General:
 - i. The time allowed for the completion of the Work included in the Contract will be stated in the Proposal and Contract and will be known as the "Contract Time". The contract time will be specified as a fixed completion date or as **calendar days**.
 - ii. The CMAR shall take into consideration all normal conditions considered unfavorable to the normal progress of the Work and place a sufficient work force and equipment on the project to ensure completion of the Work within the contract time.

- iii. The Engineer/City Engineer will determine the date upon which the Contract is substantially complete and time assessment will cease. In the event cleanup is necessary or items found at the final inspection are to be corrected, the CMAR shall complete this work in a timely manner, or the Engineer/City Engineer will resume time charges.
- b. Fixed Completion Date. When the contract time is specified as a fixed date, it will be the date on which all work on the project shall be substantially complete.
- c. Calendar Day. Calendar day contract time includes delays for normal weather-related events, such as rain, snow, and freezing temperatures that may affect the progress of the construction in the following amounts on a per-month basis as hereinafter set out. Only weather-related delays in excess of these amounts will be considered for time extensions, if requested by the CMAR. Days included in the Contract Times for Normal Weather-Related Events, on a monthly basis, include:

Month	Days
January	11
February	9
March	8
April	8
May	8
June	8
July	8
August	7
September	7
October	7
November	7
December	8

- i. No changes in contract times will be allowed for any reason without a request in writing from the CMAR. This request shall include reasons for the request with supporting documentation as proof of extraordinary delays beyond the CMAR's control. Normal rainfall amounts and soil conditions will not be considered as reasons for extensions of time, nor will workload of the Contractor. The request must be submitted for to the Engineer/City Engineer within 5 days of the end of the month to be considered. No compensation will be made for monetary damages due to weather delay(s).
- d. Working Day. Only when the contract time is specified in working days, the provisions of Section 109.08(d) shall apply.
 - i. Time will be assessed for each day on which, in the judgment of the Engineer/City Engineer and subject to the limitations below, conditions allow the Contractor to effectively utilize 60% of normal forces and equipment to prosecute the work required at that time, for at least 60% of the Contractor's normal working hours, regardless of whether the CMAR actually works.
 - ii. The Engineer/City Engineer will not assess a working day when conditions exist beyond the control and without the fault of the CMAR that prevent the utilization of forces and equipment as defined above. Also, for the purpose of assessment of working days, inaccessibility to a portion of the work due to utility conflict or utility work, either of which prevents utilization of forces and equipment as defined above, will be considered as an adverse working condition for the time exceeding that specified in the Contract for the utility adjustment. The ability of vendors, suppliers, and subcontractors to provide materials and/or services is considered within the

CMAR's control for the purpose of assessment of working days. Time from December 21 through January 15, inclusive, will not be assessed against the contract time.

- i. Saturdays and City recognized holidays, other than those designated above, which may be declared by the City for certain special or unusual circumstances, will be optional to the CMAR as working days, and time will not be assessed unless work is performed that requires inspection. If work is performed, contract time assessment will be based upon the same conditions as a normal working day.
- ii. Contract time will not be assessed during a full suspension of the work as ordered by the Engineer/City Engineer. During a partial suspension of the work as ordered by the Engineer/City Engineer, the contract time will be assessed in direct proportion to the ratio of the money value of the items not suspended to the total contract amount.
- iii. Each pay estimate will state the each working day charged during the preceding period and the total number of working days charged to date. If the CMAR disagrees with the working days charged by the Engineer/City Engineer, then the Contractor shall, within 10 calendar days of signing the pay estimate, give the Engineer/City Engineer written notice of such disagreement and the reasons, therefore. If the CMAR does not provide written notice within 10 calendar days of signing the pay estimate, no subsequent request for review will be considered.

14. Substantial Completion:

- a. Construction Manager shall notify City and, if directed, Design Professional when it considers Substantial Completion of the Work or a designated portion to have been achieved. City, with the assistance of its Design Professional, shall promptly conduct an inspection to determine whether the Work or designated portion can be occupied or used for its intended use by City without excessive interference in completing any remaining unfinished Work. If City determines the Work or designated portion has not reached Substantial Completion, City, with the assistance of its Design Professional, shall promptly compile a list of items to be completed or corrected so City may occupy or use the Work or designated portion for its intended use. Construction Manager shall promptly and accurately complete all items on the list.
- b. When Substantial Completion of the Work or a designated portion is achieved, Construction Manager shall prepare a Certificate of Substantial Completion establishing the date of Substantial Completion and the respective responsibilities of each Party for interim items such as security, maintenance, utilities, insurance, and damage to the Work, and fixing the time for completion of all items on the list accompanying the Certificate. The Certificate of Substantial Completion shall be submitted by Construction Manager to City and, if directed, to Design Professional for written acceptance of responsibilities assigned in the Certificate of Substantial Completion.
- c. Unless otherwise provided in the Certificate of Substantial Completion, warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or a designated portion.
- d. Upon City's written acceptance of the Certificate of Substantial Completion, City shall pay to Construction Manager the remaining retainage held by City for the Work described in the Certificate of Substantial Completion less a sum equal to one hundred and fifty percent (150%) of the estimated cost of completing

or correcting remaining items on that part of the Work, as agreed to by the Parties as necessary to achieve Final Completion, including all close outs. Uncompleted items shall be completed by Construction Manager in a mutually agreed upon timeframe.

15. Final Completion:

- a. Upon notification from Construction Manager that the Work is complete and ready for final inspection and acceptance, City, with the assistance of its Design Professional shall promptly conduct an inspection to determine if the Work has been completed and is acceptable under the Contract Documents.
- b. When the Work is complete, Construction Manager shall prepare for City's written acceptance a final application for payment stating that to the best of Construction Manager's knowledge, and based on City's inspections, the Work has reached Final Completion in accordance with the Contract Documents.
- c. Final payment of the balance of the GMP shall be made to Construction Manager within thirty (30) Days after Construction Manager has submitted an application for final payment, pending the application has been approved by the City, including submissions required, and a Certificate of Final Completion has been executed by all Parties.
- d. Final payment shall be due on Construction Manager's submission of the following to the City:
 - i. an affidavit declaring any indebtedness connected with the Work, to have been paid, satisfied, or to be paid with the proceeds of final payment, so as not to encumber City property;
 - ii. as-built drawings, manuals, copies of warranties, and all other close-out documents required by the Contract Documents;
 - iii. release of any liens, conditioned on final payment being received;
 - iv. consent of any surety; and
 - v. any outstanding known and unreported accidents or injuries experienced by Construction Manager or its Subcontractors at the Worksite.
 - vi. If, after Substantial Completion of the Work, the Final Completion of a portion of the Work is materially delayed through no fault of Construction Manager. If approved by City, they shall pay the balance due for any portion of the Work fully completed and accepted. If the remaining contract balance for Work not fully completed and accepted is less than the retained amount before payment, Construction Manager shall submit to City and, if directed, Design Professional the written consent of any surety to payment of the balance due for portions of the Work that are fully completed and accepted. Such payment shall not constitute a waiver of claims, but otherwise shall be governed by this section.
 - vii. ACCEPTANCE OF FINAL PAYMENT: Unless Construction Manager provides written identification of unsettled claims with an application for final payment, its acceptance of final payment constitutes a waiver of such claims.
- e. CMAR shall ensure that the City of Fayetteville receives lien waivers from all material suppliers, subcontractors and sub-subcontractors and **before** work begins on the project. The contractor shall give

written notice to the material suppliers, subcontractors and sub-subcontractors providing work on the project that states the following:

- i. *'According to Arkansas law, it is understood that no liens can be filed against public property if valid and enforceable payment and performance bond is in place. Regarding this Project and Agreement, the valid and enforceable bonds are with (name of surety).'*
- ii. CMAR shall direct its subcontractors to obtain a written receipt evidencing acknowledgment of this statement from sub-subcontractors.

16. Liquidated Damages: SUBSTANTIAL COMPLETION: Liquidated damages based on the Substantial Completion date, to be determined in a GMP Change Order, shall apply.

- a. City will suffer damages which are difficult to determine and accurately specify if the Substantial Completion date, which may be amended by Change Order, is not attained. Construction Manager shall pay City seven hundred fifty US dollars (\$750.00 USD) per calendar day as liquidated damages and not as a penalty for each Day that Substantial Completion extends beyond the Substantial Completion date.

17. Notices: Any notice required to be given under this Agreement to either party to the other shall be sufficient if addressed and mailed, certified mail, postage paid, delivery, fax or e-mail (receipt confirmed), or overnight courier.

18. Jurisdiction: Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.

19. Venue: Venue for all legal disputes shall be Washington County, Arkansas.

20. Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the CMAR shall do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.

21. Changes in Scope or Price: Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost or fees.

22. Insurance:

- a. Before starting the Work and as a condition precedent to payment, Construction Manager shall procure and maintain in force Workers' Compensation Insurance, Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance ("CGL"). The CGL policy shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, contractual liability, pollution coverage, and broad form property damage. Construction Manager shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer. Construction Manager's Employers' Liability, Business Automobile Liability and CGL policies shall be written with at least the limits of liability presented in **Appendix E**.

- b. Employers' Liability, Business Automobile Liability, and CGL coverages required may be provided by a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella liability policies.
- c. Construction Manager shall maintain in effect all insurance coverage required with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located. If Construction Manager fails to obtain or maintain any insurance coverage required under this Agreement, City may purchase such coverage and charge the expense to Construction Manager or terminate this Agreement.
- d. To the extent commercially available to Construction Manager from its current insurance company, insurance policies required shall contain a provision that the insurance company or its designee shall give City written notice transmitted in paper and electronic format: (a) 30 Days before coverage is nonrenewed by the insurance company and (b) within 10 Business Days after cancelation of coverage by the insurance company. Before commencing the Work and upon renewal or replacement of the insurance policies, Construction Manager shall furnish City with certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance policy required is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, Construction Manager shall give City prompt written notice upon actual or constructive knowledge of such condition.
- e. Certificates of Insurance shall list the City as Additional Insured Parties.
- f. PROPERTY INSURANCE:
 - i. At no time shall any policy be covered by self-insurance or in a self-insured format. All policies shall be covered by an approved commercial insurance professional properly licensed to do business in Arkansas.
 - ii. Unless otherwise directed in writing by City, before starting the Work, CMAR shall obtain and maintain a Builder's Risk Policy upon the entire Project for the full cost of replacement at the time of loss, including existing structures. This insurance shall also (a) name Construction Manager, Subcontractors, Subsubcontractors, and Design Professional as named insureds; (b) be written in such form to cover all risks of physical loss except those specifically excluded by the policy; and (c) insure at least against and **not** exclude:
 - 1. the perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft (except aircraft, including helicopter, operated by or on behalf of Construction Manager) and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, wind damage, testing if applicable, collapse, however caused;
 - 2. damage resulting from defective design, workmanship, or material;
 - 3. coverage extension for damage to existing buildings, plant, or other structures at the Worksite, when the Project is contained within or attached to such existing buildings, plant or structures. Coverage shall be to the extent loss or damage arises out of Constructor's activities or operations at the Project;

4. equipment breakdown, including mechanical breakdown, electrical injury to electrical devices, explosion of steam equipment, and damage to steam equipment caused by a condition within the equipment;
 5. testing coverage for running newly installed machinery and equipment at or beyond the specified limits of their capacity to determine whether they are fit for their intended use; and
 6. physical loss resulting from Terrorism.
- iii. The Party that is the primary cause of a Builder's Risk Policy claim shall be responsible for any deductible amounts or coinsurance payments. If no Party is the primary cause of a claim, then the Party obtaining and maintaining the Builder's Risk Policy shall be responsible for the deductible amounts or coinsurance payments. This policy shall provide for a waiver of subrogation. This insurance shall remain in effect until final payment has been made or until no person or entity other than City has an insurable interest in the property to be covered by this insurance, whichever is sooner. Partial occupancy or use of the Work shall not commence until City has secured the consent of the insurance company or companies providing the coverage required in this subsection. Before commencing the Work, City shall provide a copy of the property policy or policies obtained.
 - iv. If City elects to purchase the property insurance required by this Agreement, including all of the coverages and deductibles for the same durations specified, City shall give written notice to Construction Manager before the Work is commenced and provide a copy of the property policy or policies obtained in compliance with this agreement. City may then provide insurance to protect its interests and the interests of the Constructor, Subcontractors, Suppliers, and Subsubcontractors. The cost of this insurance shall be paid by City in a Change Order. If City gives written notice of its intent to purchase property insurance required by this Agreement and fails to purchase or maintain such insurance, City shall be responsible for costs reasonably attributed to such failure.
 - v. The Parties each waive all rights against each other and their respective employees, agents, contractors, subcontractors, suppliers, sub-subcontractors, and design professionals for damages caused by risks covered by the property insurance, except such rights as they may have to the proceeds of the insurance.
1. To the extent of the limits of Construction Manager's Commercial General Liability Insurance, Construction Manager shall indemnify and hold harmless City against any and all liability, claims, demands, damages, losses, and expenses, including attorneys' fees, in connection with or arising out of any damage or alleged damage to any of City's existing adjacent property, including personal property, that may arise from the performance of the Work, to the extent caused by the negligent or intentionally wrongful acts or omissions of Construction Manager, Subcontractor, Supplier, Sub-subcontractor, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

- g. RISK OF LOSS: Except to the extent a loss is covered by applicable insurance, risk of loss from damage to the Work shall be upon the Party obtaining and maintaining the Builder's Risk until the Date of Final Completion.
- h. ADDITIONAL GENERAL LIABILITY COVERAGE: City shall require Construction Manager to purchase and maintain additional liability coverage. Construction Manager shall provide:
 - i. Additional Insured. City shall be named as an additional insured on Construction Manager's Commercial General Liability (CGL) specified, for on-going operations and completed operations, excess/umbrella liability, commercial automobile liability, and any required pollution liability, but only with respect to liability for bodily injury, property damage, or personal and advertising injury to the extent caused by the negligent acts or omissions of Construction Manager, or those acting on Construction Manager's behalf, in the performance of Construction Manager's work for Owner at the Worksite. The insurance of the Construction Manager and its Subcontractors (both primary and excess) shall be primary to any insurance available to the Additional Insureds. Any insurance available to the Additional Insureds shall be excess and non-contributory.
 - ii. OCP. Construction Manager shall provide an Owners' and Contractors' Protective Liability Insurance ("OCP") policy with limits equal to the limits on CGL specified, or limits as otherwise required by Owner.
- i. Any documented additional cost in the form of a surcharge associated with procuring the additional liability coverage in accordance with this subsection shall be paid by CMAR. Before commencing the Work, Construction Manager shall provide either a copy of the OCP policy, or a certificate and endorsement evidencing that City has been named as an additional insured, as applicable.
 - i. ROYALTIES, PATENTS, AND COPYRIGHTS: Construction Manager shall pay all royalties and license fees, unless otherwise specified in the Contract Documents, which may be due on the inclusion of any patented or copyrighted materials, methods, or systems selected by Construction Manager and incorporated in the Work. Construction Manager shall defend, indemnify, and hold City harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection unless such design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in documents prepared by the Owner.
- j. PROFESSIONAL LIABILITY INSURANCE: To the extent Construction Manager is required to procure design services, Construction Manager shall require its design professionals to obtain a commercial professional liability insurance for claims arising from the negligent performance of professional services under this Agreement, with a company reasonably satisfactory to City, including coverage for all professional liability caused by any consultants to Construction Manager's design professional, written for not less than one million US dollars (\$1,000,000) per claim and in the aggregate. Construction Manager's design professional shall pay the deductible. The Professional Liability Insurance shall contain a retroactive date providing prior acts coverage sufficient to cover all Services performed by the Constructor's design professional for this Project. Coverage shall be continued in effect for the entire warranty period.

23. Professional Responsibility: CMAR will exercise reasonable skill, care, and diligence in the performance of services and will carry out its responsibilities in accordance with customarily accepted professional practices. CITY OF

FAYETTEVILLE will promptly report to CMAR any defects or suspected defects in services of which CITY OF FAYETTEVILLE becomes aware, so CMAR can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of CMAR.

24. Responsibility of the City of Fayetteville: CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of CMAR:

- a. Provide full information as to the requirements for the Project.
- b. Assist CMAR by placing at CMAR's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
- c. Assist CMAR in obtaining access to property reasonably necessary for CMAR to perform its services.
- d. Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by CMAR and render in writing decisions pertaining thereto.
- e. Review all documents and provide written comments to CMAR in a timely manner.
- f. The City of Fayetteville Active Transportation Manager, or their designee, is the project representatives with respect to the services to be performed under this Agreement. The Active Transportation Manager shall have complete authority to transmit instructions, receive information, interpret and define policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

25. Cost Opinions and Projections:

- a. Cost opinions and projections prepared by the CMAR relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, cost estimating, and operating results are based on CMAR's experience, qualifications, and judgment as a CMAR professional.

26. Period of Service: This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.

- a. The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. CMAR shall proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed. The anticipated schedule for this project is included with **Appendix B**.

27. Termination:

- a. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:
 - i. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.

- b. This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that CMAR is given:
 - i. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.
- c. If termination for default is affected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but
 - i. No amount shall be allowed for anticipated profit on unperformed services or other work,
 - ii. Any payment due to CMAR at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of CMAR's default.
- d. If termination for default is affected by CMAR, or if termination for convenience is affected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to CMAR for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by CMAR relating to commitments which had become firm prior to the termination.
- e. Upon receipt of a termination action under Paragraphs above, CMAR shall:
 - i. Promptly discontinue all affected work (unless the notice directs otherwise),
 - ii. Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by CMAR in performing this Agreement, whether completed or in process.
- f. Upon termination under sections above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- g. If, after termination for failure of CMAR to fulfill contractual obligations, it is determined that CMAR had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in this agreement.

28. Delays

- a. In the event the services of CMAR are suspended or delayed by CITY OF FAYETTEVILLE, or by other events beyond CMAR's reasonable control, CMAR shall be entitled to additional compensation and time for reasonable documented costs incurred by CMAR in temporarily closing down or delaying the Project.
- b. In the event the services are suspended or delayed by CMAR, CITY shall be entitled to compensation and time for reasonable costs incurred in temporarily closing down or delaying the Project.

29. Rights and Benefits: CMAR's services shall be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

30. Dispute Resolution

- a. **Scope of Paragraph:** The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and CMAR which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or CMAR in the performance of this Agreement, and disputes concerning payment.
- b. **Exhaustion of Remedies Required:** No action may be filed unless the parties first negotiate. If timely Notice is given as described in this agreement, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in this agreement have been complied with.
- c. **Notice of Dispute**
 - i. For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice.
 - ii. For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give CMAR written Notice at the address listed in this agreement within thirty (30) calendar days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.
 - iii. **Negotiation:** Within seven (7) calendar days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and CMAR shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of CMAR, and the Mayor of CITY OF FAYETTEVILLE or his or her designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 calendar days of the written request to resolve the dispute.

31. Sufficient Funds: The CITY represents to have sufficient funds or the means of obtaining funds to remit payment to CMAR for services rendered by CMAR. All parties agree if funding should become insufficient to complete the project, CMAR shall be notified in a timely manner.

32. Publications: Recognizing the importance of professional services on the part of CMAR's employees and the importance of CMAR's public relations, CMAR may prepare publications, such as technical papers, articles for periodicals, promotional materials, and press releases, in electronic or other format, pertaining to CMAR's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to CMAR, CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. Approved materials may be used in a variety of situations and do not require additional review or approval for each use. The cost of CMAR's activities pertaining to any such publication shall be for CMAR's account.

33. Indemnification: To the fullest extent permitted by law, the CMAR shall indemnify and hold harmless the City from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death or injury to or destruction of tangible property (other than the Work itself) but only to the extent caused by the negligent acts or omissions of the CMAR, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Agreement.

34. Ownership of Documents:

- a. All documents provided by CITY OF FAYETTEVILLE including original drawings, CAD drawings, estimates, field notes, and project data are and remain the property of CITY OF FAYETTEVILLE. CMAR may retain reproduced copies of drawings and copies of other documents.
- b. Engineering and architectural documents, computer models, drawings, specifications and other hard copy or electronic media prepared by CMAR as part of the Services shall become the property of CITY OF FAYETTEVILLE when CMAR has been compensated for all Services rendered, provided, however, that CMAR shall have the unrestricted right to their use. CMAR shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of CMAR.
- c. Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. CMAR makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

35. Additional Responsibilities of CMAR:

- a. Review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder by CITY shall not in any way relieve CMAR of responsibility for the technical adequacy of the work. Review, approval or acceptance of, or payment for any of the services by CITY shall not be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- b. CMAR shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by CMAR's negligent performance, except beyond the CMAR's normal standard of care, of any of the services furnished under this Agreement, and except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.
- c. CMAR's obligations under this clause are in addition to CMAR's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against CMAR for faulty materials, equipment, or work.

36. Audit and Access to Records:

- a. CMAR shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement.
- b. CMAR shall also maintain the financial information and data used by CMAR in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. CMAR will provide proper facilities for such access and inspection.
- c. Records shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.
- d. This right of access clause (with respect to financial records) applies to:
 - i. Negotiated prime agreements
 - ii. Negotiated change orders or agreement amendments affecting the price of any formally advertised, competitively awarded, fixed price agreement
 - iii. Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier sub agreement or purchase order awarded after effective price competition, except:
 1. With respect to record pertaining directly to sub agreement performance, excluding any financial records of CMAR;
 2. If there is any indication that fraud, collusion, gross abuse or corrupt practices may be involved;
 3. If the sub agreement is terminated for default or for convenience.

37. Covenant Against Contingent Fees: CMAR warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by CMAR for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

38. Gratuities:

- a. If CITY OF FAYETTEVILLE finds after a notice and hearing that CMAR or any of CMAR agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE or related third party contractor associated with this project, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to CMAR terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.
- b. The CITY may pursue the same remedies against CMAR as it could pursue in the event of a breach of the Agreement by CMAR. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount, as determined by CITY, which shall be not less than three nor more than ten times the costs CMAR incurs in providing any such gratuities to any such officer or employee.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and ****CONTRACTOR**** by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

****CONTRACTOR****

By: _____
Molly Rawn, Mayor

By: _____
Signature

ATTEST:

By: _____
Printed Name and Title

By: _____
Kara Paxton, City Clerk

Date Signed: _____

Date Signed: _____



RFP 24-15 Addendum 1

Flintco

Supplier Response

Event Information

Number: RFP 24-15 Addendum 1
Title: CMAR for Maple Street Improvements
Type: Request for Proposal
Issue Date: 12/8/2024
Deadline: 1/21/2025 02:00 PM (CT)
Notes: The City of Fayetteville is accepting proposals from construction management firms licensed to do business within the State of Arkansas to provide, construction management / general contractor (CM/GC) services as a construction management at risk (CMAR) / guaranteed maximum (GMP) project for the reconstruction of 2,500 linear feet of Maple Street from Gregg Avenue to Garland Avenue. The project includes storm drainage, sidewalks, protected bike lane, enhanced crosswalks, turn lanes, new traffic signals, street lighting and landscaping. Any questions regarding this RFP should be directed to Amanda Beilfuss at abeilfuss@fayetteville-ar.gov.

Contact Information

Contact: Amanda Beilfuss
Address: Purchasing
Room 306
City Hall
113 West Mountain Street - Room 306
Fayetteville, AR 72701
Email: abeilfuss@fayetteville-ar.gov

Flintco Information

Contact: Klint Kimball
Address: 184 E Fantinel Blvd
Springdale, AR 72762
Phone: (479) 750-4565
Email: klint.kimball@flintco.com
Web Address: www.flintco.com

By submitting your response, you certify that you are authorized to represent and bind your company.

Klint Kimball
Signature

Klint.kimball@flintco.com
Email

Submitted at 1/21/2025 10:42:36 AM (CT)

Supplier Note

Was not sure if anything needed to be filled out in the activities section. We did participate in the pre-bid conference.

Requested Attachments

RFP 24-15, Response Submittal

Fayetteville Streets_Final.pdf

Please upload your RFP proposal, including the required signature forms from the RFP document.

Bid Attributes

1 Addendum Acknowledgement

By selecting "I agree", you acknowledge that you have read all addendum(s) that have been issued for this solicitation, if applicable.

☒ I agree



University of Arkansas Senior Sidewalk

RFP 24-15, CMAR for Maple Street Improvements

RFQ 24-15 | January 21, 2025

Submitted by Flintco, LLC

Brent Farmer, Vice President / Area Manager

184 Fantinel Dr., Springdale, AR 72762

(479) 306-6259



Executive Summary

Firm Overview

With over 70 years of construction experience in Northwest Arkansas, Flintco has a proven record of delivering high-quality infrastructure and streetscape projects for the City of Fayetteville and other public clients. Our tailored approach integrates preconstruction expertise, long-standing partnerships with local trade partners, and a commitment to community-focused results to deliver this project on schedule and within budget.

Relevant Experience

Flintco's extensive portfolio includes several notable projects in Fayetteville that demonstrate our ability to meet the city's expectations for quality, safety, and timeliness:

Razorback Road Improvements: This \$1.68 million project involved roadway widening, landscaping upgrades, and the integration of pedestrian-friendly features, all completed within budget and in September 2022.

Deane Street and Porter Road Realignment: Delivered under a CMAR/GMP format, this \$4.07 million project included roadway grading, storm water improvements, parking, greenway pathways, crosswalk installation, and enhanced pedestrian infrastructure, completed in December 2023.

University of Arkansas Senior Sidewalk Expansion: Spanning multiple years, this \$4.05 million project involved complex coordination in high-traffic areas, demonstrating our ability to work effectively in active environments while ensuring quality and timeliness.

Fayetteville Police Headquarters: Our team delivered this \$35 million facility with minimal disruptions, employing creative scheduling and proactive problem-solving to meet quality and budget goals.

Fayetteville Fire Stations #2, #8, and #9: These essential facilities, with project values ranging from \$2.37 million to \$7.07 million, reflect our expertise in constructing critical municipal infrastructure.

Key Project Team

Our proposed team for the Maple Street Improvements project combines extensive streetscape expertise and a proven track record of success with the City of Fayetteville:

Brent Farmer, Vice President/Area Manager: With over 33 years of industry experience, Brent has overseen numerous Fayetteville projects, including Razorback Road Improvements and multiple fire stations, ensuring seamless execution from concept to completion.

Chad Crouch, Project Director: A 24-year industry veteran with 19 years at Flintco, Chad has provided executive oversight on Fayetteville projects such as the Police Headquarters and the Deane Street and Porter Road realignment. His focus on stakeholder collaboration ensures alignment with client objectives.

Klint Kimball, Preconstruction Director: Klint has delivered over \$2 billion in preconstruction services in Northwest Arkansas, including the Fayetteville Police Headquarters and Razorback Road Improvements. His expertise in cost estimation, constructability, and value engineering has consistently driven project success.

Tricia Shaw, Project Manager: With 28 years of industry experience, Tricia has managed Fayetteville projects like Fire Stations #2, #8 and #9, ensuring timely delivery, quality control, and fiscal accuracy.

Kevin Langston, Senior Superintendent: Kevin's 36 years of experience include managing complex projects such as Razorback Road Improvements and the University of Arkansas Senior Walk, where he ensured quality execution in active campus environments.

Dustin Maupin, Superintendent: A seasoned professional with 24 years of industry experience, Dustin played a key role in the Deane Street realignment, Fayetteville Fire Station #9, and Fayetteville Fire Station #2, demonstrating exceptional leadership and attention to detail.

Preconstruction and Execution Strategy

Flintco's preconstruction process ensures value maximization and cost efficiency through:

Advanced Estimation Accuracy: Historical projects such as Tyson Park Renovations (\$5.49 million) and Rogers School District Athletic Facilities (\$27 million) demonstrate our ability to maintain a variance below 2%.

Innovative Solutions: Cost-saving measures and flexible workflows have resulted in significant savings on past Fayetteville projects, such as \$2 million saved on the Fayetteville Police Headquarters through material substitutions and design optimizations.

Safety and Quality

Flintco's commitment to safety and quality is foundational to our operations:

Industry-Leading Safety: Our Experience Modifier Rate (EMR) of 0.52 reflects our commitment to a safe work environment.

Award-Winning Quality: Flintco's Fayetteville projects have consistently earned accolades for excellence, including national safety and construction awards.

Conclusion

Flintco's experience with the City of Fayetteville, combined with our seasoned project team and proven preconstruction strategies, ensures the successful delivery of the Maple Street Improvements project. Our dedication to quality, collaboration, and community impact aligns seamlessly with the City's goals, and we look forward to continuing our strong partnership.

“

Flintco is accessible - top to bottom. They are genuine and people of character who want to partner not for one project, but to build a relationship with us and the community for a lifetime.”

Scott Eccleston, President of Campus Planning and Facility Management | Art & Wellness Enterprises



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Current Maximum Bonding Capacity and Rate **30**

Signature Submittal **31**

“

“It’s been a pleasure of mine to work and collaborate with each one of these partners on design and construction of this project. FPD certainly values your expertise and values the partnership, but above all we value the friendship that we’ve established through this time. I want to personally thank each and every one for delivering on the promise that you made.”

**Mike Reynolds, Police Chief | City of Fayetteville Police
Headquarters Building Dedication, May 24, 2023**



Letter of Interest

January 21, 2025

City of Fayetteville, Arkansas
Attention: Amanda Beilfuss, Sr. Purchasing Agent

Re: RFQ 24 - 15 | CMAR for Maple Street Improvements

Dear Ms. Beilfuss and Selection Committee:

Thank you for inviting us to propose on the Street Improvement project. Having worked in the Fayetteville community since 1951, Flintco will provide accurate estimating during preconstruction, local trade partners with commitment to quality work, and the guarantee it requires to successfully complete your project on budget and schedule.

Specialized Experience and Technical Competence: Flintco is the **number one provider of CMAR services in the state of Arkansas** and more than 90% of our work is completed under the CM GMP delivery system. Out of our Arkansas office, alone, Flintco has successfully completed more than \$200 million in streetscaping and hardscaping projects. Your Preconstruction Director Klint Kimball has delivered more than \$2 billion in preconstruction services in Northwest Arkansas and has developed meaningful relationships with trade partners, which results in reliable trade partners who garner the best bids and perform quality work for the duration of construction. We are also proposing our same team of construction professionals, who successfully collaborated with the City of Fayetteville to deliver your recent Fire Stations and Police Headquarters. Our long-standing relationship will allow us to hit the ground running, ensuring that project kick-off is on time.

Firm's Business Interest and Project Familiarity: Flintco's primary business interest lies in providing a full range of construction services across various sectors. Flintco is deeply committed to prioritizing local clients and communities by placing their needs and aspirations at the forefront of every project. Our unwavering dedication to excellence extends to fostering strong relationships with local clients, understanding their unique requirements, and delivering tailored solutions that positively impact the community. Over our 70 years in Northwest Arkansas, our team has completed seven projects for the City of Fayetteville, including two streetscape projects: Fayetteville Razorback Road Improvements and Deane Street and Porter Road.

Building Trust Through Repeat Clientele: Flintco takes immense pride in fostering lasting relationships. With 80% of our projects earned from repeat clients, we believe that the foundation of every successful project is a strong partnership that endures well beyond its completion.

We know that you expect only the best from this project in terms of safety, schedule, quality, and value. Our team is ready to make that happen, and we appreciate your consideration.

Sincerely,



Brent Farmer
Vice President/Area Manager

REFERENCES

As requested in this section, below are references stemming from our work performed in the last five years. References that are specific to the this project's scope are included in Section B IV.

Gary Wilson, Billing & Collections Manager
City of Bentonville
479.271.3100
gwilson@bentonville.ark.com

Scott Eccleston, President of Campus Planning and Facility Management
Art and Wellness Enterprises
479.418.5731
scott.eccleston@aweoffice.org

Dr. Jared Cleveland, Superintendent
Springdale Public Schools
479.750.8800
jcleveland@sdale.org

Shayan Dehbozorgi, Principal
Hight-Jackson Associates
479.464.4965
sdehbozorgi@hjarch.com

Greg Walker, Architect
Miller Boskus Lack Architects
479.443.7121
greg@mbi-arch.com

Project Team Organization

Provide an organizational chart indicating the relationship between the Submitter's staff members who have responsibilities related to this project. Indicate on the chart the names of key personnel and their titles. Submit professional qualifications and resumes of staff to be assigned to this project, showing where they have performed work on similar projects including Construction Management GMP projects.

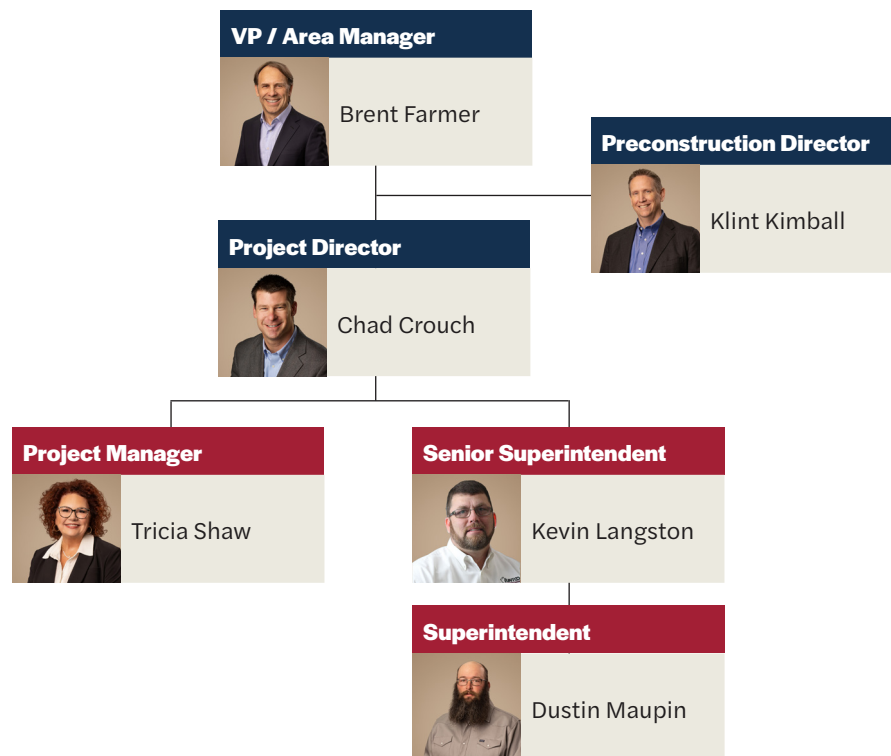
Our project team members were selected because of their experience working on streetscape projects. This team is also uniquely familiar with the City of Fayetteville, as many have been instrumental in delivering the recently completed first responder projects. All have extensive experience in the delivery construction management GMP projects. They have the right blend of knowledge, skills, and experience to successfully complete the Maple Street Improvements project.

Organizational Chart

Legend

■ Off-Site Support

■ On-Site Support





Industry Experience

33 Years

Years with Flintco

30 Years

Education

A.A. Construction Management,
Oklahoma State University

Licenses/Certifications

LEED Review Seminar,
Subguard, OSHA 30, FMI Leadership, First Aid, CPR, Bloodborne Pathogens

Brent Farmer

VP/ Area Manager

In the 25 years Brent has led the Arkansas Division, he has been instrumental in leading the team to achieve more than 99 state awards from the Associated Builders and Contractors from 1993-2023. As a direct result from his leadership the Arkansas Division has been named #1 Contractor in the State of Arkansas several years running, Best Contractor by *Citiscap* Magazine, Commercial Contractor of the Year by Fayetteville Construction and Developers Committee, 2018-2022 Very Best Commercial Contractor by *Celebrate Arkansas*, and 2021 Best Places to Work by *Arkansas Business*.

As Brent prioritizes camaraderie within the team, the NWA office has been named #1 Contractor in the State of Arkansas several years running, Best Contractor by *Citiscap Magazine*, Commercial Contractor of the Year by Fayetteville Construction and Developers Committee, 2018-2021 Very Best Commercial Contractor by *Celebrate Arkansas*, and 2021 Best Places to Work by *Arkansas Business*.

Key Experience

- **Deane & Porter Road Realignment** | Fayetteville, AR | \$ 4,074,000
- **City of Fayetteville Razorback Road Improvements** | Fayetteville, AR | \$1,680,000 **CMAR/GMP**
- **Deane & Porter Road Realignment**
- **University of Arkansas Senior Walk 2020 - 2025** | Fayetteville, AR | \$4,051,000 **CMAR/GMP**
- **University of Arkansas Razorback Road** | Fayetteville, AR | \$2,000,000 **CMAR/GMP**
- **Fayetteville Fire Station #2** | Fayetteville, AR | \$7,078,000 **CMAR/GMP**
- **Fayetteville Fire Station #8** | Fayetteville, AR | \$2,374,000
- **Fayetteville Fire Station #9** | Fayetteville, AR | \$2,510,000
- **Fayetteville Police Headquarters Facility Project** | Fayetteville, AR | \$35,343,000 **CMAR/GMP**
- **University of Arkansas Brough Commons Retail Shops** | Fayetteville, AR | \$4,392,000 **CMAR/GMP**
- **University of Arkansas Frank O'Mara Track** | Fayetteville, AR | \$12,264,450 **CMAR/GMP**
- **Crystal Bridges Museum of American Art Phase II Expansion** | Bentonville, AR | Confidential **CMAR/GMP**
- **Crystal Bridges Museum of American Art - The Momentary** | Bentonville, AR | Confidential **CMAR/GMP**



Chad Crouch

Project Director

Industry Experience

24 Years

Years with Flintco

19 Years

Education

B.S., Construction
Management, Missouri State
University

A.S., Drafting and Design
Technology, Ozarks
Technical Community
College

Licenses/Certifications

OSHA 30, ACI Concrete
Flatwork Finisher and
Technical

As the project director, Chad serves in a project executive oversight role. He acts as the liaison between Flintco, the owner representatives, major trade partners and architects/engineers to provide diversified input based on his construction expertise. Chad is responsible for overall management direction of all areas required to successfully deliver the project. He manages the appropriate resource allocation to assure completion of the project and he serves as the senior point of contact regarding overall project contract and delivery. His specific responsibilities will be over planning, staffing, defining functions and responsibilities, and supervision of all project activities including project schedule, personnel administration and performance review.

Chad was selected to complete Pillars, a premier 2-year leadership program that trains and develops Flintco's future leaders and key contributors. He was nominated by his co-workers and honored with a Chairman's Award for Construction/Project Management Leadership, the highest recognition given at Flintco.

Key Experience

- **City of Fayetteville Razorback Road Improvements** | Fayetteville, AR | \$1,680,000
- **Deane & Porter Road Realignment** | Fayetteville, AR | \$4,074,000
- **University of Arkansas Senior Walk 2020 - 2025** | Fayetteville, AR | \$4,051,000
- **Bentonville Creekside Park** | Bentonville, AR | \$13,000,000 **CMAR/GMP**
- **Fayetteville Fire Station #2** | Fayetteville, AR | \$7,078,000 **CMAR/GMP**
- **Fayetteville Fire Station #8** | Fayetteville, AR | \$2,374,000
- **Fayetteville Fire Station #9** | Fayetteville, AR | \$2,510,000
- **Fayetteville Police Headquarters Facility Project** | Fayetteville, AR | \$35,343,000 **CMAR/GMP**
- **University of Arkansas Brough Commons Retail Shops** | Fayetteville, AR | \$4,392,000 **CMAR/GMP**
- **Tyson Park Renovations** | Springdale, AR | \$5,000,000 **CMAR/GMP**
- **University of Arkansas Frank O'Mara Track** | Fayetteville, AR | \$12,264,450 **CMAR/GMP**



Industry Experience

32 Years

Years with Flintco

8 Years

Licenses/Certifications

USGBC LEED Green Associate, AGC-ASPE Estimating Academy, AGC Advanced Print Reading, Planning the Estimate, Advanced Contract Law, AGC Conceptual and Square Foot Cost, DBIA Certified

Klint Kimball

Director of Preconstruction

Klint leads budgeting, estimating, value analysis and constructability review services as well as the planning and coordination of preconstruction activities with all team members. Klint is well versed at cost model development, as well as scope definition and bid packaging. He is skilled in contract negotiations and adds valuable insight in the preconstruction phase of planning. Klint is thorough, systematic and efficient in the development of the GMP. He also provides project development expertise during the design phase to help define needs and determine scope based on his experience in project management and field operations.

Klint is DBIA certified and volunteers with the Ozark Foundation. He was nominated by his co-workers and honored with a Chairman's Award for Employee Development, the highest recognition given at Flintco. Klint was selected to complete Pillars, a premier 2-year leadership program that trains and develops Flintco's future leaders and key contributors. Klint enjoys traveling, pickleball and mountain biking.

Key Experience

- **City of Fayetteville Razorback Road Improvements** | Fayetteville, AR | \$1,680,000
- **Deane & Porter Road Realignment** | Fayetteville, AR | \$4,074,000
- **University of Arkansas Senior Walk 2020 - 2025** | Fayetteville, AR | \$4,051,000
- **Bentonville Creekside Park** | Bentonville, AR | \$13,000,000 **CMAR/GMP**
- **Fayetteville Fire Station #2** | Fayetteville, AR | \$7,078,000 **CMAR/GMP**
- **Fayetteville Fire Station #8** | Fayetteville, AR | \$2,374,000
- **Fayetteville Fire Station #9** | Fayetteville, AR | \$2,510,000
- **Fayetteville Police Headquarters Facility Project** | Fayetteville, AR | \$35,343,000 **CMAR/GMP**
- **Tyson Park Renovations** | Springdale, AR | \$5,000,000 **CMAR/GMP**
- **Oaklawn Track Improvements & Tunnel Replacement** | Hot Springs, AR | \$2,407,000 **CMAR/GMP**
- **University of Arkansas Frank O'Mara Track** | Fayetteville, AR | \$12,264,450 **CMAR/GMP**
- **Crystal Bridges Museum of American Art Phase II Expansion** | Bentonville, AR | Confidential **CMAR/GMP**
- **Crystal Bridges Museum of American Art - The Momentary** | Bentonville, AR | Confidential **CMAR/GMP**



Industry Experience

28 Years

Years with Flintco

10 Years

Licenses/Certifications

OSHA 30

Tricia Shaw

Project Manager

Tricia oversees the project team to assure quality workmanship is delivered timely and with fiscal accuracy. She prepares the preliminary schedule and assists the preconstruction director with cost estimates, feasibility studies, and value analysis. She is responsible for writing and reviewing subcontracts and purchase orders to ensure the scope of work for each trade is accurate and complete. She monitors all construction activities, quality control, and the accounting process. She organizes and conducts progress meetings with the owner and architect and ensures timely resolution of all project issues.

Tricia is a member of Women in Construction and chairs Flintco's annual Top Golf tournament, raising significant funds for A Level Up. She attends local Chamber of Commerce events. Tricia and her daughters share a jewelry business, and she enjoys spending time at the beach.

Key Experience

- **City of Fayetteville Razorback Road Improvements** | Fayetteville, AR | \$1,680,000
- **University of Arkansas Senior Walk 2020 - 2025** | Fayetteville, AR | \$4,051,000
- **Fayetteville Fire Station #2** | Fayetteville, AR | \$7,078,000 **CMAR/GMP**
- **Fayetteville Fire Station #8** | Fayetteville, AR | \$2,374,000
- **Fayetteville Fire Station #9** | Fayetteville, AR | \$2,510,000
- **University of Arkansas Seed Processing Facility** | Stuttgart, AR | \$8,000,000 **CMAR/GMP**
- **Springdale Elementary School 2016 (Knapp Elementary)** | Springdale, AR | \$16,900,000 **CMAR/GMP**
- **University of Arkansas Brough Commons Retail Shops** | Fayetteville, AR | \$4,392,000 **CMAR/GMP**
- **University of Arkansas Old Main Lawn Lighting** | Fayetteville, AR | \$730,000
- **University of Arkansas - Arkansas Avenue Sidewalk Replacement** | Fayetteville, AR | \$550,000
- **University of Arkansas Senior Walk Replace Sidewalk** | Fayetteville, AR | \$630,000
- **University of Arkansas Old Main Lawn Stone Retaining Wall Restoration** | Fayetteville, AR | \$525,000



Industry Experience

36 Years

Years with Flintco

13 Years

Licenses/Certifications

CPR, First Aid, OSHA 10

Kevin Langston

Senior Superintendent

Kevin oversees and directs construction, ensuring trade partner workmanship is incorporated timely and with the expected level of quality. He works with the project manager and superintendent(s) to manage the on-site operations and is the most familiar with the plans, specifications, contracts and submittals. Kevin serves as the liaison between the owner's and trade partners and governmental authorities. He enforces jobsite safety, ensuring all field operations are in compliance with OSHA standards.

Key Experience

- **Fayetteville Razorback Road Improvements** | Fayetteville, AR | \$2,398,000
- **University of Arkansas Senior Walk 2021-2025** | Fayetteville, AR | \$1,383,000
- **University of Arkansas Brough Commons Retail Shops** | Fayetteville, AR | \$4,392,000 **CMAR/GMP**
- **University of Arkansas Old Main Lawn Lighting** | Fayetteville, AR | \$730,000
- **University of Arkansas - Arkansas Avenue Sidewalk Replacement** | Fayetteville, AR | \$550,000
- **University of Arkansas Senior Walk Replace Sidewalk** | Fayetteville, AR | \$630,000
- **University of Arkansas Old Main Lawn Stone Retaining Wall Restoration** | Fayetteville, AR | \$525,000
- **University of Arkansas Alumni North Paver Patio** | Fayetteville, AR | \$43,000
- **University of Arkansas System Eastern Avenue Demolition** | Fayetteville, AR | \$30,368
- **University of Arkansas System Maple & Reagan Gravel Parking Lots** | Fayetteville, AR | \$163,098
- **University of Arkansas System Multiple Demo; Greg, Maple, Reagan St** | Fayetteville, AR | \$95,800
- **University of Arkansas System Oliver Ave Demolition and Parking** | Fayetteville, AR | \$468,000
- **University of Arkansas Innovation Center** | AR | \$5,300,000
- **University of Arkansas Peabody Hall** | AR | \$8,400,000



Industry Experience

24 Years

Years with Flintco

18 Years

Education

Master Welding Degree

Licenses/Certifications

First Aid, CPR

Dustin Maupin

Superintendent

Dustin oversees and directs construction, ensuring trade partner workmanship is incorporated on-time and with the expected level of quality. He works with the project manager to oversee operations and is the most familiar with the plans, specifications, contracts and submittals. Dustin enforces jobsite safety, prepares and manages the quality control program, organizes and conducts weekly trade partner meetings and inspects the work to verify construction conforms to the contract documents.

Key Experience

- **City of Fayetteville Razorback Road Improvements** | Fayetteville, AR | \$1,680,000
- **Deane & Porter Road Realignment** | Fayetteville, AR | \$ 4,074,000
- **University of Arkansas Senior Walk 2020 - 2025** | Fayetteville, AR | \$4,051,000
- **Fayetteville Fire Station #2** | Fayetteville, AR | \$7,078,000 **CMAR/GMP**
- **Fayetteville Fire Station #8** | Fayetteville, AR | \$2,374,000
- **Fayetteville Fire Station #9** | Fayetteville, AR | \$2,612,000
- **Fayetteville Police Headquarters Facility Project** | Fayetteville, AR | \$35,343,000 **CMAR/GMP**
- **University of Arkansas Maple & Reagan Gravel Parking Lots** | Fayetteville, AR | \$163,098
- **University of Arkansas - Arkansas Avenue Sidewalk Replacement** | Fayetteville, AR | \$550,000
- **University of Arkansas Senior Walk Replace Sidewalk** | Fayetteville, AR | \$630,000
- **University of Arkansas Fred W. Smith Football Center** | Fayetteville, AR | \$33,694,484 **CMAR/GMP**
- **Northwest Arkansas Community College Shewmaker Center for Global Business Development** | Bentonville, AR | \$8,000,000 **CMAR/GMP**
- **Gentry Public Schools Multi-Purpose Athletics & Activities Facility** | Gentry, AR | \$3,974,000 **CMAR/GMP**
- **Springdale Elementary School 2016 (Knapp Elementary)** | Springdale, AR | \$16,900,000 **CMAR/GMP**

Specialized and Past Experience

Provide information regarding past experience in relation to the services requested in this RFQ including information pertaining to customer satisfaction, timely completion, and meeting budgets on similar projects executed under a GMP contracting format.

According to *Engineering News Record*, the leading industry publication, Flintco is the **number one provider of Construction Management at Risk (CMAR) services in the state of Arkansas.**

Flintco is consistently ranked as a top provider of CM in the nation, and ranks in the top 25 in multiple sectors. **In the last five years, the Arkansas office alone has delivered or is delivering \$1.93 billion worth of CMAR work.**

With **more than 90% of our work completed under the CM delivery system**, our construction management services focus on identification of team-oriented, positive solutions to project challenges. We provide the client with complete control and

understanding of a project's status while placing the day-to-day decisions and dealings with trade partners in the experienced hands of Flintco's project team.

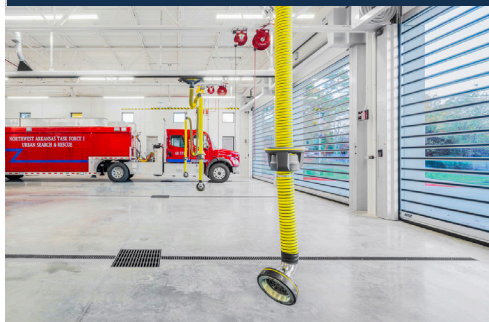
The strength of our success comes from our individual approach to each project: focusing on client goals, collaborating with the project team, listening to stakeholders, understanding the markets we serve and maximizing our national resources – all while providing unequalled service and attention to detail.

City of Fayetteville Experience

In addition to the Razorback Road and the Dean Street and Porter Road improvement projects on the following pages, Flintco is proud to have partnered with the City of Fayetteville on four landmark projects. We deeply value the relationships we've built through these recent endeavors and remain committed to exceeding your expectations while strengthening our partnership at every opportunity.

Project Director, Chad Crouch; Preconstruction Director, Klint Kimball; Project Manager, Tricia Shaw; and Superintendent, Dustin Maupin have been involved in each of these projects and understand how to expertly navigate the City of Fayetteville processes and procedures.

**FAYETTEVILLE FIRE STATION NO. 2
COMPLETED 2023**



**FAYETTEVILLE FIRE STATION NO. 9
COMPLETED 2021**



**FAYETTEVILLE FIRE STATION NO. 8
COMPLETED 2021**



**FAYETTEVILLE POLICE HEADQUARTERS
COMPLETED 2021**



PROJECT EXAMPLE:

Fayetteville Police Headquarters

Maintaining Schedule Momentum Despite Delays

This state-of-the-art \$35 million project was delivered without significant construction delays, thanks to Flintco's proactive problem-solving and adaptability. While the project team encountered several material acquisition challenges due to supply chain challenges that occurred during COVID, they ensured the timeline remained on track. For instance, the generator did not arrive until late January 2023, necessitating its installation after much of the project had been completed. Similarly, delays in the arrival of mechanical equipment required creative scheduling to prevent work stoppages.

Sourcing essential materials like steel and roofing proved especially difficult, but Flintco's team successfully navigated these obstacles by securing substitutions where possible—an approach that not only kept the project moving but also yielded cost savings. When materials could not be substituted, the team strategically adjusted workflows to minimize disruptions.

One of the most complex aspects of the project involved the building's exterior, which featured terracotta—a reddish limestone requiring specialized machinery and highly skilled labor for installation. Despite the fragility and logistical challenges of mining, transporting, and installing

the massive terracotta pieces, the team's expertise ensured steady progress and exceptional craftsmanship.

Project Savings

In 2021, rising industry prices significantly increased project costs. Flintco's team initially provided the owner with a cost estimate, but delays in funding led to substantial cost escalation by the time construction began.

To keep the project within the original budget, the team implemented over 30 cost-saving measures, achieving over \$2M in savings. Specific actions included:

- Switching from concrete paving to HD asphalt (\$94K saved).
- Changing door hardware to Falcon (\$34K saved).
- Using a 40MIL roofing product instead of 60MIL (\$50K saved).
- Opting for Powder Coat guardrails (\$34K saved).
- Improved landscape design with local planting and improved spacing (\$29K saved).
- Customizing pedestals instead of using premanufactured ones (\$40K saved).
- Selecting alternate mechanical manufacturers to increase competition (\$370K saved).
- Switching to a more economical metal panel system (\$260K saved).

The below chart is a sample of our recent government projects executed under a GMP format that represents how Flintco has successfully delivered projects on-schedule, on-budget, while maintaining high customer satisfaction.

Project	Met Budget		On-Time		Client Satisfaction
	Contract Amount	Final Cost	Scheduled Completion	Actual Completion	
Fayetteville Police Headquarters	\$35,343,000	\$35,343,000	4/12/2023	4/12/2023	Yes
Fayetteville Fire Station #2	\$7,078,682	\$6,931,188	10/30/2024	10/30/2025	Yes
Bentonville Creekside Park & Road	\$8,279,038	\$8,265,475	5/2/2023	5/3/2023	Yes
Mickey Jackson Fire Training Center	\$2,805,900	\$2,797,908	2/28/21	1/29/21	Yes
Fayetteville The New School	\$9,114,009	\$9,101,776	1/31/16	1/31/16	Yes
Bentonville Evening Star Elementary School	\$18,900,000	\$18,108,379	8/1/19	8/1/19	Yes

Additional savings were achieved by buying out metal panels for roof screens (\$100K saved) and installing them individually. The team also replaced ceramic tile with polished concrete in many areas, saving \$130K by using stainless steel wall protection instead of wall tile, \$85K by resizing wall tiles, \$80K with alternate quartz countertops and window stools, and \$60K by reducing and rearranging light fixtures. This comprehensive approach allowed the project to remain on budget despite significant challenges.

This project was impacted by manufacturing delays created from the COVID-19 pandemic. One was the overhead door for the apparatus bay. The team found a temporary solution to keep the apparatus bay closed so that interior finishes could be completed to keep the project moving forward. **Even though the overhead door arrived late, the team worked around that scope to avoid major schedule delays.**

Ensuring Quality & Client Satisfaction

Flintco's Arkansas project team actively worked with the owner to develop the most cost-effective, highest-quality facility for the city's public servants. The project team created strong, lasting relationships with the owner and looks forward to future projects with the City of Fayetteville.



December 5, 2023

To whom it may concern,

It is my pleasure to provide this letter of recommendation for Flintco Construction, highlighting their exceptional contributions to the successful completion of the City of Fayetteville's new police headquarters campus.

Flintco Construction played a pivotal role in ensuring the project's success, starting with their invaluable cost-saving strategies during pre-construction planning. Their meticulous attention to detail aided in the selection of subcontractors, which significantly contributed to the seamless execution of the project's scope of work.

During the challenges posed by the construction industry's volatility amid an unprecedented pandemic, Flintco demonstrated resilience, adaptability, and a steadfast commitment to overcoming obstacles. Their proactive measures and collaborative approach helped mitigate unforeseen costs, allowing the City of Fayetteville to absorb challenges during the design, planning, and construction phases.

Throughout the construction process, Flintco exhibited meticulous oversight and attention to detail, ensuring the project's quality met and exceeded expectations. Their responsiveness to the completion of punch list items showcased a dedication to excellence and client satisfaction.

I wholeheartedly recommend Flintco Construction for future projects, as I and the entire police force have been impressed with their professionalism, expertise, and unwavering commitment to delivering exceptional results.

Sincerely,

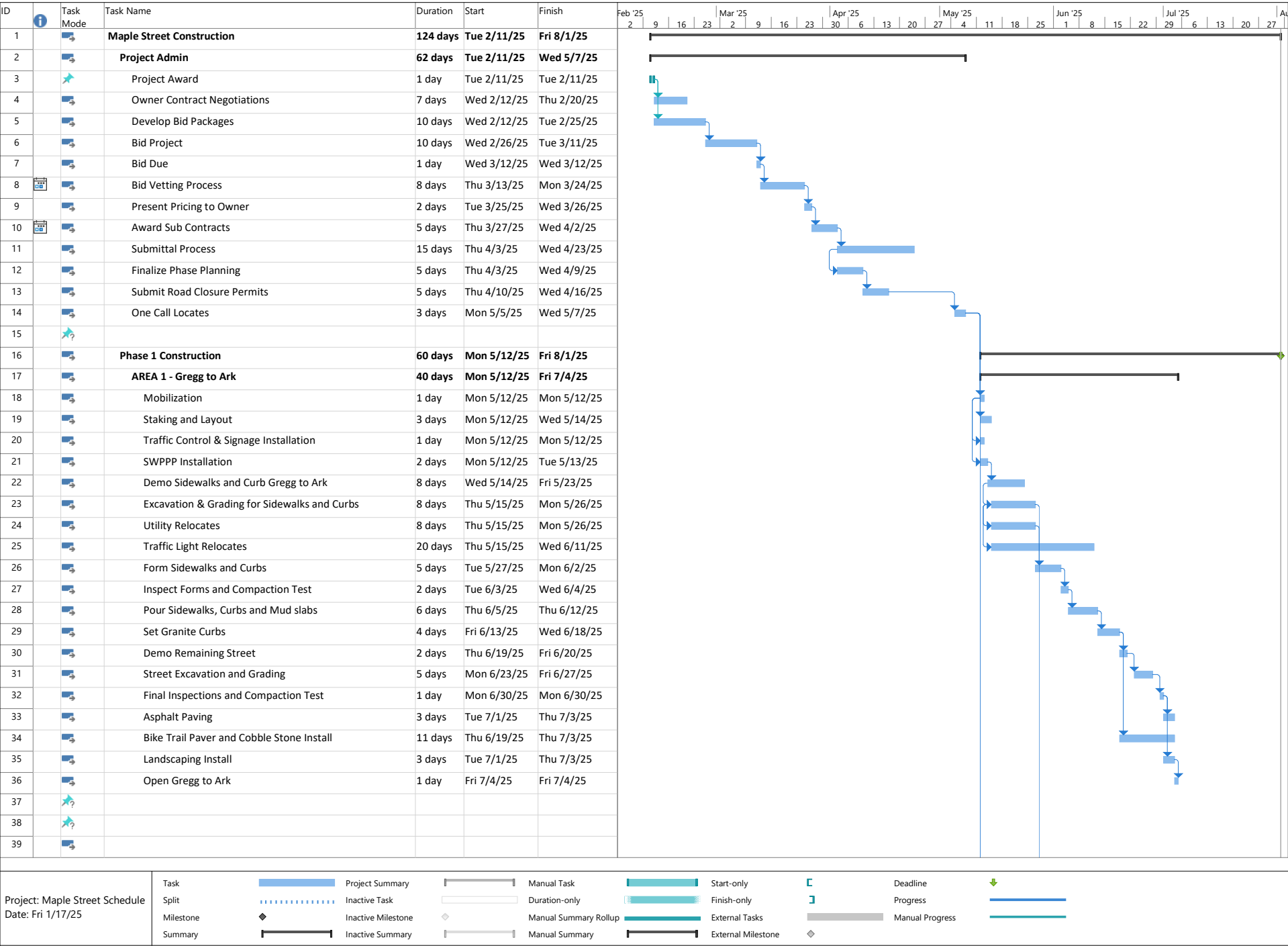
A handwritten signature in black ink, appearing to read "Mike Reynolds".

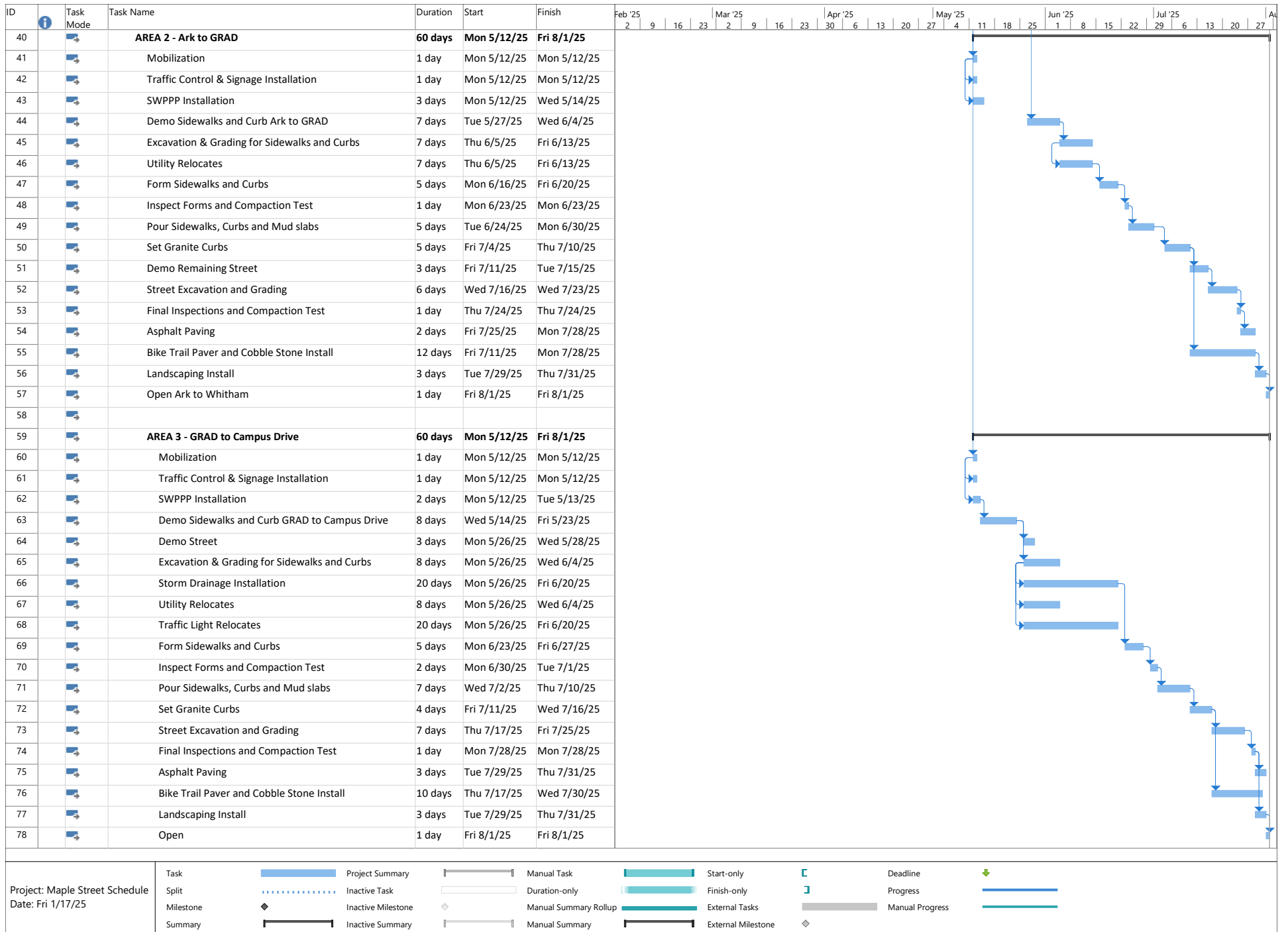
Mike Reynolds
Chief of Police

MR:am

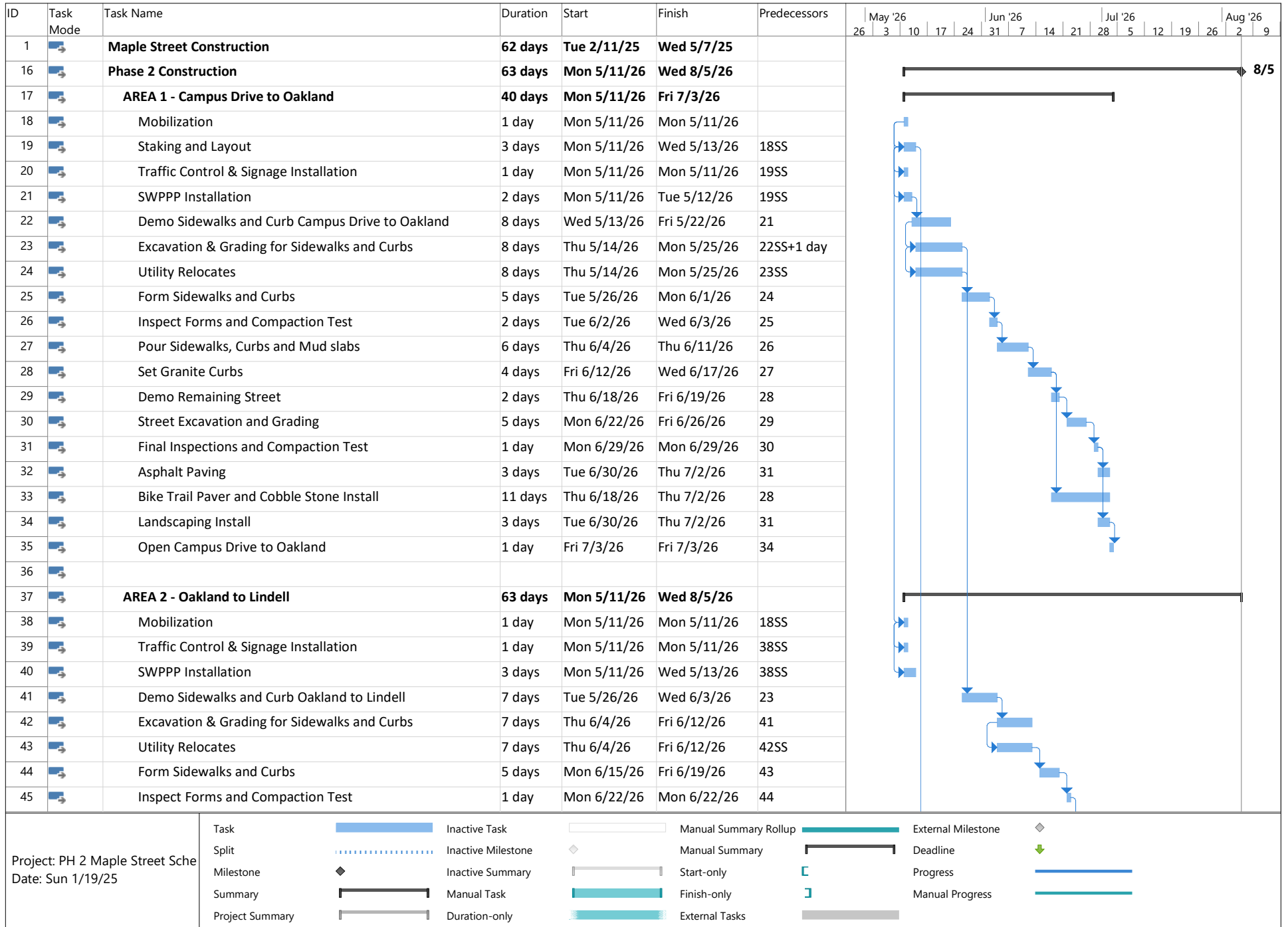
EXAMPLE: CUSTOMER SATISFACTION

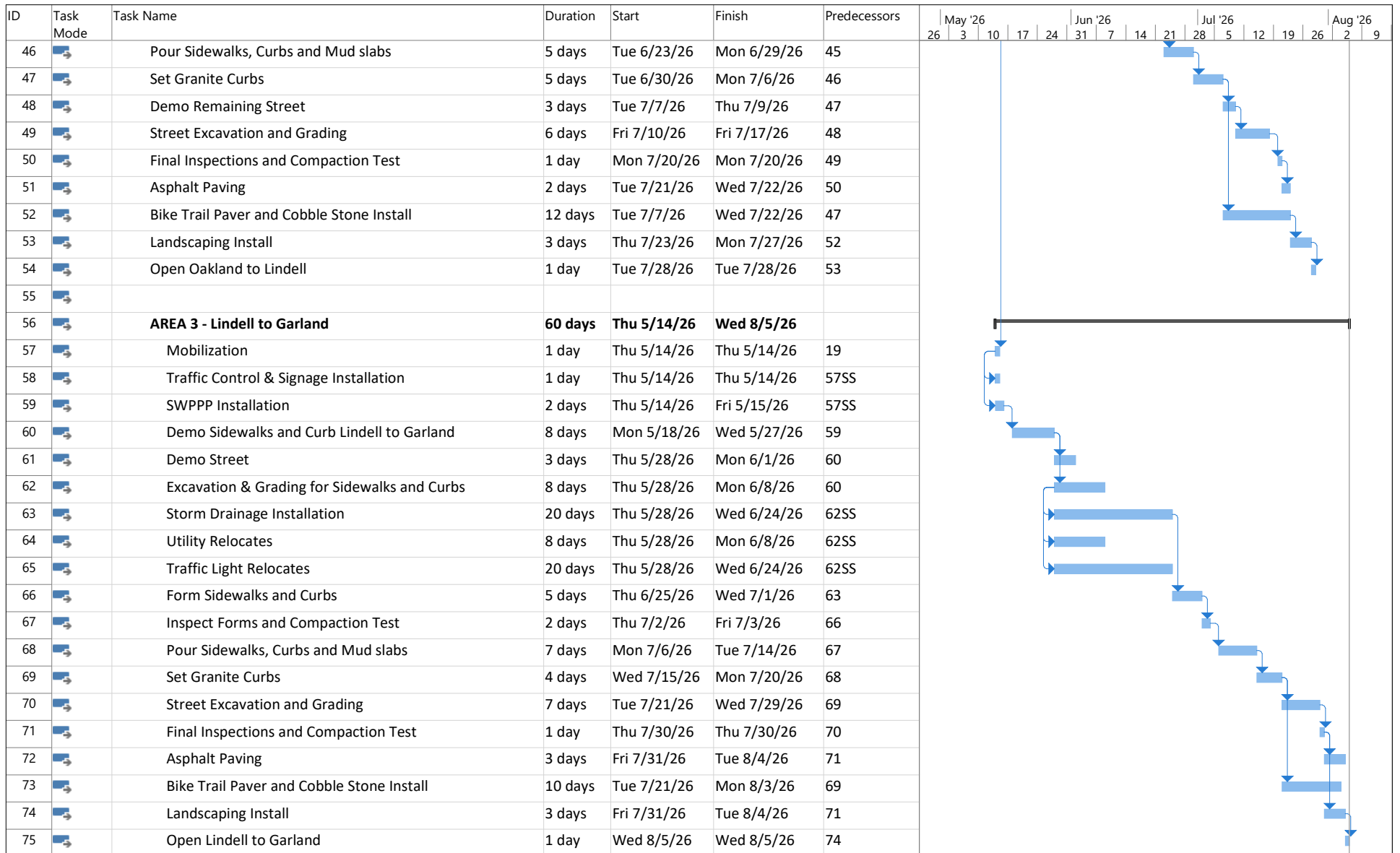
Schedule





Phase II Schedule





Project: PH 2 Maple Street Sche Date: Sun 1/19/25	Task		Inactive Task		Manual Summary Rollup		External Milestone	
	Split		Inactive Milestone		Manual Summary		Deadline	
	Milestone		Inactive Summary		Start-only		Progress	
	Summary		Manual Task		Finish-only		Manual Progress	
	Project Summary		Duration-only		External Tasks			

Cost

Flintco greatly respects and appreciates our relationship with City of Fayetteville. We look forward to each project as an opportunity to prove ourselves and showcase our team. For the City of Fayetteville Maple Street Improvements project, **Flintco's preconstruction fee is \$1.00.** There are no other fees solely associated with preconstruction.

Additional Background

Self Perform

Flintco provides competitive self-performance capabilities to our clients for those trades that have significant impact on the quality and schedule of construction. When Flintco self-performs work, we have our own people deeply engaged in the safety, schedule and quality control of your project everyday, which adds value and certainty.

Our ability to self-perform work allows for greater control of staff performance, cost, flexibility of schedules and end-of-work quality.

This includes concrete, steel, rough carpentry, industrial, dry-wall and installation of doors, hardware and specialty items.

The self-performance bid process is the exact same expected of other trade partners where we submit our lowest price for the scope of work and all bids are publicly opened. Flintco remains transparent throughout the bidding process, including when we self-perform. Final selection is always based on best value for your project.

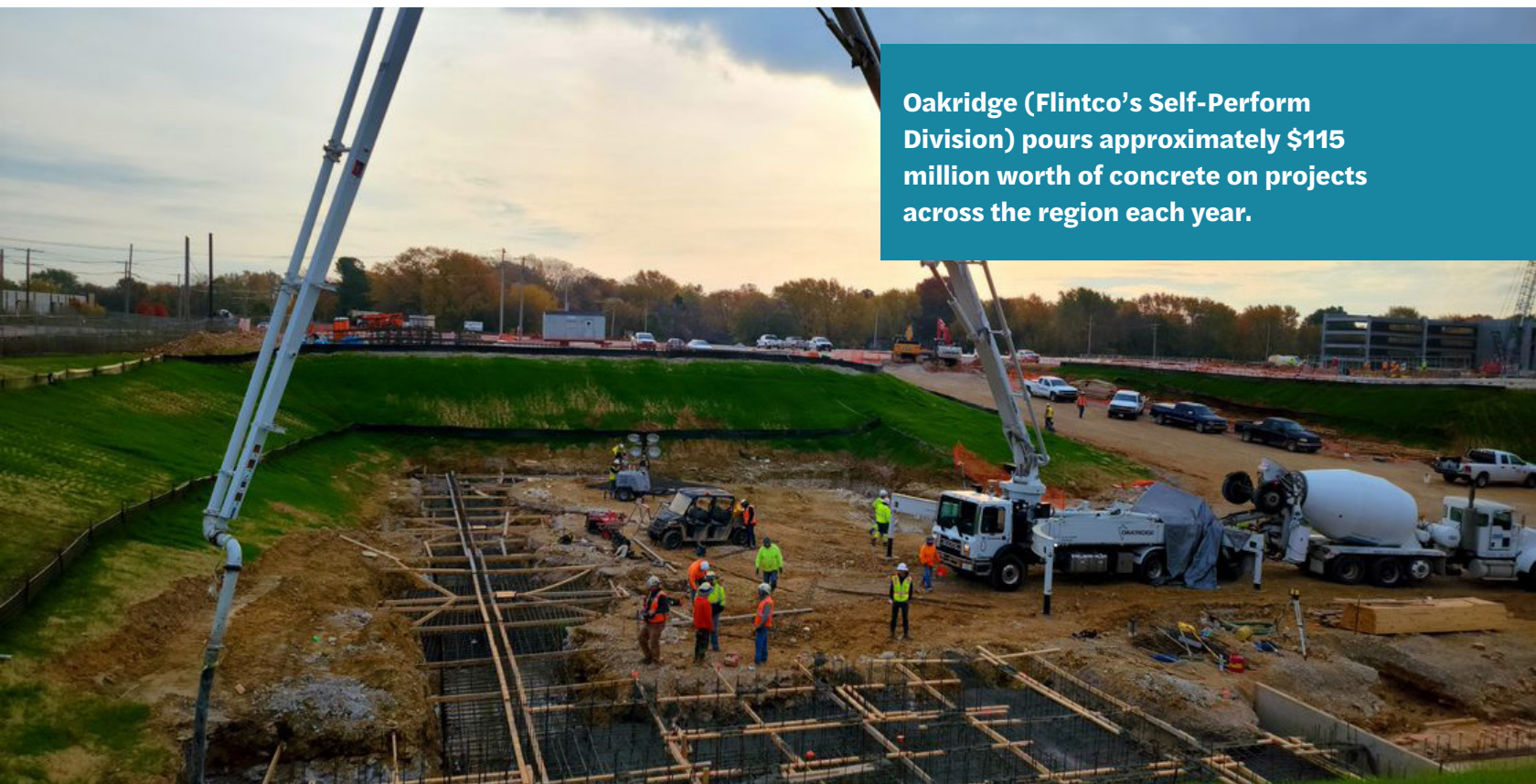
Safety

Our safety program exceeds federal, state, and local OSHA requirements and demands total participation of our staff and trade partners. This primary focus on safety results in quality buildings and positive experiences for everyone involved. It also controls costs and keeps projects on schedule. Safety is our company-wide badge of honor that reflects our commitment to doing things right.

We recently have celebrated the following milestones*:

- Flintco's Experience Modifier Rate **(EMR) of 0.52** remains well below the industry average of 1.0
- Trade Partner incidents continue to trend down year after year
- 2021 - 2023 ABC National Safety of Excellence Award Winner
- 2023 ABC Pinnacle Award

**2024 Safety Awards have not been issued to date*



Oakridge (Flintco's Self-Perform Division) pours approximately \$115 million worth of concrete on projects across the region each year.

- 2018 - 2023 Designated as Diamond Level by the Associated Builders and Contractors Safety and Training Evaluation Process (ABC STEP) - the highest level a company can achieve from the safety benchmarking system.

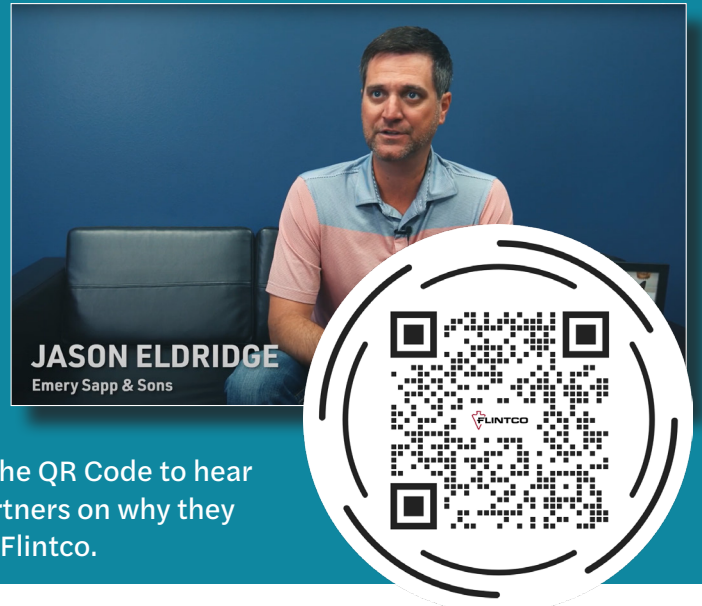
Our focus is evident, not only through national recognition, including by both

the Associated Builders and Contractors (ABC) and Associated General Contractors (AGC) trade associations, but also in our achievement of the prestigious Diamond status in the ABC STEP benchmarking process year after year.

The single most important element in the success of our Safety program was the creation of our Flintco 4 LIFE culture. Since it was introduced in 2017, Flintco 4 LIFE has become synonymous with Flintco's Safety culture because it works with leadership and employees at all levels to create change in people, processes, culture, and organizations. Flintco 4 LIFE focuses on process, practice, and individual behaviors to improve safety by Living Incident Free Everyday (LIFE). We explore how people think, feel and relate to Safety,

Performing work in Northwest Arkansas for more than 70 years, we have worked in tandem with the trade partner community, building lasting and trusted partnerships.

[Click here](#) or scan the QR Code to hear from local trade partners on why they prefer to work with Flintco.



and look at the role of the organization in providing a safe work environment. The 4 R's are prominent in our approach: Reach out, do it Right, Raise your voice and Recognize hazards.

Solid Trade Partner Relationships: As part of the Arkansas fabric for more than 70 years, Flintco enjoys an excellent reputation within local trade partner communities as a contractor known as financially stable and for safe and clean jobsites. We plan our work and involve trade partners in scheduling the work. Because of this, trade partners want to work with us.

Flintco has established itself not only in the region but nationally as a well-respected contractor of choice. Our reputation, excellent communication and partnering programs enable us to attract and engage the highest quality trade partners for our projects.

Trade partners want to work with Flintco and will push aside other projects for an opportunity to bid a Flintco job. This benefits you by ensuring high levels of trade partner participation so that you know you are getting competitive market pricing.



Prior Experience Constructing Streetscape and Similar Project Types

In the past five years, Flintco has completed more than \$240 million in streetscape and hardscaping projects in the last five years. Of this, more than \$200 million has been completed in Northwest Arkansas.



Fayetteville Razorback Road Improvements

Fayetteville, AR

These improvements included the widening of the existing road and landscaping upgrades along the west side of Razorback to enhance the visual appeal. Enhancements included the addition of trees, grassy areas, improved asphalt pavers, cobblestones, and pavement markings for pedestrian traffic .

DELIVERY METHOD

General Contracting

FINAL COST

\$1,696,000

YEAR OF COMPLETION

September 2022



University of Arkansas Senior Sidewalk 2021-2025

Fayetteville, AR

The University of Arkansas Senior Walk project includes engraving the names of four years' worth of graduating seniors on over 4,000 feet of sidewalk. The project scope included curb and gutter, sidewalk, manholes, landscaping and electrical work. From Cleveland Street and Razorback Road, the project spanned up Maple Street, around Garland, and tied into the previous Senior Sidewalk project at the northwest corner of Cleveland and Garland.

DELIVERY METHOD

General Contracting

FINAL COST

\$4,051,000

YEAR OF COMPLETION

December 2023



Deane Street and Porter Road

Fayetteville, AR

As an extension of the Fayetteville Police Department project, Flintco transformed Deane Street and Porter Road into a safer, more accessible, and aesthetically pleasing corridor. The project included widening and realigning the roadway, adding parking spaces, and improving drive lanes. A roundabout was constructed to enhance traffic flow, while new curb and gutter systems and an upgraded storm sewer system improved drainage. ADA-compliant crosswalks, a section of greenway bike and walking trail, and street landscaping further enriched the area, creating a functional and inviting space for pedestrians, cyclists, and drivers alike.

DELIVERY METHOD

CM - At Risk / GMP

FINAL COST

\$4,074,000

YEAR OF COMPLETION

December 2023



Creekside Park

Bentonville, AR

This new city park features a splash pad, dog park, restrooms, trails, and non-competition sports fields. The scope also included construction of a 2,700 linear foot two-lane road with sidewalks, a two-way left-turn lane, a roundabout, and a bicycle trail.

DELIVERY METHOD

CM - At Risk / GMP

FINAL COST

\$13,024,000

YEAR OF COMPLETION

August 2023

Understanding of Preconstruction Services

Statement regarding understanding of preconstruction services and approach to billing for preconstruction services. In addition, this statement shall include a clear definition of understanding for what a Guaranteed Maximum Price (GMP) means.

Ninety-five percent of project savings are achieved during the preconstruction phase. We can help you maximize every dollar.

As ideas are discussed, Flintco will work with the City of Fayetteville and engineering team to implement the most cost-effective solutions to the City's programming needs. We will work with the team to explore options and run "what-if" scenarios on the fly so that no design or programming idea is left unexplored.

The meaning of Guaranteed Maximum Price (GMP) is more than just a contractual term that defines our "not to exceed" project value. A Guaranteed Maximum Price as prepared by Flintco shall include all Cost of the Work as defined by the AIA A133, Article 6. We prepare our GMP with full transparency in mind, allowing the Owner and Flintco to discuss both inclusions and exclusions. The GMP is only amended as a result of allowable additions or deletions as defined in the Contract.

We are responsible for the GMP. Flintco works to exceed expectations while delivering the project from original concept through completion. We believe it is our responsibility to maximize your construction dollar. By collaborating with the design team and our trade partners, Flintco delivers the maximum amount of building/programming within the total GMP.

OUR EXPERTISE:

- Design Management
- AHJ Coordination
- Site Utilization and Logistics Planning
- Schedule Development
- Cost Estimating & Modeling
- Constructability Analysis
- Value Analysis
- Phase Planning
- Bid Package Planning & Development
- Document Quality Analysis & Control
- Total Cost of Ownership Analysis
- Trade Partner Prequalification
- WMBE/HUB Outreach

OUR TOOLS:

- Building Information Modeling
- Proprietary Cost Data Base
- Primavera P6
- Assemble
- Laser Scanning
- Thermal Imaging
- Drone Imaging & Scanning
- Coordination Clash Detection
- Lean 2.0

Mutual trust is the basis for any relationship. Flintco has been fostering relationships in the Northwest Arkansas community for more than seven decades. This has allowed us to create a deep pool of ‘tried and true’ trade partners that have proven their value project after project.

Flintco will take a hands-on approach from the initial phases of preconstruction. Our strong industry relationships from seven decades in the region allow Flintco to involve our trade partners in the constructibility reviews and value analysis early in the process. The Flintco team, in conjunction with our local trade partners, will add value to your project by making informed construction recommendations that will have direct impacts on schedule and budget.

Our preconstruction process unifies design, engineering, and construction to ensure that the project is thoroughly planned, budgeted and built on paper prior to the start of construction. We provide value analysis, insight and creative recommendations that maintain your budget, schedule, and design intent.

We work with the engineering team to prioritize the items that have the greatest impact on the final GMP for your project. Trend estimates, our assumptions/clarifications and constructability reviews, help confirm that the contract documents and the GMP align with your objectives.

We develop trade partner interest in the project and divide the trade work into as many separate packages as is practical. The more the work is divided, the more clearly the cost of the work is defined. This also increases the opportunity to include smaller, local trade partners as well as more minority and small business. We tabulate the bids and make comments and recommendations. The low responsible bidder is interviewed to ascertain bid completeness, as well as understanding of the scope of the work.

Billing Approach

Our approach to billing includes the use of the A133– 2009 Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price. The A133 will be coordinated for use with AIA Document A201-2007, General Conditions of the Contract for Construction.

ESTIMATING ACCURACY			
	30% DD	Final GMP	% Variance
Tyson Park Renovations - City of Springdale	\$5,493,500	\$5,446,144	-0.86%
Rogers School District Athletic Facilities	\$27,001,421	\$26,890,705	-0.41%
University of Arkansas Frank O’Mara Track and Field High Performance Center	\$10,261,650	\$10,143,112	-1.17%

Preconstruction will be led by Preconstruction Director, Klint Kimball, who has delivered more than \$2 billion in preconstruction services in the Northwest Arkansas market and has a record of maintaining a 2% variance when preparing estimates. He is supported by a dedicated team of experts who will be involved in document review, project coordination, and quality exercises from the onset of Flintco’s involvement. Klint has forged trusting relationships with the Arkansas trade partner community, ensuring proven trade partners will compete for your project.

Records on Similar Projects

Records of management teams on similar projects with timely completion and high-quality workmanship.

As a company and specifically for the project team we have proposed, Flintco has earned a reputation for the timely completion of our projects with award-winning results for quality. On the previous pages, the resumes of our staff reflect a full listing of projects with on-time completions. In addition, these personnel have all earned ABC Excellence in Construction awards for projects they have built. Key members of this team are designated to establish and document the project quality objectives. A constructability and materials performance report is prepared to address any concerns that surface during the evaluation of the design development documents. Elements of the program include:

- A clearly understood and well communicated quality assurance program.
- Concise procedures and timing for inspection of the final work to coordinate the initial inspection responsibility of the project manager with the final acceptance responsibilities of the project architect.
- Involve members of review agencies early.
- Extract concerns relating to the trade partner's ability to perform to the objectives of the quality assurance program and discuss these issues at the pre-award conference.
- Evaluation of alternates and "or equal" provisions prior to issuing the bidding documents.
- Incorporate into the construction documents specific criteria for submittals, samples, mock-ups, etc. and requirements to define the individual contractor's responsibility for quality assurance.
- Require each trade partner to designate a representative to discuss quality assurance issues.
- Establish a meeting schedule prior to coming on-site to discuss quality awareness, individual commitment and anticipated problems with materials, equipment or workmanship to be incorporated into the project.

	Project Director, Chad Crouch	Preconstruction Director, Clint Kimball	Project Manager, Tricia Shaw	Sr. Superintendent, Kevin Langston	Superintendent, Dustin Maupin
PROJECTS					
Fayetteville Razorback Rd. Improv.	✓	✓	✓	✓	✓
Deane & Porter Road Realignment	✓	✓			✓
U of A Senior Walk 2020 - 2025	✓	✓	✓	✓	✓
Fayetteville Police Headquarters	✓	✓			✓
Fayetteville Fire Station #2	✓	✓	✓		✓
Fayetteville Fire Station #8	✓	✓	✓		✓
Fayetteville Fire Station #9	✓	✓	✓		✓

In addition to the extended project narrative shown below, please refer to Section B I for additional examples of Flintco's relevant experience.

University of Arkansas Senior Walk 2021 - 2025

Flintco was pleased to partner with the University of Arkansas on the expansion of their iconic Senior Sidewalk tradition. To maintain consistency in the design, especially since the campus has many historic areas, the University of Arkansas executives have established guidelines for the sidewalk size to accommodate two rows of names on each panel. Flintco was hired to complete this project, which involved redoing sidewalks and the curb, gutter, and manholes to accommodate the graduating classes from 2021 to 2025.

The scope of the project also included electrical work to replace several old light poles to match campus standards. From the corner of Cleveland and Razorback Road, the project spanned up Maple, around Garland, and tied into the previous Senior Sidewalk project, completed by the Flintco JOC team in 2022, at the northwest corner of Cleveland and Garland. The 2021 - 2025 Senior Sidewalk project involved 4,240 linear feet of curb, gutter, and sidewalk, and the landscaping was also replaced.

Safety and Successful Execution on Operational Campus

An active corridor of campus, the project team took measures to control pedestrian and car traffic on roads and sidewalks, including establishing a path of access and installing proper signage and fencing, where necessary. Additional coordination efforts were exercised to accommodate drop-off and pick-up traffic, as the construction site was adjacent to an elementary school. The Flintco team was proactive in the coordination of these efforts, working closely with University staff and school administrators.



Landscaping, senior sidewalk and retaining wall that were all a part of this 2020 – 2025 Senior Sidewalk Project just south of a residential area off Razorback and Cleveland Streets.

Additionally, a portion of the project on Maple Street ran along the north end of Donald W. Reynolds Razorback Stadium, where 80,000+ fans converged on game days. Flintco worked diligently to maintain traffic flow in both directions, so this project did not impact game day traffic.

Approximately 550 feet of the new Senior Sidewalk is located directly above a high-voltage tunnel that housed the infrastructure for campus utilities. Special consideration was given to protect this area while safely demolishing existing sidewalk, so as not to interrupt university operations and to ensure a safe environment for trade partners working around the high-voltage area.

Though the start of this project was delayed, Flintco was able to finish on time by working in conjunction with the owner. Per the owner's request, we developed a plan whereby we could maintain open driveways and pathways which were necessary to maintain campus operations.

The project team began work in December of 2022 and completed a vast majority of the project by mid-September 2023, five weeks ahead of schedule.

Further demonstrating the collaborative effort between Flintco, the owner and the designer, Flintco was asked to price the use of asphalt pavers compared to bluestone pavers for an area of the sidewalk. This change in design resulted in substantial savings.

To effectively coordinate construction activities in this busy corridor of campus and maintain proper access to drives and walkways, Flintco held bi-weekly owner meetings to ensure communication was thorough and proactive. This working relationship laid the groundwork for a successful, injury-free project that finished on schedule and in-budget.



"I'm aware that almost any project on our campus requires a level of care and coordination that's higher than typical commercial work. This project was particularly complex because it involved the university's most well-known tradition—Senior Walk—on a large and varied site surrounding an entire campus district, requiring the Flintco team to work alongside four very busy streets."

Todd Furgason, Sr. Campus Planner | University of Arkansas



Excavation at retaining wall preparing for new curb, gutter, and the Iconic U of A Senior Sidewalk.

Owner Verification & Contact Information

Records of previous similar projects with owner verification and contact information. Please provide contact information including reference contacts of the owner and architect on at least 3 projects. These projects should be within the past five (5) years.



U of A Razorback Road Improvements

OWNER REFERENCE

Todd Ferguson, Campus Planner
University of Arkansas
toddf@uark.edu
479.575.3371

ARCHITECT REFERENCE

Jay Young, President
DCI
jayy@dcius.pro
479-444-7880



Arkansas Ave. Senior Sidewalk

OWNER REFERENCE

Todd Ferguson, Campus Planner
University of Arkansas
toddf@uark.edu
479.575.3371

ARCHITECT REFERENCE

Steven J. Head, PE, Principal and
Geo-technical Department Head
McClelland Consulting Engineers
shead@mce.us.com
479.443.2377



U of A Senior Sidewalk

OWNER REFERENCE

Todd Ferguson, Campus Planner
University of Arkansas
toddf@uark.edu
479.575.3371

ARCHITECT REFERENCE

Matt Loos, Engineer of Record
Olsson, Inc.
mloos@olsson.com
479.443-3404

Current and Projected Workload

We have the resources available to commence work immediately upon selection.

Your team – **Project Director, Chad Crouch, Project Manager, Tricia Shaw, Senior Superintendent, Kevin Langston, and Superintendent Dustin Maupin** – have the capacity and resources available to them to manage the construction of the City of Fayetteville’s Maple Street Improvements project. **Preconstruction Director Klint Kimball** leads our preconstruction effort with the full support of our local Preconstruction Department, which is structured to facilitate multiple projects simultaneously.

Our philosophy is that when preconstruction is interactive and performed at a high level, it sets the foundation for success in the field. Our current workload allows our team to commence this effort for the City of Fayetteville immediately.

Current and Projected Workload with Scheduled Completion Dates

Bus Depot Transportation Upgrades - February 2025

Springdale HS & Harbor HS Baseball & Softball Field Improvements - February 2025

21C Museum Hotel Bentonville North Entry Modifications - May 2025

Downtown Bentonville Utility Relocation - July 2025

200 East Central Hotel - August 2025

Lincoln Junior High School SPED & FACS Remodel - August 2025

A Street Promenade - September 2025

Bentonville Adult Recreation Center - November 2025

Crystal Bridges Museum of American Art Phase 2 Expansion - December 2025

Saracen Casino Resort Hotel & Event Center Phase 2 - December 2025

Quilt of Parks - December 2025

Mercy Rogers 7th Floor ICU - April 2025

Oakdale Middle School Renovation - August 2026

Alice Walton School of Medicine Campus Housing - June 2027

Current Maximum Bonding Capacity and Rate



One Tower Square
Hartford, CT 06183

Richard W. DuPont

Managing Director, Construction Services
Bond & Specialty Insurance
(314) 579-8315

940 West Port Plaza, St. Louis, MO 63146

January 16, 2024

Re: Flintco, LLC, (a subsidiary of Alberici)
323 E. Reconciliation Way
Tulsa, OK 74120

To Whom This May Concern,

We are pleased to share with you our experience as surety for Flintco, LLC, a subsidiary of Alberici. We consider Alberici one of our outstanding and most valued clients in whom we have the highest confidence. Throughout the past 104 years Alberici has, in our opinion, remained properly financed, well equipped and capably managed. Based on a conservative internal credit system, we rank Alberici's financial strength and condition in the top 5% of our portfolio. Very few clients achieve this status and it reflects how well run the company is in several facets.

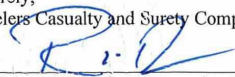
Travelers' current A.M. Best Co. rating is A++ XV. Travelers Casualty and Surety Company of America, a subsidiary of The Travelers Companies, has a reinsurance agreement in place with other Travelers companies. Combined, these companies, which are licensed by the Treasury, provide Travelers Casualty and Surety Company of America with approximately \$2 billion in capacity above and beyond its \$211 million single risk limit.

Travelers Casualty and Surety Company of America has participated in total work programs on behalf of Alberici in excess of \$300,000,000 on single contracts and \$2,500,000,000 aggregate. This information is provided only for general evidence of capabilities and bonding capacity on a normal operating basis and is not intended to represent the maximum bonding capacity available for this firm.

This letter confirms that, in the event Flintco, LLC should be selected for proposed Project, Travelers Casualty and Surety Company of America is prepared to provide the required Performance and Payment Bonds on behalf of Flintco, LLC covering the Project up to 100% of the contract price, subject to our normal underwriting requirements at the time the request is made.

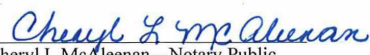
Alberici enjoys an excellent reputation of meeting all of their responsibilities and obligations in a professional manner and has a number of repeat customers because of their fine results. Travelers places a high level of confidence in Alberici's financial strength, technical expertise, integrity and ability to select projects. It is our privilege to recommend Flintco, LLC, as a subsidiary of Alberici, to you.

Sincerely,
Travelers Casualty and Surety Company of America

By: 
Richard W. DuPont, Managing Director, Construction Services

The undersigned declares under penalty of perjury that the above statement(s) submitted is true and correct and that this declaration was executed in St. Louis County, Missouri.

Signed, sealed and dated this 16th day of January, 2024

By: 
Cheryl L. McAleenan – Notary Public



CHERYL L. MCALEENAN
My Commission Expires
May 15, 2024
St. Louis County
Commission #12487106

Total Bonding Capacity
\$2.5 Billion

Bonding Rate
\$7.75 per Thousand

1. DISCLOSURE INFORMATION

- a. Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Proposer response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.
 - i. If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

- i. If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

PLEASE CHECK ONE OF THE FOLLOWING TWO OPTIONS, AS IT APPROPRIATELY APPLIES TO YOUR FIRM:

X 1) NO KNOWN RELATIONSHIP EXISTS

2) RELATIONSHIP EXISTS (Please explain): _____

- b. I certify that; as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein is accurate and true; and my organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.
- c. Proposer agrees that they shall have a current, valid registration with the Arkansas Secretary of State at time of RFP deadline OR be able to provide proof of registration before recommendation of award to Fayetteville City Council.
- d. Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.
- e. Pursuant Arkansas Code Annotated §25-1-1002, the Contractor agrees and certifies that they do not currently boycott Energy, Fossil Fuel, Firearms, and Ammunition Industries during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-1002. If at any time during the contract the contractor decides to boycott Energy, Fossil Fuel, Firearms, and/or Ammunition Industries, the contractor must notify the contracted public entity in writing.

- c. Proposer agrees that they shall have a current, valid registration with the Arkansas Secretary of State at time of RFP deadline OR be able to provide proof of registration before recommendation of award to Fayetteville City Council.

- d. Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.

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2. PRIMARY CONTACT INFORMATION

At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews. **NOTE: Each Proposer shall submit to the City a primary contact name, e-mail address, and phone number (preferably a cell phone number) where the City selection committee can call for clarification or interview via telephone.**

Corporate Name of Firm: Flintco, LLC

Primary Contact: Brent Farmer Title of Primary Contact: Vice President / Area Manager

Phone#1 (cell preferred): 479.879.7313 Phone#2: 479.306.6259

E-Mail Address: bfarmer@flintco.com

3. ACKNOWLEDGEMENT OF ADDENDA

Acknowledge receipt of addenda for this invitation to bid, request for proposal, or request for qualification by signing and dating below. All addendums are hereby made a part of the bid or RFP documents to the same extent as though it were originally included therein. Proposers/Bidders should indicate their receipt of same in the appropriate blank listed herein. Failure to do so may subject Contractor to disqualification.

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE ACKNOWLEDGED
1 - Dec. 23, 2024	Brent Farmer 	1/20/2025

4. DEBARMENT CERTIFICATION:

- As an interested party on this project, you are required to provide debarment/suspension certification indicating compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.
- Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.
- Signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

5. SIGNATURE SUBMITTAL:

NAME OF COMPANY: Flintco, LLC

PHYSICAL ADDRESS: 184 E. Fantinel Blvd., Springdale, AR 72762

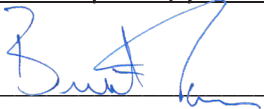
MAILING ADDRESS: _____

TAX ID #: 27-3321079 AR. SECRETARY OF STATE FILING #: 800188970

PHONE: 479.750-4565 SAM UEI #: U7BTDMB4CJ16

E-MAIL: bfarmer@flintco.com

By submitting your response, you certify that you are authorized to represent and bind your company :

SIGNATURE: 

PRINTED NAME: Brent Farmer

TITLE: VP/Area Manager DATE: 1/20/2025

END OF RFP DOCUMENT



MEETING OF MARCH 11, 2025

TO: Mayor Rawn and City Council
THRU: Steven Dotson, Internal Auditor
FROM: Waylon Abernathy, Bond Projects & Construction Dir
SUBJECT: **J L BRYSON, INC. (SERVICE CONTRACT):**

RECOMMENDATION:

Approval of Bid 25-31 Construction Contract for Transfer Station Improvements with J L Bryson Inc., in the amount of \$672,789.02 and approve a Project Contingency in the amount of \$67,000,

BACKGROUND:

November 2021 Council passed resolution 282-21 for a Engineering Services Contract with Hawkins-Weir for design and construction drawings for the transfer floor replacement, and design of additional dry storage areas, and redesign of the waste pit area to allow for equipment access.

An amendment to the Hawkins-Weir contract is before you tonight for the design and construction drawings for a new push wall, waste pit approach and waste pit improvements that is associated with the contract.

DISCUSSION:

The City's Procurement Division advertised and received bids on this project. Three submissions were received. JL Bryson Inc. was the lowest responsive bid after the deductive alternate was accepted to bring the project within the budget.

The scope of this work includes fabrication and installation of a new pushwall system on the transfer floor, waste pit improvements, and removal and replacement of the concrete approach for the waste pit.

BUDGET/STAFF IMPACT:

Funds will be appropriated from Project 18016.1 RTC Master Plan Expansion Account 5500.750.5080-5816.00 Improvements Solid Waste

ATTACHMENTS: SRF (#3) , Bid 25-31 - Appendix A - Bid Tab (#4), Bid 25-31 - Appendix B - City Issued Bid (#5), Bid 25-31 - Appendix C - JL Bryson's Submittal (#6), Bid 25-31 Contract JL Bryson (#7)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2025-296

J L BRYSON, INC. (SERVICE CONTRACT):

A RESOLUTION TO AWARD BID #25-31 AND AUTHORIZE A CONTRACT WITH J L BRYSON, INC. IN THE AMOUNT OF \$672,789.02 FOR THE TRANSFER STATION IMPROVEMENTS, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$67,000.00

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #25-31 and authorizes Mayor Rawn to sign a contract with J L Bryson Inc. in the amount of \$672,789.02 for the Transfer Station, and further approves a project contingency in the amount of \$67,000.00.

City of Fayetteville Staff Review Form

2025-296

Item ID

3/18/2025

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Peter Nierengarten

2/25/2025

RECYCLING/TRASH COLLECTION (750)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of Bid 25-31 Construction Contract for Transfer Station Improvements with JL Bryson Inc., in the amount of \$672,789.02 and a project contingency in the amount of \$67,000.

Budget Impact:

5500.750.5080-5816.00

Improvements Solid Waste

Account Number

Fund

18016.1

RTC Master Plan Expansion

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 1,370,529.00

Expenses (Actual+Encum)

\$ -

Available Budget

\$ 1,370,529.00

Does item have a direct cost? Yes

Item Cost

\$ 739,789.02

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 630,739.98

V20221130

Purchase Order Number:

Previous Ordinance or Resolution # 282-21; 220-22

Change Order Number: 2

Approval Date:

Original Contract Number:

Comments: Item cost includes contingency.



CITY OF
FAYETTEVILLE
ARKANSAS

BID TABULATION

Bid 25-31, Construction - Transfer Station Improvements Rebid

DEADLINE: Wednesday, February 26, 2025 at 2:00 PM

Certification of Funds: \$650,000.00 (\$812,500.00 total allowed)

Line #	Description	QTY	RRC Earthwork & Utilities (Royal Ridge Construction, LLC)				JL Bry-son Inc				Benchmark Construction Company of NWA, Inc.			
			Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended
1	General Conditions (include Bonds and Insurance)	1	LS	\$71,129.00	\$71,129.00	\$71,129.00	\$23,216.00	\$23,216.00	\$23,216.00	\$23,216.00	\$99,780.00	\$99,780.00	\$99,780.00	\$99,780.00
2	Mobilization (Not to exceed 5% of Total Bid, NOT including Bonds and Insurance)	1	LS	\$30,000.00	\$30,000.00	\$30,000.00	\$6,239.00	\$6,239.00	\$6,239.00	\$6,239.00	\$41,990.00	\$41,990.00	\$41,990.00	\$41,990.00
3	OSHA Trench Safety	1	LS	\$1.45	\$1.45	\$1.45	\$3,627.00	\$3,627.00	\$3,627.00	\$3,627.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
4	Demolish the Existing North Metal Push Wall	1	LS	\$23,460.57	\$23,460.57	\$23,460.57	\$22,403.00	\$22,403.00	\$22,403.00	\$22,403.00	\$13,500.00	\$13,500.00	\$13,500.00	\$13,500.00
5	Demolish the Existing South Metal Push Wall	1	LS	\$23,460.57	\$23,460.57	\$23,460.57	\$22,403.00	\$22,403.00	\$22,403.00	\$22,403.00	\$10,800.00	\$10,800.00	\$10,800.00	\$10,800.00
6	Demolish the Existing Metal Chute Located Along the Interior East Wall of the Waste Pit	1	LS	\$10,500.00	\$10,500.00	\$10,500.00	\$18,776.00	\$18,776.00	\$18,776.00	\$18,776.00	\$6,750.00	\$6,750.00	\$6,750.00	\$6,750.00
7	Demolish Existing Handrail	25	LF	\$42.00	\$42.00	\$42.00	\$90.54	\$90.54	\$90.54	\$90.54	\$54.00	\$54.00	\$54.00	\$54.00
8	Demolish an Existing Ladder	1	LS	\$1,050.00	\$1,050.00	\$1,050.00	\$2,713.00	\$2,713.00	\$2,713.00	\$2,713.00	\$900.00	\$900.00	\$900.00	\$900.00
9	Construct the north Metal Push Wall	1	LS	\$95,791.50	\$95,791.50	\$95,791.50	\$157,018.00	\$157,018.00	\$157,018.00	\$157,018.00	\$173,760.00	\$173,760.00	\$173,760.00	\$173,760.00
10	Construct the South Metal Push Wall	1	LS	\$93,862.65	\$93,862.65	\$93,862.65	\$145,903.00	\$145,903.00	\$145,903.00	\$145,903.00	\$152,040.00	\$152,040.00	\$152,040.00	\$152,040.00
11	Construct the Metal Chute Located Along the Interior East Wall of the Waste Pit	1	LS	\$92,540.70	\$92,540.70	\$92,540.70	\$81,307.00	\$81,307.00	\$81,307.00	\$81,307.00	\$152,640.00	\$152,640.00	\$152,640.00	\$152,640.00
12	Armor the Existing Elevated Concrete Beam Located at the North End of the Waste Pit, With Mild Steel Plate	1	LS	\$12,786.90	\$12,786.90	\$12,786.90	\$13,349.00	\$13,349.00	\$13,349.00	\$13,349.00	\$36,200.00	\$36,200.00	\$36,200.00	\$36,200.00
13	Armor the Existing Elevated Concrete Beam Located at the South End of the Waste Pit, With Mild Steel Plate	1	LS	\$12,786.90	\$12,786.90	\$12,786.90	\$13,349.00	\$13,349.00	\$13,349.00	\$13,349.00	\$36,200.00	\$36,200.00	\$36,200.00	\$36,200.00
14	Install Aluminum Handrail	25	LF	\$150.78	\$150.78	\$150.78	\$211.70	\$211.70	\$211.70	\$211.70	\$253.00	\$253.00	\$253.00	\$253.00
15	Install Aluminum Ladder	14	VF	\$369.75	\$369.75	\$369.75	\$565.43	\$565.43	\$565.43	\$565.43	\$517.00	\$517.00	\$517.00	\$517.00
16	Install Force Main and Emergency Pump Connection	1	LS	\$90,620.11	\$90,620.11	\$90,620.11	\$143,385.00	\$143,385.00	\$143,385.00	\$143,385.00	\$52,800.00	\$52,800.00	\$52,800.00	\$52,800.00
17	Remove and Replace 6" Gravel Paving	1	LS	\$5,297.09	\$5,297.09	\$5,297.09	\$13,850.00	\$13,850.00	\$13,850.00	\$13,850.00	\$2,590.00	\$2,590.00	\$2,590.00	\$2,590.00
18	Remove and Replace 8" Concrete Paving	1	LS	\$129,372.88	\$129,372.88	\$129,372.88	\$77,600.00	\$77,600.00	\$77,600.00	\$77,600.00	\$16,980.00	\$16,980.00	\$16,980.00	\$16,980.00
19	Site Restoration	1	LS	\$13,848.96	\$13,848.96	\$13,848.96	\$9,676.00	\$9,676.00	\$9,676.00	\$9,676.00	\$3,770.00	\$3,770.00	\$3,770.00	\$3,770.00
20	Waste Transfer Pit Electrical Improvements including Protective Concrete Wall	1	LS	\$69,390.72	\$69,390.72	\$69,390.72	\$69,414.00	\$69,414.00	\$69,414.00	\$69,414.00	\$68,210.00	\$68,210.00	\$68,210.00	\$68,210.00
DEDUCTIVE ALTERNATE A				\$109,766.17		\$109,766.17	\$166,911.00	\$166,911.00	\$166,911.00	\$166,911.00	\$59,160.00	\$59,160.00	\$59,160.00	\$59,160.00
DEDUCTIVE ALTERNATE B - Not Used				\$129,372.88		\$129,372.88	\$77,600.00	\$77,600.00	\$77,600.00	\$77,600.00	\$16,980.00	\$16,980.00	\$16,980.00	\$16,980.00
DEDUCTIVE ALTERNATE C - Not Used				\$69,390.72		\$69,390.72	\$69,414.00	\$69,414.00	\$69,414.00	\$69,414.00	\$68,210.00	\$68,210.00	\$68,210.00	\$68,210.00

* NOTICE: Bid award is contingent upon supplier meeting minimum specifications and formal authorization by City Officials.

Amanda Fitch 2/27/25
Amanda Baffuss, Procurement Director

Kenny Fitch 2/27/25
Kenny Fitch, Sr. Procurement Agent



CITY OF
FAYETTEVILLE
ARKANSAS

City of Fayetteville, Arkansas

Purchasing Division – Room 306

113 W. Mountain

Fayetteville, AR 72701

Phone: 479.575.8258

TDD (Telecommunication Device for the Deaf): 479.521.1316

INVITATION TO BID

Bid 25-31, Construction – Transfer Station Improvements Rebid

DEADLINE: Wednesday, February 26, 2025 before 2:00 PM, Local Time

PRE-BID MEETING: Wednesday, February 12, 2025 at 3:00 PM on-site at the Fayetteville Transfer Station, 1560 S. Happy Hollow Rd., Fayetteville, AR 72701

PURCHASING CONTACT: Amanda Beilfuss, abeilfuss@fayetteville-ar.gov

DATE OF ISSUE & ADVERTISEMENT: 02/02/2025 & 02/09/2025

No late bids shall be accepted. Bids shall be submitted in one of the following methods: (1) through the City's third-party electronic bidding platform or (2) delivering in person via sealed envelope to the City of Fayetteville Purchasing Division. Submitting through the City's electronic bidding platform is strongly encouraged. All bids shall be submitted in accordance with the attached City of Fayetteville specifications and bid documents attached hereto. Each bidder is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection.

NOTICE TO ALL BIDDERS:

All interested parties can obtain files for this project by going to <http://fayetteville-ar.gov/bids>. Bid documents shall be distributed electronically from the City of Fayetteville Purchasing Division only.

BID PACKAGE INCLUDES THE FOLLOWING FILES WHICH SHALL BE LISTED UNDER "ATTACHMENTS":

FILE #01: PROJECT MANUAL – 278 Total Pages

FILE #02: PLANS – 16 Plan Sheets

*Additional files added as addendums are issued. Addendums will be uploaded and posted to the City's electronic bidding platform.

*PLAN HOLDER LISTINGS: A listing of vendors who have received documents can be found in the City's electronic bidding platform under the project section tab titled 'Plan Holders'.

Bidder shall assume all responsibility for receiving updates and any addenda issued to this project by monitoring <http://fayetteville-ar.gov/bids>. Failure to acknowledge addenda issued as instructed could result in bid rejection.

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Appendix B
Bid 24-31, Construction -
Transfer Station Improvements Rebid
City Issued Bid



Project Check List

This checklist is for the Bidder's use in preparing & submitting a bid. It is not intended to include all details necessary to prepare a bid and shall not be used as a substitute for the requirements of the bid documents. Use of this checklist does not relieve the Bidder from the responsibility of meeting all requirements of the Specifications concerning the preparation of an acceptable bid. Bidders are welcome to use this form as a coversheet for a sealed envelope; however, using this form itself is NOT a requirement.

☐

5% Bid Bond of the amount bid accompanied by required documentation (Power of Attorney, etc.)

- In lieu of a bid bond, the bidder may submit a cashier's check from a bank located in the State of Arkansas for at least five percent (5%) of the amount bid (inclusive of any deductive alternates). Cashier's checks shall be made payable to the City of Fayetteville, AR and received prior to the bid deadline by making an in-person delivery appointment with the City Purchasing Division.

☐

All addenda shall be signed, acknowledged, and submitted on the appropriate forms (submitting the actual addendums or marking acknowledgement on other bid pages).

☐

All line items shall be appropriately filled out and extended to reveal the line item price as well as the total bid price. Total base bid should be calculated in the provided space.

☐

All pages provided with signature lines shall be appropriately signed, dated accordingly, and included with submitted bid documents

☐

All bids shall be received before the stated deadline utilizing the City's electronic bidding platform or submitting a physical sealed bid to the City Purchasing Division. Submitting a bid electronically is strongly encouraged. A public bid opening will be conducted shortly after the deadline at City Hall and livestreamed at <https://www.youtube.com/user/cityoffayettevillear>. Late or misdirected bids shall not be accepted. The City of Fayetteville shall not be responsible for lost or misdirected bids, or failure of bidder's technical equipment. If submitting a physical bid, all bid documents shall be delivered in a sealed envelope to the address stated in the advertisement or updated deadline issued via Addenda. All bids should be delivered with the name of the bidder (contractor) on the sealed envelope as well as the bidders Arkansas Contractor's License Number.

☐

Additional Information Required:

- AR Secretary of State Filing #: _____ OR submit electronically.
- Arkansas Contractor License #: _____ OR submit electronically.
- Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.
 - Submit electronically or circle applicable answer: YES or NO
- Pursuant Arkansas Code Annotated §25-1-1002, the Contractor agrees and certifies that they do not currently boycott Energy, Fossil Fuel, Firearms, and Ammunition Industries during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-1002. If at any time during the contract the contractor decides to boycott Energy, Fossil Fuel, Firearms, and/or Ammunition Industries, the contractor must notify the contracted public entity in writing.
 - Submit electronically or circle applicable answer: YES or NO

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City of Fayetteville, Arkansas
INVITATION TO BID
Bid 25-31, Construction – Transfer Station Improvements Rebid

The City of Fayetteville is accepting sealed bids from properly licensed Contractors for improvements to Fayetteville's Recycling and Solid Waste Transfer Station. This project includes, but is not limited to, the removal and replacement of the metal push wall in the Transfer Station and the metal chute in the Waste Pit. Questions regarding this bid should be addressed to Amanda Beilfuss, Purchasing Director, at abeilfuss@fayetteville-ar.gov.

A non-mandatory Pre-Bid meeting will be held **Wednesday, February 12, 2025 at 3:00 PM**, on-site at the City of Fayetteville's Transfer Station located at 1560 S. Happy Hollow Rd., Fayetteville, AR 72701. Information regarding the pre-bid meeting is available on the project page on the City's electronic bidding platform. All interested parties are encouraged to attend.

Bidding documents, plans, plan holders, and addenda shall be obtained at the City of Fayetteville Purchasing Division's electronic bidding platform at www.fayetteville-ar.gov/bids. All bids shall be received by **Wednesday, February 26, 2025 before 2:00 PM, local time** utilizing the electronic bidding software or by submitting a sealed bid to the City of Fayetteville Purchasing Division. All bids shall be received prior to the bid deadline. Late or misdirected bids shall not be accepted. Submitting a bid electronically is strongly encouraged. A public bid opening will be conducted shortly after the deadline at City Hall and livestreamed at <https://www.youtube.com/user/cityoffayettevillear>. The City of Fayetteville shall not be responsible for lost or misdirected bids, or failure of bidder's technical equipment.

Each bid exceeding \$50,000 shall be accompanied by a cashier's check from a bank doing business in the State of Arkansas or a corporate bid bond for five (5) percent of the amount bid. In the event a bidder opts to submit a cashier's check for a bid bond, the actual physical cashier's check shall be delivered to the City prior to the deadline. A one hundred percent (100%) performance bond and separate payment bond is required with the contract awarded. A State of Arkansas Contractor's License is required and registration with the Arkansas Secretary of State shall be valid and current at the time of Contract award.

Pursuant to Arkansas Code Annotated §22-9-203 The City of Fayetteville encourages all *qualified* small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, City of Fayetteville encourages all general contractors to subcontract portions of their contract to *qualified* small, minority and women business enterprises.

The City of Fayetteville reserves the right to waive irregularities, reject bids, and postpone the award of any Contract for a period which shall not exceed beyond ninety (90) days from the bid opening date.

City of Fayetteville
By: Amanda Beilfuss
Procurement Director

P: 479.575.8220 Email: abeilfuss@fayetteville-ar.gov

TDD (Telecommunications Device for the Deaf): (479) 521-1316

Date of advertisement: 02.02.25 & 02.09.25

This publication was paid for by the Purchasing Division of the City of Fayetteville, Arkansas.

Amount paid: \$471.00

Project Manual



Fayetteville Transfer Station Improvements Metal Push Wall and Chute Replacement

BID # 25-31, Construction Rebid
Date: January 2025

Appendix B
Bid 24-31, Construction -
Transfer Station Improvements Rebid
City Issued Bid

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SECTION 00007 - SEALS

The professional license seals listed on this page represent design responsibility for plans and technical specifications represented in this project.



Brett D. Peters, P.E.
Hawkins-Weir Engineers, Inc.
Arkansas License No. 8398



Certification of Authorization
Hawkins-Weir Engineers, Inc.
No. 101

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Fayetteville Transfer Station Improvements Metal Push Wall and Chute Replacement

Bid 25-31, Construction Rebid

CONTRACT DOCUMENTS

INVITATION TO BID COVER

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SECTION 00140 – BIDDER’S QUALIFICATION STATEMENT

Contract Name: Fayetteville Transfer Station Improvements
Metal Push Wall and Chute Replacement
Bid 25-31, Construction Rebid

Date: _____, 20__

SUBMITTED TO:

The City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

SUBMITTED BY:

Company _____
Name _____
Address _____
Principal Office _____
Corporation, LLC, partnership, individual, joint
venture, other _____
Arkansas State General Contractor’s License Number

(Type or legibly print)

For a Bidder (Contractor) to be considered as Qualified, the Contractor must satisfy all insurance, financial, and bonding requirements of the City of Fayetteville.

The Contractor must also provide documentation with the bid to document:

The Contractor shall have executed work for municipalities with a minimum of three (3) projects equaling or exceeding two hundred thousand dollars (\$200,000) for installation of the product(s) bid. Acceptable documentation of these minimum installations must be submitted to the City of Fayetteville attached to this section.

EXPERIENCE STATEMENT (MANDATORY)

1. Bidder has been engaged as a General Contractor in construction for _____ years and has performed work of the nature and magnitude of this Contract for _____ years. Bidder has been in business under its present name for _____ years.

SECTION 00140 – BIDDER’S QUALIFICATION STATEMENT (continued)

2. Bidder now has the following bonded projects under contract: (On a separate sheet, list project name, owner, name of owner contact, engineer / architect, name of engineer/architect contact, amount of contract, surety, and estimated completion date.)
3. Bidder has completed the following (list minimum of 3) contracts consisting of work similar to that proposed by this Contract: (On a separate sheet, list project name, owner, name of owner contact, engineer / architect, name of engineer/architect contact, amount of contract, surety, and date of completion and percentage of the cost of the Work performed with Bidder’s own forces.)
4. Has Bidder ever failed to complete any project? If so, state when, where, and why.
5. Bidder normally performs the following work with his own forces:

6. Construction experience of key individuals in the organization is as follows (continued on attached sheets if needed):

7. In the event the Contract is awarded to Bidder, the required surety Bonds will be furnished by the following surety company and name and address of agent:

8. Bidder’s Workmen’s Compensation Experience Modifier Factor is:

SECTION 00140 – BIDDER’S QUALIFICATION STATEMENT (continued)

FINANCIAL STATEMENT (IF REQUESTED)

- A. If requested by the City of Fayetteville during the evaluation of bids the bidder shall provide to the City of Fayetteville the following additional information:

Bidder possesses adequate financial resources as indicated by the following:

1. Assets and Liabilities: Attach a financial statement, audited if available, including Bidder’s latest balance sheet and income statements showing the following items:
 - a. Current assets (cash, joint venture accounts, accounts receivable, notes receivable, accrued income, deposits, materials inventory, and prepaid expenses).
 - b. Net fixed assets.
 - c. Other assets.
 - d. Current liabilities (accounts payable, notes payable, accrued expenses, provision for income taxes, advances, accrued salaries, and accrued payroll taxes).
 - e. Other liabilities (capital, capital stock, authorized and outstanding shares par values, earned surplus, and retained earnings).
 - f. Name of firm preparing financial statement and date thereof:

If financial statement is not for identical organization named herein, explain relationship and financial responsibility of the organization furnished.

2. Current Judgments: The following judgements are outstanding against Bidder:

	<u>Judgment Creditors</u>	<u>Where Docketed and Date</u>	<u>Amount</u>
a.	_____	_____	\$ _____
b.	_____	_____	\$ _____

SECTION 00140 – BIDDER’S QUALIFICATION STATEMENT (continued)

Bidder hereby represents and warrants that all statements set forth herein are true and correct.

Date: _____, 20__

(OFFICIAL SEAL)

Name of Organization:

By _____

(Type or legibly print)

By _____

(Signature)

Title _____

(Type or legibly print)

If Bidder is a partnership, the partnership name shall be signed, followed by the signature of at least one of the partners. If Bidder is a corporation or LLC, the corporate name shall be signed, followed by the signature of a duly-authorized officer and with the corporate seal affixed.

Contractor shall attach evidence of authority of signature. If Contractor is a corporation, corporate entity or LLC, Contractor shall attach Corporate Resolution authorizing Contractor’s signature and authority to sign.

END OF SECTION 00140

SECTION 00200 – INSTRUCTIONS TO BIDDERS (continued)

ARTICLE 1 - INTRODUCTORY INFORMATION

1.01 DEFINED TERMS:

- A. Terms used in these Instructions to Bidders and which are defined in the GENERAL CONDITIONS, have the meanings assigned to them in the GENERAL CONDITIONS.
- B. Bid Documents shall include the following:
 - 1. Bidding Requirements:
 - a. Invitation to Bid.
 - b. Instructions to Bidders.
 - c. Bid Form.
 - d. Bid Bond.
 - 2. Bidder's Forms:
 - a. The Bidder's attention is called to the following additional forms which shall be completely filled out and submitted with the Bid:
 - b. Bidder's Qualifications Statement
 - c. List of Subcontractors
 - 3. Contract Forms:
 - a. Agreement Between Owner and Contractor.
The Bidder's attention is called to the evidence of authority to sign and other documents which shall be submitted with the Agreement as applicable to the Business entity and noted in the Agreement.
 - b. Performance Bond.
 - c. Labor and Material Payment Bond (Payment Bond).
 - (1) The Performance and Payment Bond shall be one hundred percent (100%).
 - 4. Contract Conditions:
 - a. General Conditions.
 - b. Supplementary Conditions or Specifications
 - 5. Specifications.
 - 6. Addenda issued prior to receipt of Bids.

SECTION 00200 – INSTRUCTIONS TO BIDDERS (continued)

- C. Certain additional items used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof.
1. Bidder – one who submits a Bid directly to Owner as distinct from a sub-bidder, who submits a Bid to a Bidder.
 2. Issuing Office – the office from which the Bid Documents are to be issued and where the bidding procedures are to be administered.
 3. Successful Bidder – the lowest, responsible, and responsive Bidder to whom Owner on the basis of Owner's evaluation as hereinafter provided makes an award.

1.02 **COPIES OF BID DOCUMENTS:**

- A. Complete sets of the Bid Documents in the number and format as stated in the Invitation to Bid may be obtained from the City's Issuing Office.
- B. Complete sets of Bid Documents shall be used in preparing Bids; neither Owner, nor Engineer assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bid Documents.
- C. Owner and Engineer in making copies of Bid Documents available on the above terms do so only for the purpose of obtaining Bids on the Work and do not confer a license or grant for any other use.

1.03 **QUALIFICATION OF BIDDERS:**

- A. Prequalification statements are not required. Owner will, however, evaluate the Bidder's qualifications following the opening of Bids. Evaluation criteria considered will include, but not be limited to:
 1. Experience and performance records on similar work.
 2. Financial responsibility.
 3. Ability to supply construction equipment and personnel to complete the Work within the Contract Time.
 4. Evidence of Bidder to do business in the state where the Project is located, or covenant to obtain such qualifications prior to award of the Contract.
- B. Bidders may be requested to submit financial statement and other information relating to experience and financial responsibility after bids are received and before awarding a contract.

SECTION 00200 – INSTRUCTIONS TO BIDDERS (continued)

- C. Only those Bids will be considered which are submitted by Bidders who show satisfactory completion of work of type and size comparable to the Work required by these Bid Documents.
 - 1. A list of comparable projects, including pertinent information and identification of the owners, shall be submitted with the Bid.
 - 2. See ARTICLE 5 – AWARD OF CONTRACT herein for additional requirements after opening of Bids.
- D. For this specific project all bidders must be licensed in the State of Arkansas and shall provide their license number on the Bid Form. Failure to provide license number could result in a non-responsive Bid.

1.04 **EXAMINATION OF CONTRACT DOCUMENTS AND SITE:**

- A. Before submitting a Bid, it is the responsibility of each Bidder:
 - 1. To thoroughly examine the Contract Documents and other related data identified in the Bid Documents (including “technical data” referred to below).
 - 2. To visit the Site, City and/or Utilities to become familiar with and satisfy Bidder as to the general, local, and Site conditions that may in any manner affect cost, progress, and performance of the Work.
 - 3. To consider federal, state, and local laws, ordinances, rules, and regulations that may in any manner affect cost, progress, performance, and furnishing of the Work.
 - 4. To study and carefully correlate Bidder’s knowledge and observations with the Contract Documents and such other related data.
 - 5. To promptly notify the Purchasing Division of all conflicts, errors, ambiguities, or discrepancies which Bidder has discovered in or between the Contract Documents and such other related documents.
- B. Before submitting a Bid, each Bidder shall be responsible to obtain such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise, which may affect cost, progress, performance, and furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, or procedures of construction to be employed by Bidder, including safety precautions and programs incident thereto or which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of the Contract Documents. This shall include local shipping facilities and availability of lands if applicable.

SECTION 00200 – INSTRUCTIONS TO BIDDERS (continued)

- C. In the preparation of the Contract Documents, neither reports of explorations nor tests of any Hazardous Environmental Condition at the Site of the Work have been prepared.
- D. Access to the Site:
 - 1. On request, Owner will provide each Bidder access to the Site(s) to conduct such examinations, investigations, explorations, tests, and studies as each Bidder deems necessary for submission of his Bid. Bidder shall fill all holes, clean up, and restore the Site to its former conditions upon completion of such explorations, investigations, tests, and studies.
 - 2. The lands upon which the Work is to be performed, rights-of-way, and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of Materials and Equipment to be incorporated in the Work are to be obtained and paid for by Contractor. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Owner unless otherwise provided in the Contract Documents.
 - 3. Property owners affected by the Work are named on the Drawings where known, but the accuracy of such ownership is not guaranteed. Bidders shall verify and make their own arrangements with such property owners for any access needed in connection with the preparation of Bids.
- E. The submission of a Bid will constitute an incontrovertible representation by the Bidder that he has complied with every requirement of this paragraph "Examination of Contract Documents and Site," and that the Bid Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

1.05 **INTERPRETATIONS, MODIFICATIONS, AND ADDENDA:**

- A. Any Bidder who discovers ambiguities, inconsistencies, or errors or is in doubt as to the meaning or intent of any part of the Bid Documents shall promptly request an interpretation from the Purchasing Division. Interpretations or clarifications considered necessary by Engineer in response to such requests will be issued by Addenda.
- B. Addenda may also be issued to modify the Bid Documents as deemed advisable by Owner or Engineer.
- C. No Addenda will be issued within the last two (2) days before the date of opening Bids. However, an addendum that affects the time, date or location of the bid opening may be issued as little as twenty-four (24) hours before the date of opening bids.

SECTION 00200 – INSTRUCTIONS TO BIDDERS (continued)

- D. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

1.06 **PREBID CONFERENCE:**

- A. A prebid conference will be held in accordance with the Invitation to Bid.

1.07 **LABOR-RELATED REGULATIONS:**

- A. Pursuant to Arkansas Code Annotated 22-9-203, the City of Fayetteville encourages all qualified minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, City of Fayetteville encourages all general contractors to subcontract portions of their contract to qualified, small, minority, and women business enterprises.

ARTICLE 2 - BASIS OF BIDDING

2.01 **SPECIFIED EQUIPMENT AND MATERIALS:**

- A. Substitutions will be considered only after the Effective Date of the Agreement and as set forth in the GENERAL CONDITIONS.

2.02 **INDIRECT COSTS:**

- A. Taxes:

1. All applicable sales, use, compensating, or other taxes to be paid or withheld by Bidder, now imposed by any taxing authority, on Equipment and Materials to be incorporated in the Work, and on any or all other cost items entering into the Contract Price, shall be included in the Bid price.

2. The Bidder shall include all such taxes except those on Equipment and Materials, if any, furnished by Owner or others, or exempted by the state, and Bidder shall furnish taxing authorities any information or reports pertaining thereto as required.

- B. The cost of all construction licenses, building and other permits, and governmental inspections required by public authorities for performing the Work, which are applicable at the time Bids are opened and which are not specified to be obtained by Owner, shall be included in the Bid price. Fees for permits issued by the City will be waived, but permits are still required where necessary.

- C. The cost of all royalties and license fees on Equipment and Materials to be furnished and incorporated in the Work shall be included in the Bid price.

SECTION 00200 – INSTRUCTIONS TO BIDDERS (continued)

- D. Tests, inspections, and related activities called for throughout the Bid Documents are a responsibility of Contractor unless specified otherwise. The Bid shall include all costs arising from such responsibility.
- E. The cost of all electrical, water, gas, telephone, sanitary, and similar facilities and services required by Contractor in performing the Work shall be included in the Bid price unless specified otherwise.

2.03 **SUBCONTRACTORS:**

- A. No Bid shall be based upon aggregate of Subcontractors performing more than 60 percent of the total Work.
- B. The experience, past performance, and ability of each proposed Subcontractor will be considered in the evaluation of Bids. Any Subcontractor so requested shall be required to furnish experience statements prior to the Notice of Awards.
- C. No Contractor shall be required to employ any Subcontractor, other person, or organization against whom Contractor has reasonable objection. Owner or Engineer may accept or reject Subcontractors in accordance with Paragraph 6.05 of the GENERAL CONDITIONS.

2.04 **CONTRACT TIMES:**

- A. The number of days within which, or the dates by which, the Work is to achieve Substantial Completion and also final completion and be ready for final payment shall be as stated in the Agreement.
- B. Provisions for liquidated damages, if any, are as set forth in the Agreement.

ARTICLE 3 – BIDDING PROCEDURE

3.01 **PREPARATION OF BID:**

- A. One set of bound documents included with the officially provided set of drawings (if any) and specifications shall be used for the Bid.
- B. The Bid Forms shall be filled out in detail and signed by the Bidder.
- C. Bids by partnerships shall be executed in the partnership name and signed by a partner whose title shall appear under his signature, and the official address of the partnership shall be shown below the signature.
- D. Bids by corporations, corporate entities and/or LLC's shall be executed in the corporate name by the president or a vice president (or other corporate officer accompanied by evidence of authority to sign), and the corporate seal shall be affixed and attested by the secretary or an assistant secretary. If Contractor is a corporation, corporate entity or LLC, Contractor shall attach Corporate Resolution authorizing

SECTION 00200 – INSTRUCTIONS TO BIDDERS (continued)

Agent for Service process authority to sign. The corporate address and state of incorporation shall be shown below the signature.

- E. Names of all persons signing shall be printed below their signatures.
- F. A power of attorney shall accompany the signature of anyone not otherwise authorized to bind the Bidder.
- G. The Bid shall contain an acknowledgement of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.
- H. The address to which communications regarding the Bids are to be directed shall be shown.

3.02 **METHOD OF BIDDING:**

- A. Bids will be received on a Unit Prices basis as set forth in the Bid Form.
- B. Firm Bids are required.
- C. Schedule of Unit Prices:
 - 1. The Bidder shall complete the Unit Price Bid Schedule included in the Bid (and shall accept all fixed Unit Prices listed therein).
 - 2. The total Bid price will be determined as the sum of the products of the estimated quantity of each item and the Unit Price set forth in the Unit Price Bid Schedule. The final Contract Price shall be subject to adjustment according to final measured, used, or delivered quantities.

3.03 **SUBCONTRACTORS INFORMATION SUBMITTED WITH BID:**

Bidders shall submit to Owner with the Bid, the List of Subcontractors contained in the Project Manual as Document 00430, completed with names of all such Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work for which such identification is required. The list shall be supplemented by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, person, or organization, if requested by Engineer. If, after due investigation, Owner or Engineer has reasonable objection to any proposed Subcontractor, Supplier, or other person or organization, Owner may, before the Notice of Award is given, request the apparent Successful Bidder to submit an acceptable substitute without an increase in the Bid. If the apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, and other persons and organizations. The declining to make requested substitutions will not constitute grounds for sacrificing the bid security of any Bidder. Any Subcontractor, Supplier, or other person or organization listed and to whom Owner or Engineer does not make written objection

SECTION 00200 – INSTRUCTIONS TO BIDDERS (continued)

prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to revocation as provided in Paragraph 6.05 of the General Conditions.

3.04 **FORMS AND DOCUMENTS TO BE SUBMITTED:**

A. The following forms shall be completed and submitted with the Bid:

1. DOCUMENT 00140 BIDDER'S QUALIFICATIONS STATEMENT
2. DOCUMENT 00400 BID FORM
3. Bid Security as bank cashier's check FROM A FINANCIAL INSTITUTION LOCATED IN THE STATE OF Arkansas, or Bid Bond (DOCUMENT 00410)
4. DOCUMENT 00430, LIST OF SUBCONTRACTORS

3.05 **BID SECURITY:**

- A. Each Bid shall be accompanied by Bid security, payable to Owner, in the amount of five-percent (5%) of the total Bid.
- B. The required security shall be in the form of a bank cashier's check from a financial institution located in the state of Arkansas or a Bid Bond on the form prescribed by the AIA, Document A310, or on similar form attached.
- C. Bid Bond shall be executed by a surety meeting the requirements set forth for "Surety Bonds" in the GENERAL CONDITIONS.
- D. Bid security of the Successful Bidder will be retained until Bidder has executed the Agreement and furnished the required surety Bonds as set forth in the GENERAL CONDITIONS, whereupon Bid security will be returned. If the Successful Bidder fails to execute the Agreement and furnish the surety Bonds within 15 days after the date of Notice of Award, Owner may annul the Notice of Award, and Bid security of that Bidder will be forfeited to Owner.
- E. The Bid security of any Bidder whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of 10 days after the Effective Date of the Agreement and the required surety Bonds furnished, or the 91st day after the Bid opening. Bid security of other Bidders will be returned within 10 days of the bid opening.

3.06 **SUBMISSION OF BID:**

- A. Bids shall be submitted at the time and place designated in the Invitation to Bid.

SECTION 00200 – INSTRUCTIONS TO BIDDERS (continued)

- B. If submitting a physical bid, Bid Documents with accompanying Bid security and other required information shall be enclosed in an opaque sealed envelope marked with the following:
1. Project name
 2. Bid number
 3. Name and address of Bidder
 4. Contractor's license number
- C. If the Bid is sent by mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "Sealed Bid Enclosed" on the face thereof.

3.07 **MODIFICATION OR WITHDRAWAL OF BIDS:**

- A. Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.
- B. If, within 24 hours after Bids are opened, any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of his Bid, that Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, that Bidder will be disqualified from further bidding on the Work to be provided under the Contract Documents.

ARTICLE 4 - OPENING OF BIDS

4.01 **OPENING OF BIDS:**

- A. Bids will be opened and (unless obviously non-responsive) read aloud publicly at the place where Bids are to be submitted. An abstract of the amounts of the base Bids will be made available to Bidders after the opening of Bids.
- B. All Bids shall remain open for a period of 90 days after Bids are opened, but Owner may, at his sole discretion, release any Bid and return the Bid security at any time prior to that date.

ARTICLE 5- AWARD OF CONTRACT

5.01 **OWNER's RIGHT TO REJECT BIDS:**

- A. Owner reserves the right to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, non-responsive, unbalanced, or conditional Bids and to reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails

SECTION 00200 – INSTRUCTIONS TO BIDDERS (continued)

to meet any other pertinent standard or criteria established by Owner. Owner also reserves the right to waive all informalities not involving price, times, or changes in the Work and to negotiate Contract terms with the Successful Bidder. (Discrepancies between the multiplication of units of Work and Unit Prices will be resolved in favor of the Unit Prices.) Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

- B. All Bidders must agree that such rejection shall be without liability on the part of the Owner nor shall the Bidders seek recourse of any kind against the Owner because of such rejections. The filing of any Bid shall constitute an agreement of the Bidder to these conditions.

5.02 **EVALUATION OF BIDS:**

- A. In evaluating Bids, Owner will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements (and such Material Submittals, Alternates, Unit Prices) and other data, as may be requested in the Bid Form or prior to the Notice of Award. Owner must accept Alternates (if any) in numerical order.
- B. Owner may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations is requested per Paragraph 5.02E of this document.
- C. Owner may conduct such investigations as he deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications, and financial ability of the Bidders, proposed Subcontractors, and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.
- D. Owner reserves the right to reject the Bid of any Bidder who does not pass any such evaluation to Owner's satisfaction.
- E. Within 10 days after Bids are opened, and if requested by the Owner or the Engineer, the apparent Successful Bidder, and any other Bidder so requested, shall submit supplemental information including an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, person, or organization, proposed by the Bidder for consideration as specified in ARTICLE 3 paragraph 3.03 above. The use of Subcontractors listed by Bidder (Document 00430) and accepted by Owner prior to the Notice of Award will be required in the performance of the Work.
- F. Within 10 days after the Bids are opened if requested by the Owner or the Engineer, the apparent Successful Bidder, and any other Bidder so requested, shall submit an itemized breakdown of any lump sum portion of its Bid. This breakdown must include a separate item for each major category of work and each major piece of

SECTION 00200 – INSTRUCTIONS TO BIDDERS (continued)

equipment. This breakdown may or may not be reflected in subsequent time schedule submittals.

- G. The award of the Contract, if it is awarded, will be to the lowest, responsive, responsible Bidder whose evaluation by Owner indicates to Owner that the award will be in the best interest of Project and Owner.

5.03 **NOTICE OF AWARD:**

- A. After considering the basis of award and evaluation of Bids, if the Contract is to be awarded, Owner shall within 90 days after the date of opening Bids notify the Successful Bidder of acceptance of his Bid (indicating which, if any, Alternate Bids have been accepted).

ARTICLE 6 - SIGNING OF AGREEMENT

- 6.01 When Owner gives Notice of Award to Successful Bidder, Engineer will issue the required number of unbound, unsigned counterparts of the Agreement and other Contract Documents to Successful Bidder.
- 6.02 Within 30 days thereafter, Contractor (Successful Bidder) shall sign all copies of the Agreement dating the Agreement the Date of City Council Approval, power of attorney documents, and other required documents, and deliver all copies to the Owner.
- 6.03 Within 15 days thereafter, unless otherwise noted in writing by Owner to Bidder, Owner will execute all copies of the Agreement and insert the properly executed and recorded Bonds, power of attorney documents, and other required documents in the appropriate places. The Performance Bond and the Payment Bond shall be one hundred percent (100%) and shall be provided to the City after the bonds are filed and file marked at the Washington County Circuit Clerk's office. Owner will provide the executed Contract Documents to Engineer for binding and distribution as required. Each duly executed counterpart will be accompanied by a complete set of Drawings with appropriate identification.

END OF SECTION 00200

SECTION 00200 – INSTRUCTIONS TO BIDDERS (continued)

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Appendix B
Bid 24-31, Construction -
Transfer Station Improvements Rebid
City Issued Bid

DOCUMENT 00400-BID FORM

Contract Name: Fayetteville Transfer Station Improvements
Metal Push Wall and Chute Replacement

Bid Number: 25 - 31, Construction Rebid

BID TO:

Owner: The City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

BID FROM:

Bidder: _____

ARTICLE 1 - INTENT

- 1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid price and within the Bid time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

ARTICLE 2 - TERMS AND CONDITIONS

- 2.01 Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 90 days after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within 15 days after the date of Owner's Notice of Award.

ARTICLE 3 - BIDDER'S REPRESENTATIONS

- 3.01 In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:

- A. Bidder has examined and carefully studied the Bid Documents, and the following Addenda, receipt of all which is hereby acknowledged:

<u>Number</u>	<u>Date</u>
_____	_____
_____	_____
_____	_____
_____	_____

DOCUMENT 00400-BID FORM (continued)

- B. Bidder has visited the Site, City or Utilities and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
- C. Bidder is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Bidder acknowledges that such reports and drawings are not Contract Documents and may not be complete for Bidder's purposes. Bidder acknowledges that Owner and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bid Documents with respect to Underground Facilities at or contiguous to the Site.
- E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, or furnishing of sequences, and procedures of construction to be employed by Bidder and safety precautions and programs incident thereto.
- F. Bidder does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performing and furnishing of the Work in accordance with the times, price, and other terms and conditions of the Contract Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports, and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Bidder has given the Purchasing Division written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Contract Documents, and the written resolution thereof by the Purchasing Division is acceptable to Bidder.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.

DOCUMENT 00400-BID FORM (continued)

- K. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham bid; Bidder has not solicited or induced any person, firm, or a corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for himself any advantage over any other Bidder or over Owner.
- L. Bidder will perform the Work in compliance with all applicable trench safety standards set forth in Occupational Safety and Health Administration (OSHA) Part 1926 – Subpart P – Excavations.

ARTICLE 4 - BID PRICE

- 4.01 Bidders are required to provide pricing for all line items. Bidders shall also insert Deductive Bid Prices for all three (3) Deductive Alternatives in the electronic bid form.
- 4.02 The City intends to award this contract to the lowest qualified responsive responsible bidder based on the total base bid as long as the base bid amount falls within the amount of funds certified for the project plus 25%. Deductive Alternatives may be considered and selected by the City without invalidating the remainder of the Base Bid. The City reserves the right to select any, all, or none of the Deductive Alternatives. The Deductive Alternates, if selected by the City, will be taken in order starting with A, then B, and then C.
- 4.03 In the event no bid falls within the amount of funds certified for the project plus 25%, all bids shall be rejected and become confidential.
- 4.04 Bidder shall complete the Work in accordance with the Contract Documents for the price(s) indicated in the Bidder's electronic bid submittal. Bidders shall refer to the City's online bidding portal for unit price bid and deductive alternate input.

ARTICLE 5 - CONTRACT TIMES

- 5.01 Bidder agrees that the Work will be substantially completed and completed and ready for final payment within the number of calendar days indicated in the Agreement.
- 5.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified in the Agreement.

ARTICLE 6 - BID CONTENT

- 6.01 The following documents are attached to and made a condition of this Bid:
- A. Required Bid security in the form of a cashier's check from a financial institution located in the State of Arkansas or a Bid Bond and in the amount of _____ Dollars (\$_____)

DOCUMENT 00400-BID FORM (continued)

- B. A tabulation of Subcontractors and other persons and organizations required to be identified in this Bid.

ARTICLE 7 - COMMUNICATIONS

- 7.01 Communications concerning this Bid shall be addressed to the Bidder as follows:

Email _____
Phone No. _____
Fax No. _____

ARTICLE 8 - TERMINOLOGY

- 8.01 The terms used in this Bid which are defined in the GENERAL CONDITIONS or Instructions to Bidders will have the meanings assigned to them.

ARTICLE 9 - CONTRACTOR'S ASSURANCES AND EXECUTION/SIGNATURE

- 9.01 Contractor's Assurances.

As the authorized representative of the individual, incorporation, or corporation (hereinafter referred to as the company) bidding on or participating in the project, I certify that I have read and understand the requirements of the General and/or Supplemental Conditions and that the principles, agents and employees of the company will comply with these requirements including all relevant statutes and regulations issued pursuant thereto. I further certify as the authorized agent of the company that:

EQUAL OPPORTUNITY I will comply with all requirements of 41 CFR Chapter 60 and Executive Orders 11246 and 11375, including inclusion of all required equal opportunity clauses in each sub-contract awarded in excess of \$10,000 and I will furnish a similar statement from each proposed subcontractor, when appropriate. I will also comply with all Equal Employment Opportunity requirements as defined by Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972 regarding sex discrimination.

LABOR STANDARDS I will comply with the Labor Standards Provisions contained in the Contract Documents and furnish weekly payrolls and certifications as may be required by the City of Fayetteville to affirm compliance. I will also require that weekly payrolls be submitted to the City of Fayetteville for all subcontracts in excess of \$2,000.

OSHA REQUIREMENTS I will comply with the Department of Labor Safety and Health Regulations promulgated under Section 107 of the Contract Work Hours and Safety Standard Act (40 U.S.C. 327-333) in the performance of the contract.

DOCUMENT 00400-BID FORM (continued)

PROCUREMENT PROHIBITIONS As required by Executive Order 11738, Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, I certify that I will not procure goods and services from persons who have been convicted of violations of either law if the goods or services are to be produced by the facility that gave rise to the violation.

DEBARMENT AND SUSPENSION I certify that to the best of my knowledge and belief that the company that I represent and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine. I further certify that I will obtain a similar certification for each subcontract awarded in excess of \$25,000.

DOCUMENT 00400-BID FORM (continued)

9.02 Execution/Signatures for Contractor Assurances above, Bid and Bid Form:

SUBMITTED on _____, 20____

Arkansas State Contractor License No. _____

If Bidder is:

An Individual

Name (type or printed): _____

By: _____ (SEAL)
(Individual's Signature)

Doing business as: _____

Business address: _____

City, State, Zip: _____

Phone No: _____ Fax No. _____

Email Address: _____

A Partnership

Partnership Name: _____ (SEAL)

By: _____
(Signature of general partner-attach evidence of authority to sign)

Name (type or printed): _____

Business address: _____

City, State, Zip _____

Phone No: _____ Fax No. _____

Email Address: _____

DOCUMENT 00400-BID FORM (continued)

A Corporation or Corporate entity including Limited Liability Company (LLC)

Corporation Name: _____(SEAL)

State of Incorporation: _____

Type (General Business, Professional, Service, Limited Liability):

By: _____

(Signature-attach evidence of authority to sign)

Name (type or printed): _____

Title: _____

Attest: _____

(Signature of Corporate Secretary)

Business address: _____

Phone No.: _____ Fax No.: _____

Email Address: _____

Tax ID No.: _____

END OF DOCUMENT 00400

Appendix B
Bid 24-31, Construction -
Transfer Station Improvements Rebid
City Issued Bid

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DOCUMENT 00410 – BID BOND

KNOW ALL MEN BY THESE PRESENTS: that we

as Principal, hereinafter called the Principal, and

a corporation duly organized under the laws of the State of _____ as Surety, hereinafter called Surety, are held and firmly bound unto

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, Arkansas 72701

as Obligee, hereinafter called Owner, in the sum of _____ Dollars (\$ _____), for the payment of which sum, well and truly to be made, Principal and said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has submitted a Bid for:

FAYETTEVILLE TRANSFER STATION IMPROVEMENTS
METAL PUSH WALL AND CHUTE REPLACEMENT,
BID 25-31, CONSTRUCTION REBID.

NOW, THEREFORE, if the Owner shall accept the Bid of Principal and the Principal shall enter into a Contract with the Owner in accordance with the terms of such Bid, and give such Bond or Bonds as may be specified in the Bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of Principal to enter such Contract and give such Bond or Bonds, if the Principal shall pay to the Owner the difference not to exceed the penalty hereof between the amount specified in said Bid and such larger amount for which the Owner may in good faith contract with another party to perform the Work covered by said Bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

DOCUMENT 00410 – BID BOND (continued)

Signed and sealed this _____ day of _____ 20____.

PRINCIPAL

(CORPORATE SEAL)

By _____

SURETY

By _____

ATTORNEY-IN-FACT

(CORPORATE SEAL)

(This Bond shall be accompanied with
Attorney-in-Fact's authority from Surety)

END OF DOCUMENT

DOCUMENT 00430 – LIST OF SUBCONTRACTORS

In compliance with the Instructions to Bidders and other Contract Documents, the undersigned submits the following names of Subcontractors to be used in performing the Work for:

FAYETTEVILLE TRANSFER STATION IMPROVEMENTS
METAL PUSH WALL AND CHUTE REPLACEMENT,
Bid 25-31, Construction Rebid.

Bidder certifies that all Subcontractors listed are eligible to perform the Work.

<u>Subcontractor's Work</u>	<u>Subcontractor's Name and Address</u>	<u>Expected Percentage or Value</u>
Clearing/Demolition		
SWPPP/Erosion Control		
Asphalt		
Concrete		
Landscaping		
Material Testing		
Other (designate)		

NOTE: This form must be submitted in accordance with the Instructions to Bidders.

Bidder's Signature

END OF DOCUMENT

DOCUMENT 00430 – LIST OF SUBCONTRACTORS (continued)

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SECTION 00500 – AGREEMENT
BETWEEN OWNER AND CONTRACTOR

Contract Name/Title: Fayetteville Transfer Station Improvements
Metal Push Wall and Chute Replacement
Contract No.: 25-31, Construction Rebid

THIS AGREEMENT is dated as of the _____ day of _____ in the year 20__ by and between The City of Fayetteville, Arkansas and _____ (hereinafter called Contractor).

ARTICLE 1 - WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The work under this Agreement includes, but is not limited to:
- A. Removal and replacement of the metal push wall in the Transfer Station and the metal chute in the Waste Pit.
- 1.02 The Contractor agrees to perform the work described in the Contract Documents and comply with the terms therein for the amounts shown in the Bid Proposal.
- 1.03 Any use of a third party dumpster or roll off container shall be procured from the City of Fayetteville Recycling and Trash Collection Division. Use of a Non-City dumpster or roll off container is not allowed.
- 1.04 Contractor is responsible for obtaining all applicable permits. The fees for City of Fayetteville (only) issued permits shall be waived.
- 1.05 The Contract may include work in City of Fayetteville right-of-way, ARDOT (State) right-of-way, railroad right-of-way and in General or Utility Easements.

ARTICLE 2 - ENGINEER

- 2.01 The Contract Documents have been prepared by Hawkins-Weir Engineers, Inc. Hawkins-Weir Engineers, Inc. assumes all duties and responsibilities, and has the rights and authority assigned to Engineer in connection with completion of the Work in accordance with the Contract Documents.
- 2.02 The City of Fayetteville assumes all duties and responsibilities, and has the rights and authority assigned to The City of Fayetteville as Owner in connection with completion of the Work in accordance with the Contract Documents.

SECTION 00500 – AGREEMENT
BETWEEN OWNER AND CONTRACTOR (continued)

ARTICLE 3 - CONTRACT TIME

3.01 TIME OF THE ESSENCE:

- A. All time limits for milestone, if any, Substantial Completion and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 DATES FOR COMPLETION AND FINAL PAYMENT:

- A. The Work shall be substantially completed within 60 calendar days after the date when the Contract Times commence to run as provided in the GENERAL CONDITIONS, and final completion and ready for final payment within 75 calendar days after the date when the Contract Times commence to run as provided in the GENERAL CONDITIONS.

3.03 LIQUIDATED DAMAGES:

- A. Owner and Contractor recognize that time is of the essence of this Agreement and that The City of Fayetteville will suffer financial loss if the Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the GENERAL CONDITIONS. The parties also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by The City of Fayetteville if the Work is not Substantially Completed on time. Accordingly, instead of requiring any such proof, The City of Fayetteville and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay The City of Fayetteville One Thousand Dollars (\$1,000.00) for each calendar day that expires after the time specified above in Paragraph 3.02 for Substantial Completion until the Work is Substantially Complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the time specified in Paragraph 3.02 for completion and readiness for final payment or any proper extension thereof granted by The City of Fayetteville, Contractor shall pay The City of Fayetteville One Thousand Dollars (\$1,000.00) for each calendar day that expires after the time specified for completion and readiness for final payment.

SECTION 00500 – AGREEMENT
BETWEEN OWNER AND CONTRACTOR (continued)

- B. In addition to Liquidated Damages defined in Paragraph 3.03, all construction activities associated with the metal chute in the waste pit shall be limited to a consecutive seven (7) day calendar period between June 15 and June 29, 2025, and shall not commence until the completion of all improvements associated with the metal push wall and the armoring of the existing elevated concrete beams in the waste pit. The Contractor shall be subject to Liquidated Damages in the amount of One Thousand Dollars (\$1,000.00) per calendar day for each day the metal chute remains incomplete and the Transfer Station can be restored to its full operational capacity following the consecutive seven (7) day calendar period.

ARTICLE 4 - CONTRACT PRICE

- 4.01 The CITY OF FAYETTEVILLE agrees to pay, and the CONTRACTOR agrees to accept, as full and final compensation for all work done under this agreement, the amount based on the unit prices bid in the Proposal which is hereto attached, for the actual amount accomplished under each pay item, said payments to be made in lawful money of the United States at the time and in the manner set forth in the Specifications.
- 4.02 As provided in the Contract estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by ENGINEER as provided in the General Conditions. Unit prices have been computed as provided in the Contract Documents.
- 4.03 Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.
1. Further, there shall be no changes to the scope and/or contract documents without prior written approval of the Engineer of Record and the City's designated Professional Engineer.

SECTION 00500 – AGREEMENT
BETWEEN OWNER AND CONTRACTOR (continued)

ARTICLE 5 - PAYMENT PROCEDURES

5.01 **SUBMITTAL AND PROCESSING OF PAYMENTS:**

- A. Contractor shall submit Applications for Payment in accordance with the GENERAL CONDITIONS. Applications for Payment will be processed by Engineer as provided in the GENERAL CONDITIONS.

5.02 **PROGRESS PAYMENTS, RETAINAGE:**

- A. The City of Fayetteville shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer, on or about the 15th day of each month during construction. All such payments will be measured by the schedule of values established in the GENERAL CONDITIONS (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Engineer shall determine, or The City of Fayetteville may withhold, in accordance with the GENERAL CONDITIONS.
- a. 95% of Work Completed (with the balance being retainage). If Work has been 50% completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to The City of Fayetteville and Engineer, The City of Fayetteville on recommendation of Engineer, may determine that as long as the character and progress of the Work subsequently remain satisfactory to them, there will be no additional retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be an amount equal to 100% of the Work Completed less the aggregate of payments previously made; and
- b. 100% of Equipment and Materials not incorporated in the Work but delivered, suitably stored, and accompanied by documentation

SECTION 00500 – AGREEMENT
BETWEEN OWNER AND CONTRACTOR (continued)

satisfactory to The City of Fayetteville as provided in the GENERAL CONDITIONS.

5.03 **FINAL PAYMENT:**

- A. Upon final completion and acceptance of the Work in accordance with the GENERAL CONDITIONS, The City of Fayetteville shall pay the remainder of the Contract Price as recommended by Engineer and as provided in the GENERAL CONDITIONS.

ARTICLE 6 - CONTRACTOR'S REPRESENTATIONS

6.01 In order to induce The City of Fayetteville to enter into this Agreement, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents including the Addenda and other related data identified in the Bid Documents.
- B. Contractor has visited the Site(s) and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
- D. Contractor has carefully studied all:
 - (1) Reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and
 - (2) Reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Contractor acknowledges that The City of Fayetteville and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the Site.
- E. Contractor has obtained and carefully studied (or assumes responsibility of having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect

SECTION 00500 – AGREEMENT
BETWEEN OWNER AND CONTRACTOR (continued)

cost, progress, performance, and furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.

- F. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performing and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by The City of Fayetteville and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Contractor has given the Purchasing Division written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof by the Purchasing Division is acceptable to Contractor.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 7 - CONTRACT DOCUMENTS

7.01 **CONTENTS:**

- A. The Contract Documents which comprise the entire Agreement between The City of Fayetteville and Contractor concerning the Work consist of the following and may only be amended, modified, or supplemented as provided in this Agreement and in the GENERAL CONDITIONS:
 - 1. This Agreement.
 - 2. Exhibits to this Agreement (enumerated as follows):
 - a. Notice to Proceed.
 - b. Contractor's Bid.

SECTION 00500 – AGREEMENT
BETWEEN OWNER AND CONTRACTOR (continued)

- c. Documentation submitted by Contractor prior to Notice of Award.
3. Performance, Payment, and other Bonds.
 - a. The Performance and Payment Bond shall be one hundred percent (100%).
 - b. The Contractor shall file the Performance, Payment and Warranty Bonds at the Washington County Clerk's office prior to providing a file marked copy of the filed Performance, Payment and Warranty Bonds to the Owner or Engineer.
4. General Conditions.
5. Supplementary Conditions.
6. Specifications consisting of divisions and sections as listed in Table of Contents of Project Manual.
7. Drawings consisting of a cover sheet and sheets as listed in the Table of Contents thereof (Drawings), with each sheet bearing the following general title:
Fayetteville Transfer Station Improvements – Metal Push Wall and Chute Replacement
8. Addenda numbers _____ inclusive.
9. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the GENERAL CONDITIONS.

ARTICLE 8 - MISCELLANEOUS

8.01 TERMS:

- A. Terms used in this Agreement which are defined in the GENERAL CONDITIONS shall have the meanings stated in the GENERAL CONDITIONS.

8.02 ASSIGNMENT OF CONTRACT:

- A. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may

SECTION 00500 – AGREEMENT
BETWEEN OWNER AND CONTRACTOR (continued)

become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by Law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.03 **SUCCESSORS AND ASSIGNS:**

- A. The City of Fayetteville and Contractor each binds himself, his partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

8.04 **SEVERABILITY:**

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon The City of Fayetteville and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

8.05 **FREEDOM OF INFORMATION ACT:**

- A. City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

8.06 **LIENS:**

- A. **No liens against this construction project are allowed.** Arkansas law (A.C.A. §§18-44-501 through 508) prohibits the filing of any mechanics of materialmen's liens in relation to this public construction project. Arkansas law requires and the contractor promises to provide and file with the Circuit Clerk of Washington County a bond in a sum equal to the amount of this contract. Any

SECTION 00500 – AGREEMENT
BETWEEN OWNER AND CONTRACTOR (continued)

subcontractor or materials supplier may bring an action for non-payment or labor or material on the bond. The contractor promises to notify every subcontractor and materials supplier for this project of this paragraph and obtain their written acknowledgement of such notice prior to commencement of the work of the subcontractor or materials supplier.

IN WITNESS WHEREOF, The City of Fayetteville and Contractor have signed this Agreement in quadruplicate. One counterpart each has been delivered to Contractor. Three counterparts each has been retained by The City of Fayetteville. All portions of the Contract Documents have been signed, initialed, or identified by The City of Fayetteville and Contractor.

SECTION 00500 – AGREEMENT
BETWEEN OWNER AND CONTRACTOR (continued)

This Agreement will be effective on _____, 20____, which is the Effective Date of the Agreement.

CONTRACTOR:

CITY OF FAYETTEVILLE

By: _____
(Type or legibly print)

By: _____
(Type or legibly print)

(Signature)

(Signature)

Title: _____

Title: Mayor _____

Contractor shall attach evidence of authority to sign.

If Contractor is a corporation, corporate entity or LLC, Contractor shall attach Corporate Resolution authorizing Contractor's signature and execution of Agreement.

Further if Contractor is a corporation, corporate entity or LLC, Contractor shall also attach a copy of the Contractor's Articles of Incorporation and a copy from the Arkansas State Secretary of State to document that the corporation, corporate entity or LLC is in current "Good Standing" with the State of Arkansas and such entity is permitted to perform work in the State of Arkansas.

(SEAL)

(SEAL)

Attest _____

Attest _____

SECTION 00500 – AGREEMENT
BETWEEN OWNER AND CONTRACTOR (continued)

Address for giving notices

Address for giving notices

113 W. Mountain St.
Fayetteville, AR 72701

License No. _____

Agent for Service of process

(Type or legibly print)

(Signature)

Contractor shall attach evidence of authority of Agent for Service process to sign. If Contractor is a corporation, corporate entity or LLC, Contractor shall attach Corporate Resolution authorizing Agent for Service process authority to sign.

(If Contractor is a corporation, corporate entity
or LLC, attach evidence of authority to
sign.)

Approved as to Form:

By: _____

Attorney For: _____

END OF SECTION 00500

SECTION 00500 – AGREEMENT
BETWEEN OWNER AND CONTRACTOR (continued)

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SECTION 00550 - NOTICE TO PROCEED

Note: The following Notice To Proceed Document will be completed after Contract Award.

TO: _____

Contract Name/Title: Fayetteville Transfer Station Improvements
Metal Push Wall and Chute Replacement

Contract No: 25-31, Construction Rebid

Owner: City of Fayetteville, Arkansas

You are notified that the Contract Time(s) under the above Contract will commence to run on _____ By that date, you are to start performing your obligations under the Contract Documents. In accordance with the Agreement between Owner and Contractor, the date(s) of Substantial Completion and final completion ready for final payment are _____ and _____ respectively.

Before you may start any work at the Site, the General Conditions provide that you and Owner must each deliver to the other, (with copies to Engineer and other identified additional insureds) certificates of insurance, which each is required to purchase and maintain in accordance with the Contract Documents.

Also before you may start any work at the Site, you must submit the following:

1. Preliminary construction progress schedule.
2. Preliminary schedule of Submittals.
3. Satisfactory evidence of insurance in accordance with the requirements of the General Conditions.
4. Temporary erosion control requirements as specified.
5. Maintenance of Traffic as specified.

SECTION 00550 - NOTICE TO PROCEED (continued)

You are required to return an acknowledgement copy of this Notice to Proceed to the Owner.

Dated _____.

OWNER

City of Fayetteville

By: _____

Signature: _____

Title: _____

Date: _____

ACCEPTANCE OF NOTICE TO PROCEED

CONTRACTOR

By: _____

Signature: _____

Title: _____

Date: _____, 20____

Copy to Engineer
(Use Certified Mail,
Return Receipt Requested)

END OF DOCUMENT

SECTION 00610 – PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: THAT

as Principal, hereinafter called Contractor, and

as Surety, hereinafter called Surety, are held and firmly bound unto

City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

as Oblige, hereinafter called Owner, in the amount of \$ _____, for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written Agreement dated _____, 20____, entered into a contract with Owner for

Fayetteville Transfer Station Improvements
Metal Push Wall and Chute Replacement
Bid 25-31, Construction Rebid

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations, thereunder, the Surety may promptly remedy the default, or shall promptly:

A. Complete the Contract in accordance with its terms and conditions, or

SECTION 00610 – PERFORMANCE BOND (continued)

- B. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this Bond must be instituted before the expiration of two years from the date on which final payment under the Contract falls due.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators, or successors of the Owner.

Signed and sealed this _____ day of _____ 20____

CONTRACTOR

(CORPORATE SEAL)

(Type or legibly print)

By: _____
(Type or legibly print)

(Signature)

SECTION 00610 – PERFORMANCE BOND (continued)

SURETY

COUNTERSIGNED: Resident Agent

State of Arkansas

(Type or legibly print)

(Type or legibly print)

By _____
(Type or legibly print)

By _____
(Type or legibly print)

(Signature)

(Signature)

ATTORNEY-IN-FACT

(CORPORATE SEAL)

(Type or legibly print)

(Signature)

(This Bond shall be accompanied with
Attorney-in-Fact's authority from Surety)

Approved as to Form:

(Type or legibly print)

(Signature)

Attorney for _____
(Type or legibly print)

END OF SECTION 00610

SECTION 00610 – PERFORMANCE BOND (continued)

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SECTION 00611 – LABOR AND MATERIAL PAYMENT BOND

This Bond is issued simultaneously with Performance Bond in favor of Owner conditioned on the full and faithful performance of the Contract.

KNOW ALL MEN BY THESE PRESENTS: that

as Principal, hereinafter called Contractor, and

as Surety, hereinafter called Surety, are held and firmly bound unto

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, Arkansas 72701

as Obligee, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the amount of \$_____, for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written Agreement dated _____, 20__, entered into a contract with Owner for :

Fayetteville Transfer Station Improvements

Metal Push Wall and Chute Replacement

Bid 25-31, Construction Rebid

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

- A. A claimant is defined as one having a direct contract with the Contractor or with a Subcontractor of the Contractor for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental of equipment directly applicable to the Contract.
- B. The above named Contractor and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of 90 days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this Bond for the use

SECTION 00611 – LABOR AND MATERIAL PAYMENT BOND (continued)

of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.

C. No suit or action shall be commenced hereunder by any claimant:

1. Unless claimant other than one having a direct contract with Principal, shall have given written notice to any two of the following: the Contractor, the Owner, or the Surety within 90 days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to Contractor, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid Project is located, save that such service need not be made by a public officer.
2. After the expiration of one year following the date on which Contractor ceased Work on the Contract, it being understood, however, that if any limitation embodied in this Bond is prohibited by any Law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such Law.
3. Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the Project, or any part thereof, is situated, or in the United States District Court for the district in which the Project, or any part thereof, is situated, and not elsewhere.

D. The amount of this Bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this Bond.

Signed and sealed this _____ day of _____ 20__

CONTRACTOR

(CORPORATE SEAL)

(Type or legibly print)

By: _____

(Type or legibly print)

(Signature)

SECTION 00611 – LABOR AND MATERIAL PAYMENT BOND (continued)

SURETY

COUNTERSIGNED: Resident Agent

State of Arkansas

(Type or legibly print)

(Type or legibly print)

By _____
(Type or legibly print)

By _____
(Type or legibly print)

(Signature)

(Signature)

ATTORNEY-IN-FACT

(CORPORATE SEAL)

(Type or legibly print)

(Signature)

(This Bond shall be accompanied with
Attorney-in-Fact's authority from Surety)

Approved as to Form:

(Type or legibly print)

(Signature)

Attorney for _____
(Type or legibly print)

END OF SECTION 00611

SECTION 00611 – LABOR AND MATERIAL PAYMENT BOND (continued)

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SECTION 00640 – WARRANTY BOND

We, _____, as principal (“Principal”), and _

as surety (“Surety”), are hereby jointly and severally held and firmly bound unto the City of Fayetteville for the payment of _____ Dollars (\$ _____), subject to the terms and conditions provided herein.

WHEREAS, Principal executed and entered into that certain Agreement with City of Fayetteville for
Fayetteville Transfer Station Improvements - Metal Push Wall and Chute Replacement
Bid 25-31, Construction Rebid

dated _____, 20__ (the “Contract”), the provisions of which are incorporated herein by reference, and unless otherwise defined herein all defined terms used or referred to herein shall have the meaning ascribed thereto in the Contract. In addition to other obligations and liabilities, the Contract required Principal to perform the Work for the Project and to furnish this Bond to City of Fayetteville in compliance with the General Conditions.

NOW THEREFORE, the obligations of Principal and Surety herein shall remain in full force and effect as provided herein, subject to becoming null and void upon the occurrence of either or both of the conditions that (a) Principal shall fully perform and satisfy all obligations and liabilities of Principal under the warranty and guarantee provisions of Article 29 of the General Conditions, as modified or supplemented by the Supplementary Conditions or any other applicable Contract Documents, at any time within two years after the date of Final Acceptance or such longer period of time as may be prescribed therein (the “Warranty Period”), all of which includes without limitation either correcting the defective Work, or removing and replacing it with nondefective Work, or paying all direct, indirect or consequential costs of such correction or removal and replacement, all as provided therein, or (b) City of Fayetteville shall fail to institute a lawsuit, action or other proceeding under this Bond before the expiration of three (3) months following the end of the Warranty Period.

FURTHER PROVIDED, that (a) any changes, modifications, amendments, alterations or supplementations in or to the Contract, and Contract Documents or the Work, or the giving by City of Fayetteville of any extension of time for the performance of the Contract, or any other forbearance on the part of either City of Fayetteville or Principal to the other, shall not in any way release the Principal or Surety, or either of them, from their liability hereunder, notice to the Surety of any of the foregoing being hereby waived, (b) in no event shall the aggregate liability of Surety exceed the amount set out herein, and (c) the rights and obligations hereof shall be binding upon and shall inure to the benefit of Principal, Surety, City of Fayetteville and their respective heirs, legal representatives, partners, privies, successors and assigns, provided that nothing herein shall authorize the assignment of any such rights and obligations.

Date of project final completion is _____.

The bond shall be 25% of the final project value and shall be effective for a period of two years.

SECTION 00640 – WARRANTY BOND (continued)

Executed on the _____ day of _____ 20 ____.

By _____

(Type or legibly print)

(Signature)

SEAL

Witness:

(Type or legibly print)

(Signature)

Attest:

SEAL

(Type or legibly print)

(Signature)

Surety

END OF SECTION 00640

SECTION 00700 – GENERAL CONDITIONS

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This document is based upon Engineers Joint Contract Documents Committee “Standard General Conditions of the Construction Contract,” with modifications.

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 CONTRACT DOCUMENTS:

1. The Contract Documents establish the rights and obligations of the parties and shall consist of the documents listed in DOCUMENT 00500, AGREEMENT.
- B. Reports and drawings of subsurface and physical conditions and approved Submittals by Contractor are not Contract Documents.
- C. Only printed or hard copies of items listed in subparagraph 1.01A are Contract Documents. Files in electronic media format of text, data, graphics, and the like that may be furnished by Owner to Contractor are not Contract Documents.

1.02 DEFINITIONS:

- A. Wherever used in these General Conditions or elsewhere in the Contract Documents, the following terms have the meanings indicated below, which are applicable to both the singular and plural thereof:
 1. “Addenda” - written or graphic changes or interpretations of the Contract Documents issued by Owner prior to the opening of Bids.
 2. “Agreement” - the written agreement between Owner and Contractor covering the Work to be performed; other Contract Documents are attached to the Agreement and made a part thereof as provided therein.
 3. “Application for Payment” - the form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress and final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. “Asbestos” - any material that contains more than 1% asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 5. “Bid” - the formal offer of the Bidder submitted on the prescribed Bid Form together with the required Bid security and all information submitted with the Bid that pertains to performance of the Work.
 6. “Bidder” - any person, firm, or corporation submitting a Bid for the Work or their duly authorized representatives.
 7. “Change Order” - a written document signed by Owner and Engineer authorizing an addition, deletion, or revision in the Work, or an adjustment in the Contract Price or the Contract Time issued on or after execution of the Agreement.
 8. “Contract Drawings” - drawings and other data designated as Contract Drawings prepared by Engineer for this Contract which show the character and scope of the Work to be performed and are referred to in the Contract Documents.
 9. “Contract Price” - the total monies payable to Contractor under the Contract Documents as stated in the Agreement.

SECTION 00700 – GENERAL CONDITIONS (continued)

10. “Contract Times” - the number of days or the dates stated in the Agreement to: (i) achieve Substantial Completion; and (ii) complete the Work so that it is ready for final payment as evidenced by Engineer’s written recommendations of final payment.
11. “Contractor” - the person, firm or corporation with whom Owner has entered into the Agreement.
12. “Date of Contract”, “Effective Date of the Agreement” - the date of the City Council Approval also indicated in the Agreement.
13. “Engineer” or “Engineer-Architect” - Architect, engineer, or other licensed professional who is either employed or has contracted with Owner to serve in a design capacity and whose consultants, members, partners, employees, or agents have prepared and sealed the Drawings and Specifications.
14. “Engineer’s Consultant” - an individual or entity having a contract with Engineer to furnish services as Engineer’s independent professional associate or consultant with respect to the Project.
15. “Equipment” - a product with operational or nonoperational parts, whether motorized or manually operated, that requires service connections, such as wiring or piping.
16. “Field Order” - a written order issued by Engineer which orders minor changes in the Work in accordance with Paragraph 9.05 but which does not involve a change in the Contract Price or the Contract Times.
17. “General Requirements” - Sections of DIVISION 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.
18. “Hazardous Waste” - the term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
19. “Law” - law of the place of the Project which shall govern the performance hereunder.
20. “Laws and Regulations,” “Laws or Regulations” - laws, rules, regulations, ordinances, codes and/or orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
21. “Lien” - charges, security interests, or encumbrances on Project funds, real property, or personal property.
22. “Materials” - products substantially shaped, cut, worked, mixed, finished, refined, or otherwise fabricated, processed, or installed to form a part of the Work.
23. “Notice of Award” - the written notice by Owner to the apparent successful Bidder stating that upon compliance by the apparent successful Bidder with the conditions precedent enumerated therein, within the time specified, Owner will sign and deliver the Agreement.
24. “Notice to Proceed” - the written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform Contractor’s obligation under the Contract Documents.
25. “Owner” - the City of Fayetteville, Arkansas, a constitutionally chartered municipal corporation, with which the Contractor has entered into the Agreement and for whom the Work is to be provided.

SECTION 00700 – GENERAL CONDITIONS (continued)

- 26. “Partial Utilization” - placing a portion of the Work in service for the purpose for which it is intended (or a related purpose) before reaching Substantial Completion of all the Work.
- 27. “PCBs” - Polychlorinated biphenyls.
- 28. “Petroleum” - petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60° Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Wastes and crude oils.
- 29. “Program Manager” – NOT USED.
- 30. “Project” - the total construction of which the Work to be provided under the Contract Documents may be the whole, or a part as indicated elsewhere in the Contract Documents.
- 31. “Project Manual” - The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.
- 32. “Radioactive Material” - source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
- 33. “Resident Project Representative” - the authorized representative of Engineer who is assigned to the construction Site or any part thereof.
- 34. “Reference Drawings” - drawings not specifically prepared for, nor a part of, this Contract, but which contain information pertinent to the Work.
- 35. “Samples” - physical examples of Equipment, Materials, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
- 36. “Shop Drawings” - all drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
- 37. “Site” - lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
- 38. “Specifications” - those portions of the Contract Documents consisting of written technical descriptions of the Work, and covering the Equipment, Materials, workmanship, and certain administrative details applicable thereto.
- 39. “Subcontractor” - an individual, firm, or corporation having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
- 40. “Submittals” - all Shop Drawings, product data, and Samples which are prepared by Contractor, a Subcontractor, manufacturer, or Supplier, and submitted by Contractor to Engineer as a basis for approval of the use of Equipment and Materials proposed for incorporation in the Work or needed to describe proper installation, operation and maintenance, or technical properties.

SECTION 00700 – GENERAL CONDITIONS (continued)

41. “Substantial Completion” - the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer as evidenced by his definitive certificate of Substantial Completion, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be used for the purposes for which it was intended.
42. “Supplementary Conditions” – part of the Contract Documents which amends and/or supplements these General Conditions.
43. “Supplier” - a manufacturer, fabricator, supplier, distributor, material man, or vendor.
44. “Underground Facilities” - all pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems, or water.
45. “Unit Price Work” - Work to be paid on the basis of Unit Prices.
46. “Work” - the entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work is the result of performing services, the furnishing of Bonds and insurance, furnishing labor, and furnishing and incorporating Materials and Equipment into the construction, all as required by the Contract Documents.
47. “Work Change Directive” - a written directive to Contractor, issued on or after the effective Date of the Agreement and signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen physical conditions under which the Work is to be performed as provided in Article 4 or to emergencies under Paragraph 6.13. A Work Change Directive will not change the Contract Price or the Contract Times, but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times as provided in Paragraph 10.01B.
48. “Written Amendment” - a written amendment to the Contract Documents, signed by Owner and Contractor on or after the Effective Date of the Agreement, and normally dealing with the nonengineering or nontechnical rather than strictly Work-related aspects of the Contract Documents.
49. “Year 2000 Compliance” or “Year 2000 Compliant” – means that equipment, devices, items, systems, software, hardware, and firmware included in the Work or used to produce the Work shall properly, appropriately, and consistently function and accurately process date and time data (including without limitation: calculating, comparing, and sequencing) on and after December 31, 1999, including leap year calculations.

SECTION 00700 – GENERAL CONDITIONS (continued)

1.03 TERMINOLOGY:

- A. Whenever used in these General Conditions or elsewhere in the Contract Documents, the following terminology shall have the intent and meaning specified below:
1. The words “as indicated” refer to the Drawings and “as specified” refer to the remaining Contract Documents.
 2. The terms “responsible” or “responsibility” mean that the party to which the term applies shall assume all responsibilities thereto.
 3. The term “approve”, when used in response to Submittals, requests, applications, inquiries, reports and claims by Contractor, will be held to limitations of Engineer’s responsibilities and duties or specified in these General Conditions. In no case will “approval” by Engineer be interpreted as a release of Contractor from responsibilities to fulfill requirements of Contract Documents.
 4. When applied to Equipment and Materials, the words “furnish”, “install”, and “provide” shall mean the following:
 - a. The word “provide” shall mean to furnish, pay for, deliver, assemble, install, adjust, clean and otherwise make Materials and Equipment fit for their intended use.
 - b. The word “furnish” shall mean to secure, pay for, deliver to Site, unload and uncrate Equipment and Materials.
 - c. The word “install” shall mean to assemble, place in position, incorporate in the Work, adjust, clean, and make fit for use.
 - d. The phrase “furnish and install” shall be equivalent to the word “provide.”
 5. The word “day” shall constitute a calendar day of twenty-four hours measured from midnight to the next midnight.

ARTICLE 2 - PRELIMINARY MATTERS

2.01 DELIVERY OF BONDS:

- A. When Contractor delivers the executed Agreements to Owner, Contractor shall also deliver to Owner such executed and recorded Bonds as Contractor may be required to furnish in accordance with Paragraph 5.01.

2.02 COPIES OF DOCUMENTS:

- A. Owner will furnish to Contractor copies of the Contract Documents as stated in the General Requirements.

2.03 COMMENCEMENT OF CONTRACT TIMES; NOTICE TO PROCEED:

- A. The Contract Times will commence to run on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time mutually agreed upon by the Contractor and the Owner within 60 days after the Effective Date of the Agreement upon completion of required executed documents. Unless modified by formal written agreement, the Contract Times will commence to run no later than the 90th day after the Effective Date of the Agreement.

SECTION 00700 – GENERAL CONDITIONS (continued)

2.04 STARTING THE PROJECT:

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run, but no Work shall be done at the Site prior to the date on which the Contract Times commence to run.

2.05 BEFORE STARTING CONSTRUCTION:

- A. Before starting construction and undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby; however, Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, or discrepancy in the Contract Documents, unless Contractor had actual knowledge thereof or should reasonably have known thereof.
- B. Within thirty (30) days after the Effective Date of the Agreement, and before Contractor starts the Work at the Site, Contractor shall submit items as noted in Document 00550 – Notice to Proceed (and as specified) to Engineer for review.
- C. Further, before any Work at the Site is started, Contractor shall deliver to Owner, with a copy to Engineer, certificates and other evidence of insurance requested by Owner which Contractor is required to purchase and maintain in accordance with Paragraph 5.02 (and Owner shall deliver to Contractor certificates and other evidence of insurance requested by Contractor which Owner is required to purchase and maintain in accordance with Paragraph 5.02).

2.06 PRECONSTRUCTION CONFERENCE:

- A. Within 60 days after the Effective Date of the Agreement, but before Contractor starts the Work at the Site, a conference attended by Contractor, Engineer, and others as appropriate will be held to discuss the schedules referred to in Paragraph 2.05B, to discuss procedures for handling Submittals, processing Applications for Payment, and to establish a working understanding among the parties as to the Work.

2.07 FINALIZING SCHEDULES:

- A. A schedule shall be finalized in accordance with Specification SECTION 01321. The finalized construction progress schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times, but such acceptance will neither impose on Engineer responsibility for the progress or scheduling of the Work nor relieve Contractor from full responsibility therefor. The finalized schedule of Submittal submissions will be acceptable to Engineer if it provides a workable arrangement for processing the submissions.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 INTENT:

- A. The Contract Documents comprise the entire agreement between Owner and Contractor concerning the Work. The Contract Documents are complementary; what

SECTION 00700 – GENERAL CONDITIONS (continued)

is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the Law of the place of the Project.

- B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any Work, Materials, or Equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied whether or not specifically called for, at no additional cost to the Owner.
1. When words which have a well-known technical or trade meaning are used to describe Work, Materials, or Equipment, such words shall be interpreted in accordance with that meaning.
 2. Reference to standard specifications, manuals, or codes of any technical society, organization, or association, or to the Laws or Regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual, or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of Owner, Contractor, or Engineer, or any of their consultants, agents, or employees from those set forth in the Contract Documents, nor shall it be effective to assign to Engineer, or any of Engineer's consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of the Contract Documents.
 3. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Paragraph 9.04.
- C. If, during the performance of the Work, Contractor finds a conflict, error, or discrepancy in the Contract Documents, Contractor shall so report to Engineer in writing at once and before proceeding with the Work affected thereby shall obtain a written interpretation or clarification from Engineer, however, Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof or should reasonably have known thereof.
- D. Applicable codes and standards referenced in these Contract Documents establish minimum requirements for Equipment, Materials, and Work and are superseded by more stringent requirements of Contract Documents when and where they occur.
- E. The Specifications are separated into Divisions and Sections for convenience in defining the Work. Contract Drawings are separated according to engineering disciplines and other classifications. This sectionalizing and the arrangement of Contract Drawings shall not control the Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

SECTION 00700 – GENERAL CONDITIONS (continued)

3.02 AMENDING AND SUPPLEMENTING CONTRACT DOCUMENTS:

- A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways:
 - 1. A formal Written Amendment.
 - 2. A Change Order (pursuant to Paragraph 10.01D).
- B. As indicated in Paragraphs 11.01B and 12.01A, Contract Price and Contract Times may only be changed by a Change Order or Written Amendment.
- C. In addition, the requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, in the following way:
 - 1. A Field Order (pursuant to Paragraph 9.05).
 - 2. Engineer's written interpretation or clarification (pursuant to Paragraph 9.04).

3.03 OWNERSHIP AND REUSE OF DOCUMENTS:

- A. All Contract Documents and copies thereof furnished by Engineer shall be the property of the Owner.
- B. Neither Contractor nor any Subcontractor or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with Owner shall have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer; and they shall not reuse any of the documents on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer.

ARTICLE 4 - AVAILABILITY OF LANDS; PHYSICAL CONDITIONS; REFERENCE POINTS

4.01 AVAILABILITY OF LANDS:

- A. Owner shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for the use of Contractor. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by Owner, unless otherwise provided in the Contract Documents.
- B. If Contractor believes that any delay in Owner's furnishing these lands, rights-of-way, or easements entitles Contractor to an extension of the Contract Times, Contractor may make a claim therefor as provided in Article 12.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.
- D. Contractor shall confine his operations to the construction limits indicated.

4.02 UNFORESEEN SUBSURFACE CONDITIONS:

- A. Contractor shall promptly notify Engineer in writing of any subsurface or latent physical conditions encountered at the Site which differ materially from those

SECTION 00700 – GENERAL CONDITIONS (continued)

specified or indicated, or which could be reasonably interpreted from examination of the Site and available subsurface information at the time of bidding.

- B. Engineer will promptly investigate those conditions and advise Owner if further surveys or subsurface tests are necessary. Promptly thereafter, Engineer will obtain the necessary additional surveys and tests and furnish copies of results to Contractor and Owner.
- C. If Engineer and Owner find that the subsurface or latent physical conditions encountered at the Site differ materially from those specified or indicated, or which could have been reasonably interpreted from examination of the Site and available subsurface information at the time of bidding, then a Change Order will be issued by the Owner incorporating the necessary revisions.

4.03 PHYSICAL CONDITIONS - UNDERGROUND FACILITIES:

- A. Shown or Indicated: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities or by others. Unless it is otherwise expressly provided:
 - 1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data; and,
 - 2. Contractor shall have full responsibility for reviewing and checking all such information and data, for locating all Underground Facilities shown or indicated in the Contract Documents, for coordination of the Work with the owners of such Underground Facilities during construction, for the safety and protection thereof as provided in Paragraph 6.12 and repairing any damage thereto resulting from the Work, the cost of all of which will be considered as having been included in the Contract Price.
- B. Not Shown or Indicated: If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated in the Contract Documents and which Contractor could not reasonably have been expected to be aware of, Contractor shall, promptly after becoming aware thereof and before performing any Work affected thereby (except in an emergency as permitted by Paragraph 6.13), identify the owner of such Underground Facility and give written notice thereof to that owner and Engineer. Engineer will promptly review the Underground Facility to determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the Underground Facility, and the Contract Documents will be amended or supplemented to the extent necessary. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility as provided in Paragraph 6.12. Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, to the extent that they are attributable to the existence of any Underground Facility that was not shown or indicated in the Contract Documents and which Contractor could not reasonably have been expected to be aware of. If the parties are unable to agree as to the amount or length thereof, Contractor may make a claim therefor as provided in Articles 11 and 12.

SECTION 00700 – GENERAL CONDITIONS (continued)

4.04 REFERENCE POINTS:

- A. Engineer will provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work (unless otherwise specified in the General Requirements), shall protect and preserve the established reference points, and shall make no changes or relocations without the prior written approval of Engineer. Contractor shall report to Engineer whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points by professionally qualified personnel. Contractor shall be responsible for any mistakes or loss of time that may result from their loss or disturbance.
- B. Contractor shall make such surveys as are required for establishing pay limits and determining quantities for progress pay estimates. He shall furnish Engineer with one copy each of all field notes of such surveys.

4.05 ASBESTOS, PCBs, PETROLEUM, HAZARDOUS WASTE, OR RADIOACTIVE MATERIAL:

- A. Owner shall be responsible for any Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work and which may present a substantial danger to persons or property exposed thereto in connection with the Work at the Site. Owner shall not be responsible for any such materials brought to the Site by Contractor, Subcontractor, Suppliers, or anyone else for whom Contractor is responsible.
- B. Contractor shall immediately: (i) stop all Work in connection with such hazardous condition and in any area affected thereby (except in an emergency as required by Paragraph 6.13), and (ii) notify Owner and Engineer (and thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such hazardous condition or take corrective action, if any. Contractor shall not be required to resume Work in connection with such hazardous condition or in any such affected area until after Owner has obtained any required permits related thereto and delivered to Contractor special written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or the amount or extent of an adjustment, if any, in Contract Price or Contract Times as a result of such Work stoppage or such special conditions under which Work is agreed by Contractor to be resumed, either party may make a claim therefor as provided in Articles 11 and 12.
- C. If after receipt of such special written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order such portion of the Work that is in connection with such hazardous condition or in such affected area to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or the amount or extent of an adjustment, if any, in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a claim

SECTION 00700 – GENERAL CONDITIONS (continued)

therefor as provided in Articles 11 and 12. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

- D. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner, Engineer, Engineer's Consultants, and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages arising out of or relating to such hazardous condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this subparagraph 4.05E shall obligate Contractor to indemnify any person or entity from and against the consequences of that person's or entity's own negligence.
- E. The provisions of Paragraphs 4.02 and 4.03 are not intended to apply to Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material uncovered or revealed at the Site.

ARTICLE 5 - BONDS AND INSURANCE

5.01 **PERFORMANCE AND OTHER BONDS:**

- A. Contractor shall furnish performance and payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents. These Bonds shall remain in effect at least until two years after the date when final payment is approved by Owner, except as otherwise provided by Law or Regulation or by the Contract Documents. Contractor shall also furnish such other Bonds as are required by the Contract Documents. All Bonds shall be in the forms prescribed by Law or Regulation or by the Contract Documents and be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds shall be signed by an Arkansas Agent.
- B. The Bonds shall be automatically increased in amount and extended in time without formal and separate amendments to cover full and faithful performance of the Contract in the event of Change Orders, regardless of the amount of time or money involved. It is Contractor's responsibility to notify his surety of any changes affecting the general scope of the Work or change in the Contract Price or Contract Times.
- C. Bonds signed by an agent must be accompanied by a certified copy of the authority to act.
- D. Date of Bonds shall be the same as the Effective Date of the Agreement.
- E. The Contractor shall file the Performance, Payment and Warranty Bonds at the Washington County Clerk's office prior to providing a file marked copy of the filed Performance, Payment and Warranty Bonds to the Owner or Engineer.

SECTION 00700 – GENERAL CONDITIONS (continued)

F. If at any time during the continuance of the Contract, the surety on any Bond becomes unacceptable to Owner for financial reasons, Owner has the right to require additional and sufficient sureties which Contractor shall furnish to the satisfaction of Owner within ten days after notice to do so.

1. If the surety on any Bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01A, Contractor shall within five days thereafter substitute another Bond and surety, both of which must be acceptable to Owner.

5.02 **INSURANCE:**

A. Contractor's Liability Insurance:

1. Contractor and all of his subcontractors shall purchase and maintain such liability and other insurance as is appropriate for the Work being furnished and performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's furnishing and performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

- a. Claims under workers' compensation, disability benefits, and other similar employee benefit acts;
- b. Claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
- c. Claims for damages because of bodily injury, sickness, or disease, or death of any person other than Contractor's employees;
- d. Claims for damages insured by reasonably available personal injury liability coverage which are sustained: (i) by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or (ii) by any other person for any other reason;
- e. Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use therefrom;
- f. Claims arising out of operation of Laws or Regulations for damages because of bodily injury or death of any person or for damage to property; and
- g. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle.

2. The insurance required by this paragraph shall include the specific coverages, and be written for not less than the limits of liability specified or required by Law, whichever is greater.

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|---------------------------------|--------------------------------------|
| a. Umbrella General Liability | \$5,000,000 |
| b. Workers' compensation | Statutory (State and Federal Limits) |
| Employer's Liability | \$500,000 each accident |
| c. Commercial General Liability | |
| (1) General Aggregate | \$2,000,000 |

SECTION 00700 – GENERAL CONDITIONS (continued)

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|----|-----|---|-------------|
| | (2) | Products-Completed Operations Aggregate | \$2,000,000 |
| | (3) | Personal & Advertising Injury Limit | \$1,000,000 |
| | (4) | Each Occurrence Limit | \$1,000,000 |
| | (5) | Fire Damage Limit | \$ 100,000 |
| | (6) | Medical Expense Limit | \$ 5,000 |
| d. | | Business Automobile Liability | |
| | (1) | Any one loss or accident | \$1,000,000 |
- B. The policies of insurance so required by paragraph 5.02A to be purchased and maintained shall:
1. with respect to insurance required by Paragraphs 5.02A.1.c through 5.02A.1.g inclusive, include as additional insureds by endorsement (subject to customary exclusion in respect of professional liability) Owner, Engineer, and Engineer's Consultants, and include coverage for the respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;
 2. include at least the specific coverages and be written for not less than the limits of liability specified in Paragraph 5.02A.2 or required by Laws and Regulations, whichever is greater;
 3. with respect to insurance required by paragraphs 5.02A.1.c through 5.02A.1.g inclusive, include premises/operations, products, completed operations, independent contractors, and personal injury insurance,;
 4. include in the Commercial General Liability policy, contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.06, 6.10, and 6.16, and written for not less than the limits of liability and coverages specified above;
 5. contain a provision or endorsement that the coverage afforded will not be cancelled, materially changed, or renewal refused until at least 30 days' prior written notice by certified mail has been given to Owner and Contractor and to each other additional insured to whom a certificate of insurance has been issued;
 6. provide Broad Form Property Damage coverage and contain no exclusion (commonly referred to as XC&U exclusion) relative to blasting, earthquake, flood, explosion, collapse of buildings, or damage to underground property;
 7. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07;
 8. with respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment and Contractor shall furnish Owner and each other specified additional insured to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter;
 9. include Independent Contractors Protective Liability coverage; and
 10. with respect to the Commercial General Liability policy, the maximum deductible allowed shall be \$5, 000.

SECTION 00700 – GENERAL CONDITIONS (continued)

11. Owner and Contractor waive all rights against each other and their respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies required by Paragraph 5.02A and any other liability insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, Engineer, Engineer's Consultants, and all other individuals or entities endorsed as insureds or additional insureds (and the officers, directors, partners, employees, agents and other consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. As required by Paragraph 6.05D, each subcontract between Contractor and a Subcontractor shall contain similar waiver provisions by the Subcontractor in favor of Owner, Contractor, Engineer, Engineer's Consultants, and all other parties endorsed as insureds or additional insureds. None of the above waivers shall extend to the rights that any of the insured parties may have to proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued. with respect to the Commercial General Liability policy, the maximum deductible allowed shall be \$5,000.
- C. Owner's Protective Liability Insurance:
 1. Contractor shall be responsible for purchasing and maintaining Owner's Protective Liability insurance with Owner, and Engineer as named insureds.
 2. This insurance shall have the same limits of liability as the Commercial General Liability insurance and shall protect Owner and Engineer against any and all claims and liabilities for injury to or death of persons, or damage to property caused in whole or in part by, or alleged to have been caused in whole or in part by, negligent acts or omissions of Contractor or Subcontractors or any agent, servant, worker, or employee of Contractor or Subcontractors arising from the operations under the Contract Documents.
 3. This insurance may be provided by endorsement to Contractor's Commercial General Liability insurance policy.
- D. Property Insurance:
 1. Contractor shall purchase and maintain property insurance upon the Work at the Site in the amount of the full insurable value thereof (subject to such deductible amounts as follows) or as required by Laws or Regulations. This insurance shall:
 - a. be on the completed value form and include the interests of Owner, Contractor, Subcontractors, Engineer, and Engineer's Consultants, and the officers, directors, partners, employees, agent, and other consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an additional insured;
 - b. be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work, and Equipment and Materials, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage,

SECTION 00700 – GENERAL CONDITIONS (continued)

- terrorism, and such other perils (as flood, earthquake, explosions, collapse, underground hazard) or causes of loss as may be specifically required in the Contract Documents;
- c. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals);
 - d. cover Equipment and Materials stored at the Site or at another location that was agreed to in writing by Engineer prior to being incorporated in the Work, provided that such Equipment and Materials have been included in an Application for Payment recommended by Engineer;
 - e. allow for partial utilization of the Work by Owner;
 - f. include testing and startup;
 - g. be maintained in effect until final payment (or the Owner assumes beneficial occupancy and agrees to provide insurance coverage for the facilities so occupied) is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days' written notice to each other additional insured to whom a certificate of insurance has been issued; and
 - h. have a deductible amount of \$ 10,000.
2. Contractor shall purchase and maintain such boiler and machinery insurance or additional property insurance as required by Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, Engineer, and Engineer's Consultants in the Work, each of whom is deemed to have an insurable interest and shall be listed as insured or additional insured parties.
 3. All policies of insurance required to be purchased and maintained in accordance with Paragraph 5.02D will contain a provision or endorsement that the coverage afforded will not be cancelled or materially changed or renewal refused until at least 30 days' prior notice by certified mail has been given to Owner and Contractor and to each additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.02F below.
 4. Copies of the policies shall be furnished for property insurance. Certificates will not be acceptable.
- E. Transit Insurance:
1. Transit insurance shall be furnished by Contractor to protect Contractor and Owner from all risks of physical loss or damage to Equipment and Materials, not otherwise covered under other policies, during transit from point of origin to the Site of installation or erection.
 2. This insurance shall be written on an "All Risk" basis with additional coverages applicable to the circumstances that may occur in the particular Work included in this Contract.
 3. This insurance shall be in an amount not less than 100% of the manufactured or fabricated value of items exposed to risk in transit at any one time.
 4. This insurance shall contain a waiver of rights of subrogation the insurer may have or acquire against Engineer.
- F. Waiver of Rights:
1. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.02D will protect Owner, Contractor, Subcontractors, Engineer,

SECTION 00700 – GENERAL CONDITIONS (continued)

Engineer's Consultants, and other individuals or entities endorsed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage, the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder; and if the insurers require separate waiver forms to be signed by Engineer or Engineer's Consultants, Owner will obtain the same, and if such waiver forms are required of any Subcontractor, Contractor shall obtain the same.

2. Owner and Contractor waive all rights against each other and their respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies required by Paragraph 5.02D and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, Engineer, Engineer's Consultants, and all other individuals or entities endorsed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. As required by Paragraph 6.05D, each subcontract between Contractor and a Subcontractor shall contain similar waiver provisions by the Subcontractor in favor of Owner, Contractor, Engineer, Engineer's Consultants, and all other parties endorsed as insureds or additional insureds. None of the above waivers shall extend to the rights that any of the insured parties may have to proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

G. Receipt and Application of Insurance Proceeds:

1. Any insured loss under the policies of insurance required by Paragraph 5.02D will be adjusted with Owner and made payable to Owner as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.02G.2. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied to account thereof, and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.
2. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection is made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties upon the occurrence of an insured loss.

SECTION 00700 – GENERAL CONDITIONS (continued)

H. Acceptance of Insurance:

1. If Owner has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by Contractor in accordance with Paragraph 5.02 on the basis of non-conformance with the Contract Documents, Owner shall so notify Contractor in writing thereof within 10 days of the date of delivery of such certificates and other evidence of insurance to Owner required by Paragraph 2.05C.
2. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

I. Partial Utilization, Acknowledgment of Property Insurer:

1. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.06, no such use or occupancy shall commence before the insurers providing property insurance pursuant to Paragraph 5.02D have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be cancelled or lapse on account of any such partial use or occupancy.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.01 **SUPERVISION AND SUPERINTENDENCE:**

- A. Contractor shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work, but Contractor shall not be responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence, or procedure of construction which is indicated in and required by the Contract Documents. Contractor shall be responsible to see that the finished Work complies accurately with the Contract Documents.
- B. Contractor shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances. The superintendent will be Contractor's representative at the Site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to Contractor.

SECTION 00700 – GENERAL CONDITIONS (continued)

- C. When manufacturer's field services in connection with the erection, installation, start-up, or testing of Equipment furnished under this Contract, or instruction of Owner's personnel thereon are specified, Contractor shall keep on the Work, during its progress or as specified, competent manufacturer's field representatives and any necessary assistants.

6.02 **LABOR, EQUIPMENT, AND MATERIALS:**

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site. Except in connection with the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise indicated in the Contract Documents.
- B. Unless otherwise specified in the General Requirements, Contractor shall furnish and assume full responsibility for all Equipment and Materials, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up, and completion of the Work.
- C. All Equipment and Materials shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by Engineer, Contractor shall furnish to Engineer satisfactory evidence (including reports of required tests) as to the kind and quality of Equipment and Materials. All Equipment and Materials shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the instructions of the applicable Supplier except as otherwise provided in the Contract Documents; but no provision of any such instructions will be effective to assign to Engineer, or any of Engineer's consultants, agents, or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.10C and 9.10D.
- D. All Equipment and Materials incorporated in the Work shall be designed to meet the applicable safety standards of federal, state, and local Laws and Regulations.
- E. Domestic Product Procurement: As further specified elsewhere in these or referenced documents.

6.03 **ADJUSTING PROGRESS SCHEDULE:**

- A. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) adjustments in the progress schedule to reflect the impact thereon of new developments; these will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the General Requirements applicable thereto.

6.04 **SUBSTITUTES OR "OR-EQUAL" ITEMS:**

- A. Whenever an item of Equipment or Material is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no

SECTION 00700 – GENERAL CONDITIONS (continued)

substitute is permitted, other items of Equipment or Material of other Suppliers may be submitted by Contractor to Engineer for review under the circumstances described below.

1. “Or-Equal” Items: If in Engineer’s sole discretion an item of Equipment or Material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an “or-equal” item, in which case review and approval of the proposed item may, in Engineer’s sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For purposes of this Paragraph 6.04A.1, a proposed item of Equipment or Material will be considered functionally equal to an item so named if:
 - a. In the exercise of reasonable judgment Engineer determines that: (i) it is at least equal in quality, durability, appearance, strength, and design characteristics; (ii) it will reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole, and;
 - b. Contractor certifies that: (i) there is no increase in cost to Owner; and (ii) it will conform substantially, even with deviations, to the detailed requirements of the item named in the Contract Documents.
 - c. “Or-Equal” will not be considered until after Award of Contract.
2. Substitute Items:
 - a. If in Engineer’s sole discretion an item of Equipment or Material proposed by Contractor does not qualify as an “or-equal” item under Paragraph 6.04A.1, it will be considered a proposed substitute item.
 - b. Contractor shall submit sufficient information as provided below to allow Engineer to determine that the item of Equipment or Material proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of Equipment or Materials will not be accepted by Engineer from anyone other than Contractor.
 - c. The procedure for review by Engineer will be as set forth in Paragraph 6.04A.2.d, as may be supplemented in the General Requirements and as Engineer may decide is appropriate under the circumstances.
 - d. Contractor shall first make written application to Engineer for review of a proposed substitute item of Equipment or Material that Contractor seeks to furnish or use. The application shall certify that the proposed substitute item will perform adequately the functions and achieve the results called for by the general design, be similar in substance to that specified, and be suited to the same use as that specified. The application will state the extent, if any, to which the use of the proposed substitute will prejudice Contractor’s achievement of Substantial Completion on time; whether or not use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for work on the Project) to adapt the design to the proposed substitute item; and whether or not incorporation or use of the proposed substitute item in connection

SECTION 00700 – GENERAL CONDITIONS (continued)

with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute item from that specified will be identified in the application, and available engineering, sales, maintenance, repair, and replacement services will be indicated. The application will also contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change, all of which will be considered by Engineer in evaluating the proposed substitute item. Engineer may require Contractor to furnish additional data about the proposed substitute item.

e. Substitute items will not be considered until after Award of Contract.

- B. If a specific means, method, technique, sequence, or procedure of construction is indicated in or required by the Contract Documents, Contractor may furnish or use a substitute means, method, sequence, technique, or procedure of construction acceptable to Engineer, if Contractor submits sufficient information to allow Engineer to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedure for review by Engineer will be similar to that provided in Paragraph 6.04A.2 as applied by Engineer and as may be supplemented in the General Requirements.
- C. Engineer will be allowed a reasonable time within which to evaluate each proposed substitute or “or-equal” item. Engineer will be the sole judge of acceptability, and no substitute or “or-equal” will be ordered, installed, or used until Engineer’s review is complete, which will be evidenced by either (i) a Change Order for a substitute, or (ii) an approved Submittal for an “or-equal.” Owner may require Contractor to furnish at Contractor’s expense a special performance guarantee or other surety with respect to any substitute.
- D. Engineer will record time required by Engineer and, Engineer’s Consultants, in evaluating substitute proposed or submitted by Contractor pursuant to Paragraphs 6.04A.2 and 6.04B and in making changes in the Contract Documents or in the provisions of any other direct contract with Owner for work on the Project occasioned thereby. Whether or not Engineer approves a substitute item so proposed or submitted by Contractor, Contractor shall reimburse Owner for the charges of, Engineer, and Engineer’s Consultants for evaluating each such proposed substitute.

6.05 **CONCERNING SUBCONTRACTORS, SUPPLIERS, AND OTHERS:**

- A. Contractor shall not employ any Subcontractor, Supplier, or other person or organization (including those acceptable to Owner and Engineer as indicated in Paragraph 6.05B), whether initially or as a substitute, against whom Owner or Engineer may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other person or organization to furnish or perform any of the Work against whom Contractor has reasonable objection.
- B. If the Contract Documents require the identity of certain Subcontractors, Suppliers, or other persons or organizations (including those who are to furnish the principal items of Equipment and Materials) to be submitted to Owner within the required time after Bid opening prior to the Effective Date of the Agreement for acceptance by Owner and Engineer and if Contractor has submitted a list thereof, Owner’s or

SECTION 00700 – GENERAL CONDITIONS (continued)

Engineer's acceptance (either in writing or by failing to make written objection thereto) of any such Subcontractor, Supplier, or other person or organization so identified may be revoked on the basis of reasonable objection after due investigation, in which case Contractor shall submit an acceptable substitute, the Contract Price will be increased by the difference in the cost occasioned by such substitution, and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by Owner or Engineer of any such Subcontractor, Supplier, or other person or organization shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

- C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with Contractor just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents shall create any contractual relationship between Owner, or Engineer and any such Subcontractor, Supplier, or other person or organization, nor shall it create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other person or organization except as may otherwise be required by Laws and Regulations.
- D. All Work performed for Contractor by a Subcontractor will be pursuant to an appropriate agreement between Contractor and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer and contains waiver provisions as required by Paragraph 5.02F. Contractor shall pay each Subcontractor a just share of any insurance moneys received by Contractor on account of losses under policies issued pursuant to Paragraph 5.02D.

6.06 **PATENT FEES AND ROYALTIES:**

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of Owner or Engineer its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
- B. Contractor shall indemnify and hold harmless Owner and Engineer and anyone directly or indirectly employed by either of them from and against all claims, damages, losses, and expenses (including attorneys' fees and court and arbitration costs) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents, and shall defend all such claims in connection with any alleged infringement of such rights.

SECTION 00700 – GENERAL CONDITIONS (continued)

6.07 **PERMITS:**

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work, which are applicable at the time of opening of Bids. Fees for permits issued by the City will be waived and the Permits issued by the City necessary for the work are required. Contractor shall pay all charges of utility owners for connections to the Work, and Owner shall pay all charges of such utility owners for capital costs related thereto such as plant investment fees.

6.08 **LAWS AND REGULATIONS:**

- A. Contractor shall give all notices and comply with all Laws and Regulations applicable to furnishing and performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor observes that the Specifications or Drawings are at variance with any Laws or Regulations, Contractor shall give Engineer prompt written notice thereof, and any necessary changes will be authorized by one of the methods indicated in Paragraph 3.02. If Contractor performs any Work knowing or having reason to know that it is contrary to such Laws or Regulations, and without such notice to Engineer, Contractor shall bear all costs arising therefrom; however, it shall not be Contractor's primary responsibility to make certain that the Specifications and Drawings are in accordance with such Laws and Regulations.

6.09 **TAXES:**

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid or withheld by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

6.10 **USE OF PREMISES:**

- A. Contractor shall confine construction equipment, the storage of Equipment and Materials, and the operations of workers to the Project Site and land and areas identified in and permitted by the Contract Documents and other land and areas permitted by Laws and Regulations, rights-of-way, permits, and easements, and shall not unreasonably encumber the premises with construction equipment or other equipment and materials. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work. Should any claim be made against Owner or Engineer by any such owner or occupant because of the performance of the Work, Contractor shall promptly attempt to settle with such other party by agreement or otherwise resolve the claim by arbitration or at Law. Contractor shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold Owner and Engineer harmless from and against all claims, damages, losses, and expenses (including, but not limited to, fees of engineers, architects, attorneys and other professionals, and court and arbitration costs) arising directly, indirectly or

SECTION 00700 – GENERAL CONDITIONS (continued)

consequentially out of any action, legal or equitable, brought by any such other party against Owner or Engineer to the extent based on a claim arising out of Contractor's performance of the Work.

- B. During the progress of the Work, Contractor shall keep the premises free from accumulations of waste materials, rubbish, and other debris resulting from the Work. At the completion of the Work, Contractor shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials, and shall leave the Site clean and ready for occupancy by Owner. Contractor shall restore to original condition all property not designated for alteration by the Contract Documents.
- C. Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.11 **RECORD DOCUMENTS:**

- A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, Work Change Directives, Field Test Records, Field Orders, and written interpretations and clarifications (issued pursuant to Paragraph 9.04) in good order and annotated to show all changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Submittals shall be available to Engineer for reference. Upon completion of the Work, these record documents and Submittals shall be delivered to Engineer for Owner.
- B. Receipt and acceptance of record documents will be a prerequisite for final payment on the Contract.

6.12 **SAFETY AND PROTECTION:**

- A. Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. All employees on the Work and other persons and organizations who may be affected thereby;
 - 2. All the Work and Materials and Equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. Other property at the Site or adjacent thereto, including trees shrubs, lawns, walks, pavements, roadways, structures, utilities and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury or loss to any property referred to in Paragraph 6.12A.2 or 6.12A.3 caused, directly or indirectly, in whole or in part, by

SECTION 00700 – GENERAL CONDITIONS (continued)

Contractor, any Subcontractor, Supplier, or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor). Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.09A that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

- C. Contractor shall designate a responsible representative at the Site whose duty shall be the prevention of accidents. This person shall be Contractor's superintendent unless otherwise designated in writing by Contractor to Owner and Engineer.

6.13 **EMERGENCIES:**

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor, without special instruction or authorization from Engineer or Owner, is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If Engineer determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order will be issued to document the consequences of the changes or variations.

6.14 **SUBMITTALS:**

- A. After checking and verifying all field measurements and after complying with applicable procedures specified in the General Requirements, Contractor shall submit to Engineer for review and acceptance by Engineer, in accordance with the accepted schedule of submissions, copies of Submittals which will bear the required information that Contractor has satisfied Contractor's responsibilities under the Contract Documents with respect to the review of the submission. All submissions will be identified as Engineer may require. The data shown on Submittals will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to enable Engineer to review the information as required.
- B. Before submission of each Submittal, Contractor shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar data with respect thereto and reviewed or coordinated each Submittal with other Submittals and with the requirements of the Work and the Contract Documents.
- C. At the time of each submission, Contractor shall give Engineer specific written notice of each variation that the Submittal may have from the requirements of the Contract Documents, and in addition, shall cause a specific notation to be made on each Submittal submitted to Engineer for review and approval of each such variation.

SECTION 00700 – GENERAL CONDITIONS (continued)

- D. Engineer will review Submittals with reasonable promptness, but Engineer's review and acceptance will be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents and shall not extend to means, methods, techniques, sequences, or procedures of construction (except where a specific means, method, technique, sequence, or procedure of construction is indicated in or required by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions. Contractor shall make corrections required by Engineer, and shall return the required number of corrected copies of Submittals and resubmit as required for review and acceptance. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous Submittals.
- E. Engineer's review and acceptance of Submittals shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents. Contractor shall in writing call Engineer's attention to each and every variation at the time of submission. Engineer will show approval of each such variation by a specific written notation thereof incorporated in or accompanying the Submittal. Acceptance by Engineer shall not relieve Contractor from responsibility for errors or omissions in the Submittals.
- F. Where a Submittal is required by the Specifications, any related Work performed prior to Engineer's review and acceptance of the pertinent submission will be the sole expense and responsibility of Contractor.

6.15 **CONTINUING THE WORK:**

- A. Contractor shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with Engineer or Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.03 or as Contractor and Owner may otherwise agree in writing.

6.16 **INDEMNIFICATION:**

- A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner, Engineer, Engineer's Consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them from and against all claims, damages, losses and expenses, direct, indirect, or consequential (including but not limited to fees and charges of engineers, architects, attorneys and other professionals, and court and arbitration costs) arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss, or expense:
 - 1. Is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom, and
 - 2. Is caused in whole or in part by any negligent act or omission of Contractor, any Subcontractor, any person, or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is imposed by Laws and Regulations regardless of the negligence of any such party.

SECTION 00700 – GENERAL CONDITIONS (continued)

- B. In any and all claims against Owner or Engineer or any of their consultants, agents, or employees by any employee of Contractor, any Subcontractor, any person, or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.16A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor or other person or organization under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts.
- C. The obligations of Contractor under Paragraph 6.16A shall not extend to the liability of Engineer, Engineer's Consultants, agents, or employees arising out of:
 - 1. The preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs, or specifications.
 - 2. The giving of or the failure to give communications by Engineer, their agents, or employees provided such giving or failure to give is the primary cause of injury or damage.
- D. If necessary for enforcement of any indemnification and hold harmless requirement herein, or if applicable law requires the Contractor to obtain specified limits of insurance to insure any indemnity obligation; then Contractor shall obtain such applicable coverage with minimum limits not less than any specified in Paragraph 5.02B herein, the cost to be recovered and included in the Contract Price, and any indemnity attributable to the negligence of any indemnified party shall be limited to such insurance.

ARTICLE 7 - OTHER WORK

7.01 RELATED WORK AT SITE:

- A. Owner may perform other work related to the Project at the Site by Owner's own forces, have other work performed by utility owners, or let other direct contracts therefor which shall contain General Conditions similar to these. If the fact that such other work is to be performed was not noted in the Contract Documents, written notice thereof will be given to Contractor prior to starting any such other work; and, if Contractor believes that such performance will involve additional expense to Contractor or requires additional time and the parties are unable to agree as to the extent thereof, Contractor may make a claim therefor as provided in Articles 11 and 12.
- B. Contractor shall afford each utility owner and other contractor who is a party to such a direct contract (or Owner, if Owner is performing the additional work with Owner's employees) proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work, and shall properly connect and coordinate the Work with theirs; Contractor shall do all cutting, fitting, and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of Engineer and the others whose work will be affected.

SECTION 00700 – GENERAL CONDITIONS (continued)

- C. If any part of Contractor's Work depends for proper execution or results upon the work of any such other contractor or utility owner or Owner, Contractor shall inspect and promptly report to Engineer in writing any delays, defects, or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. Contractor's failure so to report will constitute an acceptance of the other work as fit and proper for integration with Contractor's Work except for latent or nonapparent defects and deficiencies in the other work.

7.02 **COORDINATION:**

- A. If Owner contracts with others for the performance of other work on the Project at the Site, the person or organization who will have authority and responsibility for coordination of the activities among the various prime contractors will be identified in the General Requirements, and the specific matters to be covered by such authority and responsibility will be itemized, and the extent of such authority and responsibilities will be provided.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 **COMMUNICATIONS:**

- A. Owner shall issue all communications to Contractor through Engineer.

8.02 **CHANGE OF ENGINEER :**

- A. In case of termination of the employment of Engineer, Owner shall appoint, subject to the requirements of Section 00001 CERTIFICATIONS and Arkansas State Law an engineer against whom Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former Engineer. Any dispute in connection with such appointment shall be addressed as discussed in Article 16.

8.03 **REQUIRED DATA:**

- A. Owner shall furnish the data required of Owner under the Contract Documents promptly and shall make payments to Contractor promptly after they are due as provided in Paragraphs 14.04A and 14.09A.

8.04 **LANDS AND EASEMENTS:**

- A. Owner's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.04.

8.05 **INSURANCE:**

- A. Owner's responsibilities in respect of purchasing and maintaining insurance are set forth in Paragraph 5.02.

8.06 **CHANGE ORDERS:**

- A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.01.

SECTION 00700 – GENERAL CONDITIONS (continued)

8.07 **INSPECTIONS AND TESTS:**

- A. Owner's responsibility in respect of certain inspections, tests and approvals is set forth in Paragraph 13.03B.

8.08 **STOPPING THE WORK:**

- A. In connection with Owner's right to stop Work or suspend Work, see Paragraphs 13.06 and 15.02. Paragraph 15.02A deals with Owner's right to terminate services of Contractor under certain circumstances.

8.09 **LIMITATIONS ON OWNER'S RESPONSIBILITIES:**

- A. Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

9.01 **OWNER'S REPRESENTATIVE:**

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract Documents and shall not be extended without written consent of Owner and Engineer.
- B. Owner and Contractor are reminded of the requirements of Arkansas State Law **§22-9-101**. Observation by registered professionals required.

9.02 **VISITS TO SITE:**

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous on-Site inspections to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform to the Contract Documents. On the basis of such visits and on-Site observations as an experienced and qualified design professional, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defects and deficiencies in the Work.

9.03 **PROJECT REPRESENTATION:**

- A. Engineer may furnish Resident Project Representative and assistants to assist Owner and Engineer in observing the performance of the Work.
 - 1. Communications pertaining to Submittals, written interpretations, and Change Orders shall be directed to Engineer at his home office.
 - 2. Communications pertaining to day-to-day operations at the Site shall be directed to Resident Project Representative.

SECTION 00700 – GENERAL CONDITIONS (continued)

3. Resident Project Representative and his assistants will conduct observations of the Work in progress to assist Engineer in determining that the Work is proceeding in accordance with the Contract Documents.
4. Resident Project Representative will not have authority to permit any deviation from the Contract Documents, except with concurrence of Owner and Engineer.

9.04 **CLARIFICATIONS AND INTERPRETATIONS:**

- A. Engineer will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of drawings or otherwise) as Engineer may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If Contractor believes that a written clarification or interpretation justifies an increase in the Contract Price or an extension of the Contract Times and the parties are unable to agree to the amount or extent thereof, Contractor may make a claim therefor as provided in Article 11 or Article 12.

9.05 **AUTHORIZED VARIATIONS IN WORK:**

- A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are consistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner, and also on Contractor who shall perform the Work involved promptly.

9.06 **REJECTING DEFECTIVE WORK:**

- A. Engineer will have authority to disapprove or reject Work which Engineer believes to be defective, and will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.05B, whether or not the Work is fabricated, installed, or completed.
- B. Resident Project Representative will have authority, subject to final decision of Engineer, to disapprove or reject any defective workmanship, Equipment, or Material.

9.07 **SUBMITTALS, CHANGE ORDERS, AND PAYMENTS:**

- A. In connection with Engineer's responsibility for Submittals, see Paragraph 6.14.
- B. In connection with Engineer's responsibilities as to Change Orders, see Articles 10, 11, and 12.
- C. In connection with Engineer's responsibilities in respect of Applications for Payment, see Article 14.

9.08 **DETERMINATIONS FOR UNIT PRICES:**

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon to the Owner. Engineer will provide approval by recommendation of an Application for Payment to the Owner or return Application to Engineer for further review.

SECTION 00700 – GENERAL CONDITIONS (continued)

- B. Engineer's written decisions thereon will be final and binding upon Owner and Contractor, unless, within ten days after the date of any such decision, either Owner or Contractor delivers to the other party to the Agreement and to Engineer written notice of intention to appeal such a decision.

9.09 **DECISIONS ON DISPUTES:**

- A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes, and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the Work and claims under Articles 11 and 12 in respect of changes in the Contract Price or Contract Times will be referred initially to Engineer in writing with a request for a formal decision in accordance with this Paragraph, which Engineer will render in writing within a reasonable time. Written notice of each such claim, dispute, and other matter will be delivered by the claimant to Engineer and the other party to the Agreement promptly (but in no event later than 30 days) after the occurrence of the event giving rise thereto, and written supporting data shall be delivered to Engineer and the other party within 60 days after such occurrence unless Engineer allows an additional period of time to ascertain more accurate data in support of the claim. Owner may request written review by Engineer of claims, disputes, and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents.
- B. When functioning as interpreter and judge under Paragraphs 9.08 and 9.09A, Engineer will not show partiality to Owner or Contractor and Engineer will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by Engineer with respect to any such claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in Paragraph 14.11) will be a condition precedent to any exercise by Owner or Contractor of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such claim, dispute, or other matter.

9.10 **LIMITATIONS ON ENGINEER'S RESPONSIBILITIES:**

- A. Neither Engineer's authority to act under this Article 9 or elsewhere in the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of Engineer to Contractor, any Subcontractor, any Supplier, or any other person or organization performing any of the Work, or to any surety for any of them.
- B. Whenever in the Contract Documents the terms "as directed", "as required", "as allowed", "as approved", or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper", or "satisfactory" or adjectives of like effect or import are used to describe a requirement, direction, review, or judgment of Engineer as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to Engineer any duty or authority to supervise or direct the furnishing or performance of the Work or any

SECTION 00700 – GENERAL CONDITIONS (continued)

duty or authority to undertake responsibility contrary to the provisions of Paragraphs 9.10C or 9.10D.

- C. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform or furnish the Work in accordance with the Contract Documents.
- D. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the Work.
- E. The presence or absence of Engineer, or any of their representatives will not act to relieve Contractor of any responsibility or of any guarantee of his performance. Neither will observation by Engineer, or any of their representatives in any way be understood to relieve Contractor of any responsibility for proper supervision of the Work at all times.
- F. Review by Engineer of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.08A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.
- G. The limitations upon authority and responsibility set forth in this Paragraph 9.10 shall also apply to Engineer's Consultants, Resident Project Representative, and assistants.

ARTICLE 10 - CHANGES IN THE WORK

10.01 GENERAL:

- A. Without invalidating the Agreement and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work; these will be authorized by a Written Amendment, a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which shall be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).
 - 1. There shall be no changes without prior written approval of the Engineer of Record and/or the City's designated Professional Engineer.
- B. If Owner and Contractor are unable to agree as to the extent, if any, of an increase or decrease in the Contract Price or an extension or a shortening of the Contract Times that should be allowed as a result of a Work Change Directive, a claim may be made therefore as provided in Article 11 or 12.
- C. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any Work performed that is not required by the Contract Documents as amended, modified, and supplemented as provided in Paragraphs 3.02A and 3.02C, except in the case of an emergency as provided in

SECTION 00700 – GENERAL CONDITIONS (continued)

Paragraph 6.13 and except in the case of uncovering Work as provided in Paragraph 13.05B.

- D. Owner and Contractor shall execute appropriate Change Orders (or Written Amendments) covering:
1. Changes in the Work which are ordered by Owner pursuant to Paragraph 10.01A, are required because of acceptance of defective Work under Paragraph 13.09 or correcting defective Work under Paragraph 13.10, or are agreed to by the parties;
 2. Changes in the Contract Price or Contract Times which are agreed to by the parties; and
 3. Changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 9.09A, provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the progress schedule as provided in Paragraph 6.15.
- E. If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times) is required by the provisions of any Bond to be given to a surety, the giving of any such notice will be Contractor's responsibility, and the amount of each applicable Bond will be adjusted accordingly.

ARTICLE 11 - CHANGE OF CONTRACT PRICE

11.01 GENERAL:

- A. The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to Contractor for performing the Work. All duties, responsibilities, and obligations assigned to or undertaken by Contractor shall be at his expense without change in the Contract Price.
- B. The Contract Price may only be changed by a Change Order or a Written Amendment. Any claim for an increase or decrease in the Contract Price shall be based on written notice delivered by the party making the claim to the other party and to Engineer promptly (but in no event later than 30 days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within 60 days after such occurrence (unless Engineer allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by claimant's written statement that the amount claimed covers all known amounts (direct, indirect, and consequential) to which the claimant is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Price shall be determined by Engineer in accordance with Paragraph 9.09A if Owner and Contractor cannot otherwise agree on the amount involved. No claim for an adjustment in the Contract Price will be valid if not submitted in accordance with this Paragraph 11.01B.

SECTION 00700 – GENERAL CONDITIONS (continued)

- C. The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:
1. Where the Work involved is covered by Unit Prices contained in the Contract Documents, by application of Unit Prices to the quantities of the items involved (subject to the provisions of Paragraphs 11.05A through 11.05C, inclusive).
 2. By mutual acceptance of a lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.03A.2.a).
 3. On the basis of the Cost of the Work (determined as provided in Paragraphs 11.02A and 11.02B) plus a Contractor's Fee for overhead and profit (determined as provided in Paragraphs 11.03A and 11.03B).

11.02 COST OF THE WORK:

- A. The term Cost of the Work means the sum of all costs necessarily incurred and paid by Contractor in the proper performance of the Work. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in Paragraph 11.02B.
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' or workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation, and holiday pay applicable thereto. Such employees shall include Superintendents and foremen at the Site. The expenses of performing Work after regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.
 2. Cost of all Equipment and Materials furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
 3. Payments made by Contractor to the Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from Subcontractors acceptable to Contractor and shall deliver such bids to Owner who will then determine, with the advice of Engineer, which bids will be accepted. If a subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work Plus a Fee, the Subcontractor's Cost of the Work shall be determined in the same manner as Contractor's Cost of the Work. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.

SECTION 00700 – GENERAL CONDITIONS (continued)

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Costs, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, installation, dismantling, and removal thereof - all in accordance with terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. Sales, consumer, use, or similar taxes related to the Work, and for which Contractor is liable, imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages not compensated by insurance or otherwise, to the Work or otherwise sustained by Contractor in connection with the performance and furnishing of the Work provided they have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable; shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the cost of the Work for the purpose of determining Contractor's fee. If, however, any such loss or damage requires reconstruction and Contractor is placed in charge thereof, Contractor shall be paid for services a fee proportionate to that stated in Paragraph 11.03A.2.
 - g. The cost of utilities, fuel, and sanitary facilities at the Site.
 - h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, expressage, and similar petty cash items in connection with the Work.
 - i. Cost of premiums for additional Bonds and insurance required because of changes in the Work and premiums for property insurance coverage within the limits of the deductible amounts established by Owner in accordance with Paragraph 5.02D.4.

SECTION 00700 – GENERAL CONDITIONS (continued)

- B. The term Cost of the Work shall not include any of the following:
1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor whether at the Site or in Contractor's principal or a branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.02A.1 or specifically covered by Paragraph 11.02A.4, all of which are to be considered administrative costs covered by the Contractor's fee.
 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work, and charges against Contractor for delinquent payments.
 4. Cost of premiums for all Bonds and for all insurance whether or not Contractor is required by the Contract Documents to purchase and maintain the same (except for the cost of premiums covered by subparagraph 11.02A.5.i above).
 5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 6. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 11.02A.

11.03 **CONTRACTOR'S FEE:**

- A. The Contractor's Fee allowed to Contractor for overhead and profit shall be determined as follows:
1. A mutually acceptable fixed fee; or if none can be agreed upon,
 2. A fee based on the following percentages of the various portions of the Cost of the Work:
 - a. For costs incurred under Paragraphs 11.02A.1 and 11.02A.2, the Contractor's Fee shall be 10%(negotiable with Owner);
 - b. For costs incurred under Paragraph 11.02A.3, the Contractor's Fee shall be 5%; and if a subcontract is on the basis of Cost of the Work Plus a Fee, the maximum allowable to Contractor on account of overhead and profit of all Subcontractors shall be 10%(negotiable with Owner);
 - c. Where one or more tiers of subcontracts are on the basis of the Cost of the Work Plus a Fee and no fixed fee is agreed upon, the intent of Paragraphs 11.03A and 11.02A.1 through A.3 is that the Subcontractor who actually performs or furnishes the Work, at whatever tier, will be paid a fee of ten percent (10%) of the costs incurred by such Subcontractor under Paragraphs 11.02A.1 and 11.02A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent (5%) of the amount paid to the next lower tier Subcontractor.

SECTION 00700 – GENERAL CONDITIONS (continued)

- d. No fee shall be payable on the basis of costs itemized under Paragraph 11.02A.4, 11.02A.5 and 11.02B;
- e. The amount of credit to be allowed by Contractor to Owner for any such change which results in a net decrease in cost will be the amount of the actual net decrease plus a deduction in Contractor's Fee by an amount equal to 10% of the net decrease; and
- f. When both additions and credits are involved in any one change, the adjustment in Contractor's Fee shall be computed on the basis of the net change in accordance with Paragraphs 11.03A.2.a through 11.03A.2.d, inclusive.

- B. Whenever the cost of any Work is to be determined pursuant to Paragraph 11.02A or 11.02B, Contractor will submit in form acceptable to Engineer an itemized cost breakdown together with supporting data.

11.04 CASH ALLOWANCES:

- A. Not applicable.

11.05 UNIT PRICE WORK:

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the established Unit Prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer in accordance with Paragraph 9.08.
- B. Each Unit Price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- C. Where the quantity of any item of Unit Price Work performed by Contractor exceeds the estimated quantity of such item indicated in the Agreement by twenty-five percent or more and there is no corresponding adjustment with respect to any other item of Work and if Contractor believes that Contractor has incurred additional expense as a result thereof, Contractor may make a claim for an increase in the Contract Price in accordance with Article 11 if the parties are unable to agree as to the amount of any such increase.

11.06 RIGHT OF AUDIT:

- A. Owner shall have the right to inspect and audit all of Contractor's books, records, correspondence, instructions, drawings, receipts, payment records, vouchers, and memoranda relating to the Work, and Contractor shall preserve all such records and supporting documentation for a period of three years after date of Final Payment. Contractor hereby grants to Owner the authority to enter Contractor's premises for the purpose of inspection of such records and supporting documentation or, at Contractor's option, Contractor may make such records and supporting documentation available to Owner at a location satisfactory to Owner.

SECTION 00700 – GENERAL CONDITIONS (continued)

- B. All of the records and supporting documentation shall be open to inspection and subject to audit and reproduction by Owner or its authorized representative for any and all purposes, including but not limited to (i) compliance with the Contract Documents; (ii) proper pricing of Change Orders; and (iii) claims submitted by or against Contractor or any Subcontractor or Supplier in connection with any performance under the Contract Documents.

ARTICLE 12 - CHANGE OF CONTRACT TIMES

12.01 GENERAL:

- A. The Contract Times may only be changed by a Change Order or a Written Amendment. Contractor, in undertaking to complete the Work within the Contract Times, shall take into consideration and make allowances for all of the ordinary delays and hindrances incident to such Work, whether growing out of delays in securing equipment or materials or workmen or otherwise.
- B. Adjustments to the Contract Times will be made for delays in completion of the Work from causes beyond Contractor's control, including the following:
1. Federal embargoes, priority orders, or other restrictions imposed by the United States Government.
 2. Unusual delay in fabrication or shipment of Equipment or Materials required in the Work, whether ordered by Contractor or furnished by Owner or others under separate contract.
 3. Strikes and other labor disputes.
 4. Delays caused by court proceedings.
 5. Change Orders.
 6. Neglect, delay, or default of any other contractor employed by Owner.
 7. Unusual construction delays resulting from weather conditions abnormal to the geographical area and to the season of the year such as above normal continuous days of precipitation, above normal amount of precipitation within a 24 hour period, or above normal days of extreme cold or hot temperature conditions affecting installation / application due to manufacturers or specifications limitations. These conditions will not be cause for extensions of time if abnormal weather conditions do not affect the stage of construction. All claims for extension of time due to abnormal weather conditions must be substantiated with evidence from a weather bureau or other authoritative source. Weather conditions normal to the geographical area and to the season of the year shall be taken into consideration in the Bid. Normal conditions shall be defined as the average number of days, amounts, or both over a 5-year period averaged per season.
 8. Conflicts, errors or discrepancies in the Contract Documents reported to Engineer as provided in these General Conditions.
 9. Any failure or delay by Contractor in supplying equipment, materials, work, or services that are Year 2000 compliant or failure or delay by Contractor's Subcontractors or Suppliers in providing equipment, materials, work, or services as a result of Subcontractors' or Suppliers' lack of Year 2000 compliance in their own operations, systems, or processes used to provide or deliver equipment, material, work, or services shall not be considered to be caused by events beyond Contractor's control. Such Year 2000 compliance

SECTION 00700 – GENERAL CONDITIONS (continued)

problems shall not constitute a basis for delay in completion of the Work, adjustment to the Contract Times, or an excuse for Contract nonperformance.

- C. Owner shall award extensions of the Contract Times on account of such causes of delay, provided that adequate evidence is presented to enable Engineer to determine with exactness the extent and duration of delay for each item involved.
- D. No extension to the Contract Times will be granted for delays involving only portions of the Work, or which do not directly affect the time required for completion of the entire Work.
- E. Any claim for an extension to the Contract Times shall be delivered in writing to Owner and Engineer within ten days of the occurrence of the event giving rise to the claim. All claims for adjustment to the Contract Times will be determined by Engineer if Owner and Contractor cannot otherwise agree. Any change to the Contract Times resulting from any such claim will be incorporated in a Change Order or a Written Amendment.
- F. All time limits stated in the Contract Documents are of the essence of the Agreement. The provisions of this Article 12 shall not exclude recovery for damages (including but not limited to fees and charges of engineers, architects, attorneys and other professionals, and court and arbitration costs) for delay by either party.

ARTICLE 13 - WARRANTY AND GUARANTEE; TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

13.01 WARRANTY AND GUARANTEE:

- A. Contractor warrants and guarantees to Owner and Engineer that all Work will be in accordance with the Contract Documents and will not be defective. Prompt notice of all defects shall be given to Contractor. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in this Article 13.
- B. No provision in the Contract Documents nor any specified guarantee time limit shall be held to limit Contractor's liability for defects to less than the legal limit of liability in accordance with the Law.
- C. All Equipment and Materials furnished by Contractor for the Work shall carry a written guarantee from the manufacturer or Supplier of such items when called for in the Specifications. Written guarantees shall be submitted to Engineer with other Submittals. Engineer will transmit such guarantees to Owner for review.

13.02 ACCESS TO THE WORK:

- A. Engineer and Engineer's representatives, other representatives of Owner, testing agencies, and governmental agencies with jurisdictional interests will have access to the Work at reasonable times for their observation, inspecting, and testing. Contractor shall provide proper and safe conditions for such access.

13.03 TESTS AND INSPECTIONS:

- A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel.

SECTION 00700 – GENERAL CONDITIONS (continued)

- B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
1. for inspections, tests, or approvals covered by Paragraphs 13.03C and 13.03D below;
 2. that costs incurred in connections with tests or inspections conducted pursuant to Paragraph 13.05B shall be paid as provided in said Paragraph 13.05B; and
 3. as otherwise specifically provided in the Contract Documents.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) to specifically be inspected, tested, or approved, Contractor shall assume full responsibility therefor, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection, testing, or approval.
- D. Contractor shall also be responsible for and shall pay all costs in connection with any inspection or testing required in connection with Owner's or Engineer's acceptance of a Supplier of Materials or Equipment proposed to be incorporated in the Work, or of Materials or Equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.
- E. All inspections, tests, or approvals other than those required by Laws or Regulations of any public body having jurisdiction shall be performed by organizations acceptable to Owner and Contractor (or by Engineer if so specified).
- F. If any Work (including the work of others) that is to be inspected, tested, or approved is covered without written concurrence of Engineer, it must, if requested by Engineer, be uncovered for observation. Such uncovering shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.
- G. Neither observations by Engineer nor inspections, tests, or approvals by others shall relieve Contractor from Contractor's obligations to perform the Work in accordance with the Contract Documents.

13.04 **DEFECTIVE WORK:**

- A. The term "defective" is used in these documents to describe Work that is unsatisfactory, faulty, not in conformance with the requirements of the Contract Documents, or not meeting the requirements of any inspection, test, approval, or acceptance required by Law or the Contract Documents.
- B. Any defective Work may be disapproved or rejected by Engineer at any time before final acceptance even though it may have been overlooked and included in a previous Application for Payment.
- C. Prompt notice will be given by Engineer to Contractor of defects as they become evident.

13.05 **UNCOVERING WORK:**

- A. If any Work is covered contrary to the written request of Engineer, it shall, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.

SECTION 00700 – GENERAL CONDITIONS (continued)

- B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment. If it is found that such Work is defective, Contractor shall bear all direct, indirect, and consequential costs of such uncovering, exposure, observation, inspection, and testing and of satisfactory reconstruction, (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals); and Owner shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, may make a claim therefor as provided in Article 11. If, however, such Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, and reconstruction; and, if the parties are unable to agree as to the amount or extent thereof, Contractor may make a claim therefor as provided in Articles 11 and 12.

13.06 **OWNER MAY STOP THE WORK:**

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor or any other party.

13.07 **CORRECTION OR REMOVAL OF DEFECTIVE WORK:**

- A. If required by Engineer, Contractor shall promptly, as directed, either correct all defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by Engineer, remove it from the Site and replace it with nondefective Work. Contractor shall bear all direct, indirect, and consequential costs of such correction or removal (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals) made necessary thereby.

13.08 **TWO-YEAR WARRANTY AND CORRECTION PERIOD:**

- A. Before final acceptance of the project, the contractor shall provide a maintenance bond in accordance with section 158.03 of the City of Fayetteville Unified Development Code. The bond shall be in the amount of 25% of the total contract price for a period of two years from the date of Substantial Completion. If within two years after the Date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions, either correct such defective Work, or, if it has been rejected by Owner, remove it from the Site and replace it with nondefective Work. If Contractor does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or the

SECTION 00700 – GENERAL CONDITIONS (continued)

rejected Work removed and replaced, and all direct, indirect, and consequential costs of such removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals) will be paid by Contractor. In special circumstances where a particular item of Equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by Written Amendment.

13.09 ACCEPTANCE OF DEFECTIVE WORK:

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner and, prior to Engineer's recommendation of final payment, also Engineer prefers to accept it, Owner may do so. Contractor shall bear all direct, indirect, and consequential costs attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness and to include but not be limited to fees and charges of engineers, architects, attorneys, and other professionals). If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, Owner may make a claim therefor as provided in Article 11. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

13.10 OWNER MAY CORRECT DEFECTIVE WORK:

- A. If Contractor fails within a reasonable time after written notice of Engineer to proceed to correct and to correct defective Work or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.07, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days' written notice to Contractor, correct and remedy any such deficiency. In exercising the rights and remedies under this Paragraph, Owner shall proceed expeditiously.
- B. To the extent necessary to complete corrective and remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work, and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment, and machinery at the Site and incorporate in the Work all Equipment and Materials stored at the Site or for which Owner has paid Contractor but which are stored elsewhere.
- C. Contractor shall allow Owner, Owner's representatives, agents, and employees such access to the Site as may be necessary to enable Owner to exercise the rights and remedies under this Paragraph.
- D. All direct, indirect, and consequential costs of Owner in exercising such rights and remedies will be charged against Contractor in an amount approved as to reasonableness by Engineer, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, Owner may make a claim therefor as

SECTION 00700 – GENERAL CONDITIONS (continued)

provided in Article 11. Such direct, indirect, and consequential costs will include but not be limited to fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs, and all costs of repair and replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

- E. Contractor shall not be allowed an extension of the Contract Times because of any delay in performance of the Work attributable to the exercise by Owner of Owner's rights and remedies hereunder.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 SCHEDULE OF VALUES:

- A. The schedule of values established will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 APPLICATION FOR PROGRESS PAYMENT:

- A. Not later than the 15th day of each month, or on the next business day thereafter, (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
- B. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
- C. If payment is requested on the basis of Equipment and Materials not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the Equipment and Materials free and clear of all liens, charges, security interests, and encumbrances (which are hereinafter in these General Conditions referred to as "Liens") and evidence that the Equipment and Materials are covered by appropriate property insurance and other arrangements to protect Owner's interest therein, all of which will be satisfactory to Owner.
- D. The amount of retainage with respect to progress payments will be as stipulated in Paragraph 14.04G.

14.03 CONTRACTOR'S WARRANTY OF TITLE:

- A. Contractor warrants and guarantees that title to all Work, Materials, and Equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

14.04 REVIEW OF APPLICATION FOR PROGRESS PAYMENT:

- A. Engineer will, within seven days after receipt of each Application For Payment, either indicate in writing a recommendation of payment and present the Application

SECTION 00700 – GENERAL CONDITIONS (continued)

to Owner (subject to the provisions of the last sentence of Paragraph 14.04D), or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application. After the required internal reviews and processing by the Owner, the Owner will diligently proceed to make payment to the Contractor, in accordance with the approved payment request, within 30 days. All efforts will be made to make payments within the 30 day period, but the Owner cannot guarantee the 30 days maximum time.

- B. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's on-Site observations of the Work in progress as experienced and qualified design professionals and on Engineer's review of the Application for Payment and the accompanying data and schedules that the Work has progressed to the point indicated; that, to the best of Engineer's knowledge, information, and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under Paragraph 9.08, and to any other qualifications stated in the recommendation); and that Contractor is entitled to payment of the amount recommended. However, by recommending any such payment, Engineer will not thereby be deemed to have represented that exhaustive or continuous on-Site inspections have been made to check the quality or the quantity of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents, or that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or Owner to withhold payment to Contractor.
- C. Engineer's recommendation of final payment will constitute an additional representation by Engineer to Owner that the conditions precedent to Contractor's being entitled to final payment as set forth in Paragraph 14.09 have been fulfilled.
- D. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make such representations to Owner. Engineer may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:
1. The Work is defective, or completed Work has been damaged requiring correction or replacement.
 2. Written claims have been made against Owner or Liens have been filed in connection with the Work.
 3. The Contract Price has been reduced by Written Amendment or Change Order
 4. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.10,
 5. Of Engineer's actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02B.
 6. Of Contractor's unsatisfactory prosecution of the Work in accordance with the Contract Documents.

SECTION 00700 – GENERAL CONDITIONS (continued)

7. Contractor's failure to make payment to Subcontractors, or for labor, Materials, or Equipment, or
 8. Engineer shall not certify payments requesting more than eighty (80) percent of the Contract amount until such time as all operation, maintenance, repair, and replacement manuals, and product data has been furnished by the Contractor to the Owner.
- E. Owner may refuse to make payment of the full amount recommended by Engineer because claims have been made against Owner on account of Contractor's performance of furnishing of the Work, or Liens have been filed in connection with the Work, or there are other items entitling Owner to a set-off against the amount recommended, but Owner must give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action.
- F. When all grounds for withholding payment are removed, payment will be made in the amounts withheld because of them.
- G. Progress payments will be in the amount of 95% of the amount of the Work completed and 100% of Equipment and Materials suitably stored and documented as indicated on the Application for Payment less the sum of all previous payments. The owner may forego withholding retainage of the progress payments if the construction contract is fifty-percent (50%) complete and the contractor has provided the work in a satisfactory manner.

14.05 **SUBSTANTIAL COMPLETION:**

- A. When Contractor considers the entire Work ready for its intended use, Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.
- B. Within a reasonable time thereafter, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving his reasons therefor. If Engineer considers the Work substantially complete, Engineer will prepare and deliver to Owner a tentative certificate of Substantial Completion which will fix the Date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment.
- C. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will within fourteen days after submission of the tentative certificate to Owner notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will within said fourteen days execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to

SECTION 00700 – GENERAL CONDITIONS (continued)

division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, maintenance, heat, utilities, insurance, and warranties.

- E. Unless Owner and Contractor agree otherwise in writing and so inform Engineer prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.
- F. Owner shall have the right to exclude Contractor from the Work after the Date of Substantial Completion, but Owner shall allow Contractor reasonable access to complete or correct items on the tentative list.

14.06 PARTIAL UTILIZATION:

- A. Use by Owner of any finished part of the Work, which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and useable part of the Work that can be used by Owner without significant interference with Contractor's performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following:
 - 1. Owner at any time may request Contractor in writing to permit Owner to use any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If Contractor agrees, Contractor will certify to Owner and Engineer that said part of the Work is substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.05 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 - 2. Owner may at any time request Contractor in writing to permit Owner to take over operation of any such part of the Work although it is not substantially complete. A copy of such request will be sent to Engineer and within a reasonable time thereafter, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion and will prepare a list of the items remaining to be completed or corrected thereon before final payment. If Contractor does not object in writing to Owner and Engineer that such part of the Work is not ready for separate operation by Owner, Engineer will finalize the list of items to be completed or corrected and will deliver such list to Owner and Contractor together with a written recommendation as to the division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, maintenance, utilities, insurance, warranties, and guarantees for that

SECTION 00700 – GENERAL CONDITIONS (continued)

part of the Work, which will become binding upon Owner and Contractor at the time when Owner takes over such operation (unless they shall have otherwise agreed in writing and so informed Engineer). During such operation and prior to Substantial Completion of such part of the Work, Owner shall allow Contractor reasonable access to complete or correct items on said list and to complete other related Work.

3. No occupancy or separate operation of part of the Work will be accomplished prior to compliance with the requirements of Paragraph 5.021 in respect of property insurance.

14.07 **FINAL INSPECTION:**

- A. Upon written notice from Contractor that the Work or an agreed portion thereof is complete, Engineer will make a final inspection with Owner, Engineer, and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to remedy such deficiencies.

14.08 **FINAL APPLICATION FOR PAYMENT:**

- A. After Contractor has completed all such corrections to the satisfaction of Engineer and delivered all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, marked-up record documents, and other documents - all as required by the Contract Documents, and after Engineer has indicated that the Work is acceptable (subject to the provisions of Paragraph 14.11), Contractor may make application for final payment following the procedure for progress payments.
- B. The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents, together with complete and legally effective releases or waivers (satisfactory to Owner) of all Liens arising out of or filed in connection with the Work. In lieu thereof and as approved by Owner, Contractor may furnish receipts or releases in full; an affidavit of Contractor that the releases and receipts include all labor, services, Material, and Equipment for which a Lien could be filed, and that all payrolls, Equipment and Material bills, and other indebtedness connected with the Work for which Owner or Owner's property might in any way be responsible, have been paid or otherwise satisfied; and consent of the surety, if any, to final payment. If any Subcontractor or Supplier fails to furnish a release or receipt in full, Contractor may furnish a Bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

14.09 **FINAL PAYMENT AND ACCEPTANCE:**

- A. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation -- all as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Engineer will, within fourteen days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application to Owner for payment. Thereupon, Engineer will give written notice to Owner and Contractor that the Work is acceptable (subject to the provisions of Paragraph 14.11). Otherwise, Engineer will return the Application to Contractor, indicating in writing the reasons for

SECTION 00700 – GENERAL CONDITIONS (continued)

refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application. Thirty days after presentation to Owner of the Application and accompanying documentation, in appropriate form and substance, and with Engineer's recommendation and notice of acceptability, the amount recommended by Engineer will become due and will be paid by Owner to Contractor.

- B. If, through no fault of Contractor, final completion of the Work is significantly delayed and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment and recommendation of Engineer, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. The written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.
- C. The Final Pay Estimate will include all sums remaining to be paid.

14.10 CONTRACTOR'S CONTINUING OBLIGATION:

- A. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by Engineer, nor the issuance of a certificate of Substantial Completion, nor any payment by Owner to Contractor under the Contract Documents, nor any use or occupancy of the Work or any part thereof by Owner, nor any act of acceptance by Owner nor any failure to do so, nor any review and approval of a Submittal, nor the issuance of a notice of acceptability by Engineer pursuant to Paragraph 14.09, nor any correction of defective Work by Owner will constitute an acceptance of Work not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents (except as provided in Paragraph 14.11).

14.11 WAIVER OF CLAIMS: The making and acceptance of final payment will constitute:

- A. A waiver of all claims by Owner against Contractor, except claims arising from unsettled Liens, from defective work appearing after final inspection pursuant to Paragraph 14.07, or from failure to comply with the Contract Documents or the terms of any special guarantees specified therein; however, it will not constitute a waiver by Owner of any rights in respect of Contractor's continuing obligations under the Contract Documents; and
- B. A waiver of all claims by Contractor against Owner other than those previously made in writing and still unsettled.

14.12 INTEREST: NOT APPLICABLE.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 OWNER MAY SUSPEND WORK:

- A. Owner may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than 90 days by notice in writing to Contractor, and Engineer

SECTION 00700 – GENERAL CONDITIONS (continued)

which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to any suspension if Contractor makes an approved claim therefor as provided in Articles 11 and 12.

15.02 OWNER MAY TERMINATE:

- A. Upon the occurrence of any one or more of the following events:
1. If Contractor commences a voluntary case under any chapter of the Bankruptcy Code (Title 11, United States Code), as now or hereafter in effect, or if Contractor takes any equivalent or similar action by filing a petition or otherwise under any other federal or state Law in effect at such time relating to the bankruptcy or insolvency;
 2. If a petition is filed against Contractor under any chapter of the bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against Contractor under any other federal or state Law in effect at the time relating to bankruptcy or insolvency;
 3. If Contractor makes a general assignment for the benefit of creditors;
 4. If a trustee, receiver, custodian, or agent of Contractor is appointed under applicable Law or under contract, whose appointment or authority to take charge of property of Contractor is for the purpose of enforcing a Lien against such property or for the purpose of general administration of such property for the benefit of Contractor's creditors;
 5. If Contractor admits in writing an inability to pay its debts generally as they become due;
 6. If Contractor persistently fails to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable Equipment or Materials or failure to adhere to the progress schedule established under Paragraph 2.07 as revised from time to time);
 7. If Contractor disregards Laws or Regulations of any public body having jurisdiction;
 8. If Contractor disregards the authority of Engineer; or
 9. If Contractor otherwise violates in any substantial way any provisions of the Contract Documents;
- B. Owner may, after giving Contractor (and the surety, if there be one) ten days' written notice and to the extent permitted by Laws and Regulations, terminate the services of Contractor, exclude Contractor from the Site and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion), incorporate in the Work all Equipment and Materials stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and finish the Work as Owner may deem expedient. In such case, Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct, indirect, and consequential costs of completing the Work (including but not limited to fees and charges of engineers, architects, attorneys and other professionals, and court and

SECTION 00700 – GENERAL CONDITIONS (continued)

arbitration costs), such excess will be paid to Contractor. If such costs exceed such unpaid balance, Contractor shall pay the difference to Owner. Such costs incurred by Owner will be approved as to reasonableness by Engineer and incorporated in a Change Order, but when exercising any rights or remedies under this Paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- C. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due to Contractor by Owner will not release Contractor from liability.
- D. Upon ten days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy, elect to abandon the Work and terminate the Agreement. In such case, Contractor shall be paid for all Work executed and any expense sustained plus reasonable termination expenses, which will include, but not be limited to, direct, indirect, and consequential costs (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals, and court and arbitration costs).

15.03 CONTRACTOR MAY STOP WORK OR TERMINATE:

- A. If, through no act or fault of Contractor, the Work is suspended for a period of more than 90 days by Owner or under an order of court or other public authority, or Engineer fails to act on any Application for Payment within 30 days after it is submitted, or Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon ten days' written notice to Owner and Engineer, terminate the Agreement and recover from Owner payment for all Work executed and any expense sustained plus reasonable termination expenses. In addition and in lieu of terminating the Agreement, if Engineer has failed to act on an Application for Payment or Owner has failed to make any payment as aforesaid, Contractor may upon ten days' written notice to Owner and Engineer stop the Work until payment of all amounts then due. The provisions of this Paragraph shall not relieve Contractor of the obligations under Paragraph 6.15 to carry on the Work in accordance with the progress schedule and without delay during disputes and disagreements with Owner.

ARTICLE 16 - RESOLUTION OF DISPUTES

16.01 RESOLUTION OF CLAIMS AND DISPUTES

- A. Contractor's claims against Owner will be reviewed by Engineer, who shall take one or more of the following actions within ten (10) days after receipt of a claim:
 - 1. Request additional supporting data from the claimant;
 - 2. Submit a schedule to Contractor indicating reasonable time within which Engineer expects to take action;
 - 3. Reject the Claim in whole or in part, stating reasons for rejection;
 - 4. Recommend approval of the claim; or
 - 5. Suggest a compromise.

SECTION 00700 – GENERAL CONDITIONS (continued)

- B. Owner's claims against Contractor will be reviewed by Contractor who shall take one or more of the following actions within ten (10) days after receipt of the Claim:
 - 1. Request additional supporting data from Engineer;
 - 2. Submit a schedule to the Engineer indicating a reasonable time within which Contractor expects to take action;
 - 3. Deny the claim in whole or in part, stating reasons for denial;
 - 4. Recommend approval of the claim; or
 - 5. Suggest a compromise.
- C. If a claim has been resolved, the Owner will prepare or obtain appropriate documentation.
- D. If a claim has been denied or if no action has been taken in the manner provided in Paragraphs 16.01A or 16.01B, then the claimant, within ten (10) days thereafter, may notify the Owner, the other party, and Contractor's surety that Engineer and Contractor have been unable to resolve the claim. In that event, the Owner, pursuant to Paragraph 16.01E shall review the claim and make a decision on the claim.
- E. If a claim is presented to the Owner, then the Owner shall review the claim and make a decision within fourteen (14) days.
- F. Disputes that cannot be settled through negotiation or the procedures in Paragraphs 16.01A through 16.01E above, shall be settled as mutually agreed or in a court of competent jurisdiction within the State of Arkansas.
- G. Arbitration shall not be used in the settlement of disputes.

ARTICLE 17 - MISCELLANEOUS

17.01 GIVING NOTICE:

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 COMPUTATION OF TIME:

- A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the Law of the applicable jurisdiction, such day will be omitted from the computation.
- B. A calendar day of 24 hours measured from midnight to the next midnight shall constitute a day.

17.03 CLAIMS, CUMULATIVE REMEDIES:

- A. Should Owner or Contractor suffer injury or damage to person or property because of any error, omission, or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim will be made in writing to the other party within a reasonable time of the first observance of such injury or damage. The provisions of this Paragraph shall not be construed as a

SECTION 00700 – GENERAL CONDITIONS (continued)

substitute for or a waiver of the provisions of any applicable statute of limitations or repose.

- B. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon Contractor by Paragraphs 6.16A, 13.01, 13.08, 13.10, 14.03, and 15.02A and all of the rights and remedies available to Owner and Engineer thereunder, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents, and the provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply. All representations, warranties, and guarantees made in the Contract Documents will survive final payment and termination or completion of the Agreement.

17.04 **FREEDOM OF INFORMATION ACT:**

- A. City contracts and documents prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor shall do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.) Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

END OF SECTION 00700

SECTION 00700 – GENERAL CONDITIONS (continued)

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SECTION 00800 – SUPPLEMENTAL CONDITONS

GENERAL

1.01 SUMMARY:

- A. This Section summarizes Supplemental Conditions that apply to this Work in addition (supplemental to) to General Conditions, Contract Documents and other Specifications for Fayetteville Transfer Station Improvements – Metal Push Wall and Chute Replacement, Bid 25-31, Construction Rebid.

1.02 ARKANSAS STATE LAW A.C.A. § 22-9-101

- A. Comply with all Federal, State and Local laws and regulations including but not limited to Arkansas Code § 22-9-101 .
1. Title 22 Public Property
Chapter 9 Public Works
Subchapter 1 -- General Provisions
A.C.A. § 22-9-101. Observation by registered professionals required.
Universal Citation: AR Code § 22-9-101 (2016)
- “(a) The state or a township, county, municipality, village, or other political subdivision of the state shall not engage in the capital improvement of public works involving engineering or architecture for which the plans, specifications, and estimates have not been made by and the capital improvement executed under the observation of a professional engineer as defined in § 17-30-101 or architect as defined in § 17-15-102, in their respective areas of expertise.
- (b) Nothing in this section shall be held to apply to any public works wherein the contemplated capital improvement expenditure:
- (1) For an engineering project does not exceed twenty-five thousand dollars (\$25,000); or
- (2) For an architectural project does not exceed one hundred thousand dollars (\$100,000).
- (c) This section shall not apply to any school district, county, municipality, or township project that is planned and executed according to plans and specifications furnished by authorized state agencies.”

1.03 PROPERTY LINES AND MONUMENTS:

- A. The Contractor shall protect all property corner markers, and when any such marker or monuments are in danger of being disturbed, they shall be properly referenced and if disturbed shall be reset at the expense of the Contractor.

1.04 EXPLOSIVES:

- A. Explosives or burning shall not be used.

SECTION 00800 – SUPPLEMENTAL CONDITIONS (continued)

1.05 CLEANUP:

- A. During construction of the work, the Contractor shall at all times, keep the site of the work and adjacent premises as free from material, debris, and rubbish, as is practicable, shall remove same from any portion of the site, if in the opinion of the City of Fayetteville such material debris, or rubbish constitutes a nuisance or is objectionable.
- B. The Contractor shall remove from the site all of his surplus materials and temporary structures when no further need therefore develops.

1.06 PROJECT MAINTENANCE:

- A. The Contractor shall maintain and keep in good repair the work contemplated under these plans, specifications, drawings, etc., and shall perform for a period as set forth in the Maintenance Bond from the date of acceptance all necessary repair, reconstruction and renewal of any part of said construction and shall furnish the labor and materials to make good and to repair any defective condition growing out of or on the account of the breakage or failure of any substance or the improper function of same. Said maintenance contemplates the complete restoration to a functional use during the said period as set forth in the Maintenance Bond.

1.07 PROTECTION OF IMPROVEMENTS:

- A. The Contractor shall be entirely responsible for the protection of all improvements that are not designated by the City of Fayetteville to be removed for proper construction of the project. This shall include sidewalks, building walls, existing inlets and manholes, underground utilities, shrubs, trees, signs, sod and fences. The Contractor shall be entirely responsible for the protection of all pavements adjacent to the project.

1.08 ACCIDENT REPORTING:

- A. The Contractor must report in writing to the City of Fayetteville all accidents whatsoever arising out of, or in connections with the performance of the work, whether on, or adjacent to, the site, which caused death, personal injury, or property damages, giving full details and statements of witnesses. In addition, if death or serious injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger to the City of Fayetteville.
- B. If any claim is made by anyone against the Contractor or any subcontractor on account of any accident, the Contractor shall promptly report the facts in writing to the City of Fayetteville giving full details of the claim.

1.09 ARRANGEMENTS FOR WATER

- A. Water used for installation purposes, jetting or flooding trenches, sprinkling, testing and flushing of pipelines or any other purpose incidental to this project, will be

SECTION 00800 – SUPPLEMENTAL CONDITIONS (continued)

furnished by the Contractor. The Contractor shall make the necessary arrangements for securing the transporting of such water and shall take such water in a manner and at such time that will not produce a harmful drain or decrease of pressure in the City of Fayetteville's WATER SYSTEM. Water shall not be used in a wasteful manner.

- B. The Contractor shall be billed and shall pay for all water used.
- C. Backflow prevention is required on Contractor's equipment during filling operations.

1.10 USE OF FIRE HYDRANTS

- A. No person shall open, turn off, interfere with, attach any pipe or hose to, or connect anything with any fire hydrant, stop valve or stop cock, or tap any water main belonging to the City of Fayetteville, unless duly authorized to do so by the City of Fayetteville Water Department.
- B. Water utilized from fire hydrants shall be in a manner pre-approved and acceptable to the City of Fayetteville. Such use shall include metering and backflow prevention equipment acceptable to the City of Fayetteville. The Contractor is responsible for any adverse impact on the water distribution system including but not limited to damage to the system from water hammer and transient forces resulting from his filling operations.
- C. The Contractor shall be billed and shall pay for all water used.
- D. Backflow prevention is required on Contractor's equipment during filling operations.

1.11 NO TREES SHALL BE CUT.

- A. No trees shall be cut except upon the specific authority by the City of Fayetteville. Trees adjacent to the work shall be protected from all damage by the construction operations.

1.12 REMOVAL OF TREES, FENCES, ETC.

- A. Fences within the right-of-way of this project shall be kept in good repair and closed at all times, except when it is necessary to move machinery and equipment through the fence. Gates shall be closed immediately after use. When the project is complete, the Contractor shall repair all fences and gates that have been moved or damaged by the Contractor as a result of construction. Fences shall be left in repair equal to the original condition. No separate compensation shall be made for this work.
- B. Where surface drainage channels are disturbed or blocked during construction, they shall be restored to their original condition of grade and cross section after the work of construction is completed.
- C. The Contractor shall not be held liable for unavoidable damage to crops provided such damage occurs within the construction easement provided by the City of Fayetteville.

SECTION 00800 – SUPPLEMENTAL CONDITIONS (continued)

1.13 POLES, SIGNS, GUY WIRES, ETC

- A. All utility poles and guy wires, private sign posts, signs and guy wires, and similar private obstructions which interfere with the construction of this project will be removed and replaced, or moved to new permanent locations by the Owners thereof without cost to the Contractor.
- B. The removal and replacement of City of Fayetteville street sign posts and signs are the responsibility of the Contractor. The Contractor shall be responsible for all damage to street signposts and signs within the limits of his operations that remain in place or are removed and replaced. In the event street sign posts and signs are injured or destroyed by the Contractor's operations, they shall be replaced by the Contractor. No separate compensation will be paid for this work, but the costs thereof shall be included in such contract pay items as are provided.

1.14 EXISTING UTILITIES AND SERVICE LINES:

- A. Prior to the start of any excavation by the Contractor, the Contractor shall communicate with ARKANSAS ONE CALL, the proper representative of all the utility systems included but not limited to the water and sewer department, the gas company, electric company, telephone company and any other private utility companies and advise said representative of the route of the proposed construction, in order to obtain the assistance of the utility in the location of and in the avoidance of conflicting with utility lines.
- B. The Contractor shall be responsible for the protection of all existing utilities or service lines crossed or exposed by his construction operations. Where existing utilities or service lines are cut, broken, or damaged, the Contractor shall replace or repair the utilities or service lines with the same type of original material and construction, or better, at his own cost and expense, with the exception of those items included in the bid schedule.
- C. The Contractor shall comply with the "Arkansas Underground Facilities Damage Prevention Act" including latest amendments, the Arkansas One-Call System, and shall alert potentially conflicting utility systems accordingly.
- D. The Contractor is responsible for protecting public and private property. The Contractor is responsible for the Contractor's safety plan and implementation.

1.15 EXISTING STRUCTURES:

- A. It is the Contractor's responsibility to verify the locations of existing surface and subsurface structures. It is mutually agreed that such shall not be considered sufficient basis for claims for additional compensation for extra work or for increasing the pay quantities in any manner whatsoever, unless the obstruction encountered is such as to necessitate changes in the lines or grades, or requires the building of special work, provisions for which are not made in the plans and proposal, in which case the provisions in these specifications for extra work shall apply.

SECTION 00800 – SUPPLEMENTAL CONDITIONS (continued)

1.16 **DRAINAGE:**

- A. The Contractor shall provide at his own cost and expense all methods for adequately draining the work. No separate measurement or compensation will be paid for sub-drains or other methods of draining, but the cost thereof shall be included in such contract pay items as are provided in the Proposal and Contract.

1.17 **CONSTRUCTION IN CITY STREETS AND PRIVATE DRIVES:**

- A. It shall be the responsibility of the Contractor to build and maintain all weather bypasses and detours, if necessary, and to properly light, barricade, and mark all bypasses and detours that might be required on and across the streets involved in the work included in this contract.
- B. Street shall remain open to traffic at all times unless special permission for closing the street is given by the City of Fayetteville. After permission is given for closing any portion of the street, the Contractor shall be responsible for notifying the Police and Fire Department 24 (24) hours in advance of such closing.
- C. The Contractor shall make every effort to complete construction and allow immediate access to adjacent property at all driveway entrances located along the streets. Owners or tenants or improvements where access and/or entrance drives are located shall be notified at least eight (8) hours prior to the time the construction will be started at their driveways or entrances and informed as to the length of time driveways will be closed.
- D. During wet weather the Contractor shall construct temporary gravel crossings and wooden walkways to allow ingress and egress across excavated areas at no expense to the City of Fayetteville and as directed by the City of Fayetteville.
- E. The Contractor shall at all times, keep a sufficient width of the roadway clear of dirt and other materials to allow the free flow of traffic. The Contractor shall assume any and all responsibility for damage, person or otherwise, that may be caused by the construction along City of Fayetteville streets or private drives.
- F. If it becomes apparent that barricades do not sufficiently protect the general public and the Contractor's workmen from traffic hazards, the Contractor may be required to furnish such flagmen and/or watchmen as may be deemed necessary to properly direct traffic.

1.18 **CONSTRUCTION IN ARKANSAS HIGHWAY DEPARTMENT RIGHT-OF-WAY:**

- A. Where the work encroaches upon any right-of-way of the Arkansas Highway Department, the City of Fayetteville will secure the necessary permits for the work. Where highways are crossed, the Contractor shall observe all the regulations and instructions of the Arkansas Highway Department as to methods of doing the work, or precautions for safety of property and the public. All negotiations with the Arkansas Highway Department except for permits shall be made by the Contractor.

SECTION 00800 – SUPPLEMENTAL CONDITIONS (continued)

The Arkansas Highway Department shall be notified by the Contractor not less than five days previous to the time of his intention to begin work.

1.19 **MAINTENANCE OF STORM SEWER AND UTILITIES THAT CROSS EXISTING ROADWAY:**

- A. The Contractor shall maintain at all times during construction storm sewer and utility crossings of existing roadways at no expense to the City of Fayetteville. Storm sewers and utilities crossing existing roadways shall be back-filled in accordance with the provisions of these specifications to an elevation six inches below the elevation of the existing roadway. A six-inch thick compacted gravel base shall be constructed to the elevation of the existing pavement within the limits shall be maintained throughout the construction. Potholes appearing in the existing pavement, which in the opinion of the City of Fayetteville is a hazard to the general public, shall be filled and maintained as directed by the City of Fayetteville.

1.20 **BARRICADES, LIGHTS AND WATCHMEN:**

- A. Where the work is carried on in or adjacent to any street, alley or public place, the Contractor shall at his own cost and expense furnish and erect such barricades, fences, battery type flasher-markers and danger signals, shall provide such watchmen, and shall provide such other precautionary measures including but not limited to flagmen and detours for the protection of persons or property and of the work as are necessary. All signs, barricades, and traffic control devices shall be placed and maintained in accordance with the MANUAL FOR UNIFORM TRAFFIC CONTROL DEVICES (MUTCD), latest edition.
- B. From sunset to sunrise, the Contractor shall furnish and maintain at least one battery type flasher-marker at each barricade and sufficient number of barricades shall be erected to keep vehicles from being driven on or into any work under construction. The Contractor shall furnish watchmen in sufficient numbers to protect the work.
- C. The Contractor will be held responsible for all damage to the work due to failure of barricades, signs, lights, and watchmen to protect it, and whenever evidence is found of such damage, the City of Fayetteville may order the damaged portion immediately removed and replaced by the Contractor at his cost and expense. The Contractor's responsibility for the maintenance of barricades, signs, and lights, and for providing watchmen shall not cease until the project shall have been accepted by the City of Fayetteville.
- D. During the prosecution of the work, the Contractor shall obstruct public travel as little as possible and in no case shall there be less than twelve (12) feet in width of unobstructed roadway for the use of traffic. Materials and equipment stored in or near the path of traffic shall be protected with red flags during the day and with lights during the night.

SECTION 00800 – SUPPLEMENTAL CONDITIONS (continued)

1.21 PROTECTION OF EXISTING WATER VALVE BOXES

- A. Protection of existing water valve boxes located within the limits of the work shall subsequently be the responsibility of the Contractor. Failure to show water valve box locations on the plans does not relieve the Contractor of the responsibility to prevent damage to the valve and boxes.

1.22 SURPLUS MATERIALS

- A. Surplus materials shall be disposed of by the Contractor at his own cost and expense in compliance with all Federal, State and Local regulations.

1.23 SALVAGED MATERIALS

- A. All materials removed during the construction of the project as salvaged materials shall be removed, cleaned, hauled to and stacked on the City of Fayetteville's grounds. Salvaged materials shall be the property of the City of Fayetteville.

1.24 FINAL CLEAN-UP

- A. Upon completion of the work and before acceptance and final payment, the Contractor shall clean, remove rubbish, unused materials and temporary structures from the limits of the project and restore in a manner acceptable to the Engineer, all property, both public and private, that has been damaged by the Contractor during the prosecution of the work, and shall level and grade all portions of the work where the surface of the natural ground or street surface has been disturbed during construction and shall leave the site of the work in a neat and presentable condition, free from ruts or holes.
- B. Material cleared from the limits of the project and deposited on adjacent property will not be considered satisfactory unless prior approval is obtained from the property owner involved, the work is accomplished to the satisfaction of the City of Fayetteville, and a proper City of Fayetteville grading permit is issued, if required.

1.25 PRIVATE PROPERTY ACCESS

- A. The Contractor shall not enter upon or use private property except as allowed by easements or if the Contractor obtains specific written prior permission from the property owner.

1.26 COMPANY LOGO

- A. All equipment used on the project shall be clearly marked with the Contractor's name and LOGO. Subcontractor equipment shall also be similarly marked.

SECTION 00800 – SUPPLEMENTAL CONDITIONS (continued)

1.27 TRENCH SAFETY SYSTEM - CONTRACTOR

- A. Should excavation by the contractor become necessary then the Contractor shall comply with Specification 02003 - TRENCH SAFETY/PROTECTIVE SYSTEMS.

PART 2 - PRODUCTS – NOT APPLICABLE.

PART 3 - EXECUTION – NOT APPLICABLE.

END OF SECTION 00800

Appendix B
Bid 24-31, Construction -
Transfer Station Improvements Rebid
City Issued Bid

SECTION 01110-SUMMARY OF WORK

PART 1 - GENERAL

1.01 SUMMARY:

- A. This Section summarizes the Work and supplements the information detail in the complete Contract Documents.
- B. Owner: The City of Fayetteville, Arkansas, 113 West Mountain Street, Fayetteville, AR 72701 is contracting for Work described in the Contract Documents.
 - 1. Contract Identification:
Fayetteville Transfer Station Improvements
Metal Push Wall and Chute Replacement
Bid 25-31, Construction Rebid
 - 2. Location: 1560 South Happy Hollow Road, Fayetteville, Arkansas 72701.
- C. Engineer: The Contract Documents were prepared by:
Hawkins-Weir Engineers, Inc.
516 East Milsap Road, Suite 103
Fayetteville, Arkansas 72703

1.02 PROJECT DESCRIPTION:

- A. Removal and replacement of the metal push wall in the Transfer Station and the metal chute in the Waste Pit.

1.03 WORK BY OTHERS:

- A. Work Under Other Contracts: None.
- B. Work by Owner: None.
- C. Other Activities: None.

1.04 CONTRACTOR'S USE OF PREMISES:

- A. During the construction period, Contractor shall have use of the property, easements and rights-of-way acquired by the Owner for this project. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by Contractor.

1.05 OWNER'S USE OF PREMISES:

- A. Partial Owner Occupancy: The Owner reserves the right to occupy completed areas of the contract, prior to Substantial Completion provided that such occupancy does not interfere with completion of the Work. Such partial occupancy shall not constitute acceptance of the total Work.

SECTION 01110-SUMMARY OF WORK (continued)

1.06 WORK SEQUENCE:

- A. Construction sequence shall be determined by Contractor subject to Owner's need for continuous operation of existing facilities, and subject to the requirements as indicated or specified. The Contractor's construction sequence should minimally adhere to the following outline:
1. Install the temporary construction barrier to subdivide the Transfer Station and facilitate demolition and construction activities to either the north metal push wall or the south metal push wall.
 2. Demolish the north metal push wall, excluding the existing W12 x 22 columns.
 3. Construct the north metal push wall as detailed on the plans.
 4. Return the north side of the Transfer Station to full operation by the Owner.
 5. Demolish the south metal push wall, excluding the existing W12 x 22 columns.
 6. Construct the south metal push wall as detailed on the plans.
 7. Return the south side of the Transfer Station to full operation by the Owner.
 8. Remove the temporary construction barrier.
 9. Demolition and construction activities in the Waste Pit may occur simultaneously with the Work associated with the metal push walls, except for the daily work hour limitations defined in Paragraph 1.06.F.3 of this Section.
 10. Demolish the metal chute located along the interior east wall of the Waste Pit.
 11. Construct the metal chute located along the interior east wall of the Waste Pit as detailed in the plans.
 12. Armor the existing elevated concrete beams, located on the north and south ends of the Waste Pit, with mild steel plate as detailed in the plans.
- B. The Contractor shall arrange crews in a way to have continuous work from the time a particular project has begun until it is complete. It shall be the responsibility of the Contractor to inform the City of Fayetteville regarding dates and locations of work activities that may impact the flow of traffic.
- C. Construction sequence shall be determined by Contractor subject to Owner's need for continuous operation of existing facilities, and subject to the requirements as indicated or specified.

SECTION 01110-SUMMARY OF WORK (continued)

- D. It shall be the responsibility of the Contractor, 48 hours prior to the initiation of construction on easements through private property, to inform the property owner of his intent to begin construction. Before beginning construction in areas of public dedication, the Contractor shall inform the agency having jurisdiction in the area forty-eight (48) hours prior to initiation of the work.
- E. Continuous Service of Existing Facilities: Exercise caution and schedule operations to ensure that functioning of present facilities will not be disrupted. Shutdown of Owner's operating facilities to perform the Work shall be held to a minimum length of time and shall be coordinated with Owner who shall have control over the timing and schedules of such shutdowns.
- F. Demolition and Construction Activities
1. All demolition and construction activities within the Transfer Station shall occur between May 1 and June 29, 2025. Construction materials shall be on-site prior to May 1, 2025, so that work may immediately commence on May 1st. All construction activities shall be complete by no later than June 29, 2025.
 2. All demolition and construction activities to the metal push walls shall be limited to either the north metal push wall or the south metal push wall to minimize operational impacts to the Transfer Station. A temporary construction barrier shall be erected to protect the Contractor's personnel during demolition and construction activities associated with the metal push walls. The temporary construction barrier shall be installed in the location shown on the plans.
 3. All construction activities associated with armoring the existing elevated concrete beams in the Waste Pit shall be limited to the following hours: 4:00 P.M. through 4:00 A.M. daily. Furthermore, the Waste Pit must be fully returned to operation on a daily basis.
 4. All construction activities associated with the metal chute in the waste pit shall be limited to a consecutive seven (7) day calendar period between June 15 and June 29, 2025, and shall not commence until the completion of all improvements associated with the metal push wall and the armoring of the existing elevated concrete beams in the waste pit. The Contractor shall be subject to Liquidated Damages in the amount of One Thousand Dollars (\$1,000.00) per calendar day for each day the metal chute remains incomplete and the Transfer Station can be restored to its full operational capacity following the consecutive seven (7) day calendar period.

1.07 **PREORDERED EQUIPMENT AND MATERIALS:**

None.

SECTION 01110-SUMMARY OF WORK (continued)

1.08 MEASUREMENT AND PAYMENT:

- A. Unit Price Contracts: All Work indicated in the Contract Documents shall be included in the Unit Price Bid Schedule and the Agreement. A Unit Price is an amount proposed by Contractor and stated in the Agreement as a price per unit of measurement for materials or services.
- B. Payment for the work included in this section will be in accordance with the prices set forth in the proposal for the quantity of work performed. The Contractor agrees that he will make no claim for damages, or anticipated profits, or otherwise on account of any difference between the amounts of work actually performed and the estimated amounts therefore.
- C. Measurement and Payment of specific items will be as specified in each applicable Section of the Technical Specifications.
- D. There will be no separate pay items for the following miscellaneous construction items. Cost for these items shall be considered incidental/subsidiary to other contract bid items.
 - 1. All Safety excluding Trench Safety. Trench Safety per specification 02003 is a Bid item.
 - 2. Photographs of the site prior to the Work if requested by City of Fayetteville.
 - 3. Pipeline cleaning and root removal.
 - 4. Maintenance of Traffic.
 - 5. Final Cleanup.
 - 6. All other labor, equipment, materials, incidentals, tools, appurtenances, permits and not specifically listed in the Bid Form work required for a complete installation acceptable to the City of Fayetteville Trash and Recycling.
- E. The Contractor's Invoice and all supporting documents shall be submitted to the City of Fayetteville Trash and Recycling. The City of Fayetteville Trash and Recycling will prepare the pay estimate based on the Contractor's Invoice.
- F. Invoices shall be sent to the City of Fayetteville. They shall be itemized to include:
 - G. The specific bid items utilized.
 - 1. The quantities of those bid items.
 - 2. The location of the project.
 - 3. The total cost for that project.
 - 4. The total billing to date, including any change orders.
 - 5. All state and local taxes applicable.

SECTION 01110-SUMMARY OF WORK (continued)

- H. Completion of a project is defined to include the satisfactory performance of all minor and non-pay work items such as clean up and restoration/replacement of all damaged private and public property.
- I. All invoices for payment presented by the Contractor shall provide documentation to support the location and amount of work accomplished during the payment period. The Contractor's Invoice and all supporting documents shall be submitted to the City of Fayetteville Trash and Recycling. The City of Fayetteville Trash and Recycling will prepare the pay estimate based on the Contractor's Invoice. Invoices will include:
 - 1. The specific bid items utilized.
 - 2. The quantities of those bid items.
 - 3. The location of the project.
 - 4. The total cost for that project.
 - 5. The total billing to date, including any change orders.
 - 6. All state and local taxes applicable.

1.09 **COPIES OF DOCUMENTS:**

- A. **Furnished Copies:** After execution of Agreement, Contractor will be furnished at no cost, a maximum of three (3) sets of Contract Documents consisting of full-size Contract Drawings including revised Drawings and the Project Manual, in addition to those used in execution of the Agreement.
- B. **Additional Copies:** Additional copies of above documents will be supplied by Engineer upon request of Contractor and approval of Owner.
- C. **PDF copies** of above documents will be supplied by Engineer upon request of Contractor and approval of Owner.

SECTION 01110-SUMMARY OF WORK (continued)

1.10 LIST OF DRAWINGS AND SCHEDULES:

- 1 COVER SHEET
- 2 CONSTRUCTION NOTES, LEGEND, QUANTITY TABLE, AND CONTROL POINT TABLE
- 3 EXISTING SITE PLAN
- 4 DEMOLITION PLANS
- 5 DEMOLITION DETAILS AND SECTIONS
- 6 DEMOLITION PHOTOS
- 7 PROPOSED METAL PUSH WALL AND CHUTE PLANS
- 8 PROPOSED METAL PUSH WALL DETAILS AND SECTIONS
- 9 PROPOSED METAL PUSH WALL AND CHUTE DETAILS AND SECTIONS
- 10 PROPOSED METAL PUSH WALL RADIUS DETAILS AND SECTIONS
- 11 PROPOSED STRUCTURAL DETAILS
- 12 SITE PIPING PLAN
- 13 SITE PAVING PLAN
- 14 MISCELLANEOUS CIVIL DETAILS
- 15 MISCELLANEOUS MECHANICAL DETAILS
- 16 PROPOSED WASTE PIT ELECTRICAL PLAN

1.11 SCHEDULE OF OWNER-SUPPLIED EQUIPMENT AND MATERIALS:

- A. Owner will supply refuse disposal containers and container haul-off. Alternatively, the Contractor may elect to salvage all demolished mild steel.

PART 2 – PRODUCTS - Not Applicable

PART 3 – EXECUTION - Not Applicable

END OF SECTION 01110

SECTION 01250-CONTRACT MODIFICATION PROCEDURES

PART 1 - GENERAL

1.01 SUMMARY

- A. Section Includes:
 - 1. Minor changes in the Work.
 - 2. Proposal request.
 - 3. Work Change Directive.
- B. Related Sections:
 - 1. DOCUMENT 00700 – GENERAL CONDITIONS.
 - 2. Supplementary Conditions.

1.02 MINOR CHANGES IN THE WORK

- A. Engineer will advise Contractor of minor changes in Work not involving an adjustment to Contract Price or Contract Times as authorized by the DOCUMENT 00700 – GENERAL CONDITIONS, Subparagraph 9.05 by issuing Field Orders.
 - 1. There shall be no changes without prior written approval of the Engineer of Record and/or the City's designated Professional Engineer.

1.03 PROPOSAL REQUEST

- A. Owner-Initiated Proposal Requests:
 - 1. Engineer may issue a Proposal Request, including detailed descriptions of proposed changes in the Work that may require adjustment to the Contract Price or the Contract Time.
 - a. If necessary, the description will include supplemental or revised Drawings and Specifications.
 - b. Proposal Requests issued by Engineer are for information only. Do not consider them instructions either to stop Work in progress or to execute the proposed change.
 - 2. Contractor shall submit cost proposal, including any request for an extension in Contract Times, within 14 days of receipt of Proposal Request.
 - 3. In order to facilitate checking of Contractor's proposals for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of cost including labor, materials, and Subcontracts. Labor and materials shall be itemized in a manner acceptable to the Engineer. Where major cost items are Subcontracts, they shall be itemized also. Document each proposal for a change in cost or time with sufficient data to support computations, including the following:
 - a. Include list of quantities of Products, labor, and equipment required or eliminated and unit costs, with total amount of purchases and credits to be made.
 - b. Indicate applicable taxes, delivery charges, equipment rental, and amounts of trade discounts.

SECTION 01250- CONTRACT MODIFICATION PROCEDURES (continued)

- c. Indicate amounts for insurance and bonds.
- d. Indicate amounts for Contractor's overhead and profit.
- e. Include justification for any change in Contract Time.
- f. Include credit for deletions from Contract, similarity documented.
- g. Include an updated Contractor's Construction Schedule that indicates the effect of the change, including, but not limited to, changes in activity duration, start and finish times, and activity relationship.
 - (1) Use available total float before requesting an extension of the Contract Time.
- 4. On Owner's approval of a proposal request, Engineer will issue Change Orders for signatures by Owner and Contractor as provided in the DOCUMENT 00700 – GENERAL CONDITIONS.
 - a. Upon execution of a Change Order, Contractor shall promptly revise Construction Progress Schedule and Schedule of Values accordingly.

1.04 WORK CHANGE DIRECTIVE

- A. As determined by the City's Trash and Recycling Director in the case of a change required to protect the Public and/or the City including health, safety and fiscal responsibility, and when such change must precede the normal Change Order/Modification process, then the Owner may initiate a Work Change Directive, signed by Owner and Engineer, including detailed descriptions of changes, and identifying method for determining any change in Contract Price or Contract Time, instructing Contractor to proceed with a change in the Work, for subsequent inclusion in a Change Order. The Work Order Directive may be limited based upon funding approved by the City Council.
 - 1. Contractor shall promptly execute the change.
 - 2. Work Change Directives shall be issued on Owner's standard form.
- B. Contractor shall maintain detailed records for changes in the Work performed on a time and material basis.
 - 1. Submit an itemized account and supporting data necessary to substantiate cost and time adjustments to the Contract.
- C. Engineer will issue Change Order CONDITIONS.
- D. Upon execution of a subsequent Change Order, Contractor shall promptly revise Construction Progress Schedule and Schedule of Values for signatures by Owner and Contractor as provided in DOCUMENT 00700 – GENERAL accordingly.

PART 2 – PRODUCTS - Not Applicable

PART 3 – EXECUTION - Not Applicable

END OF SECTION 01250

SECTION 01270 – UNIT PRICES

PART 1 - GENERAL

1.01 SUMMARY

A. Section Includes:

1. Submission procedures.
2. Changes of Contract Sum.
3. Description of Unit Prices.

B. Related Sections:

1. DOCUMENT 00400– BID FORM.
2. DOCUMENT 00500 –AGREEMENT.
3. DOCUMENT 00700 – GENERAL CONDITIONS.

1.02 SUBMISSION PROCEDURES

A. Submit Unit Prices for work or materials listed on the online bidding form.

1. Such Unit Prices shall apply for additions and deletions.

1.03 CHANGES TO CONTRACT SUM

A. Unit Prices shall constitute full compensation or credit, as the case may be, for the complete provision, fabrication, and installation of each item listed in this Section based solely on Work in place, including all necessary labor, product, tools, equipment, transportation, services and incidentals, appurtenances, and connections required to complete the Work in place, and including insurance, overhead, profit and supervision.

B. The Unit Prices submitted through the City's online bidding platform will apply to the net change on any given change to the scope of Work.

C. Unit Prices accepted by the Owner and Contractor shall be identified in the Owner-Contractor Agreement.

D. Contractor shall take measurements and compute quantities for which Unit Price items are applicable.

1. Engineer will verify measurements and quantities.
 - a. Contractor shall assist Engineer by providing necessary equipment, workers, and survey personnel as the Engineer requires.
2. Final payment for Work governed by Unit Prices will be made on the basis of the actual measurements and quantities accepted by the Engineer

SECTION 01270 – UNIT PRICES (continued)

multiplied by the Unit Price for Work which is incorporated in or made necessary by the Work.

3. Payment will not be made for any of the following:
 - a. Products wasted or disposed of in a manner unacceptable to Engineer.
 - b. Products which Engineer determines as unacceptable before or after installation.
 - c. Product not completely unloaded from the transporting vehicle.
 - d. Products installed beyond the lines and levels of the required Work.
 - e. Products not installed after completion of Work.
 - f. Loading, hauling, and disposing of rejected Products.

1.04 **DESCRIPTION OF UNIT PRICES**

Measurement and Payment of specific items shall be as specified in SECTION 01271, MEASUREMENT AND PAYMENT.

PART 2 – PRODUCTS - Not Applicable

PART 3 – EXECUTION - Not Applicable

END OF SECTION 01270

SECTION 01271 – MEASUREMENT AND PAYMENT

PART 1 - GENERAL

1.01 SUMMARY

- A. This section includes delineation of measurement and payment criteria applicable to unit price work whether the unit price items are part of a unit price contract or are part of a Stipulated Price contract.
- B. Defect assessment and non-payment for rejected work.

1.02 AUTHORITY

- A. Measurement methods are delineated for each individual bid item under this section.
- B. The Engineer will take all measurements and compute quantities accordingly.
- C. Contractor shall assist by providing necessary equipment, workers, and survey personnel as required.

1.03 UNIT QUANTITIES SPECIFIED

- A. Quantities and measurements indicated in the Bid Form are for bidding and contract purposes only. Quantities and measurements supplied or placed in the Work and verified by the Engineer shall determine payment.
- B. If the actual Work requires more or fewer quantities than those quantities indicated, provide the required quantities at the unit prices contracted.

1.04 MEASUREMENT OF QUANTITIES

- A. Measurement by Weight: Items measured by weight will use specified standard handbook weights unless otherwise specified in this section for an individual item.
- B. Measurement by Volume: Unless herein noted differently, volume shall be measured by cubic dimension using mean length, width and height or thickness with survey chain, steel tape, approved distance meter, or by use of Total Surveying Stations and Engineering Software, as approved by Engineer.
- C. Measurement by Area: Unless herein noted differently, area shall be measured by square dimension using mean length and width or radius, with survey chain, steel tape, approved distance meter, or by use of Total Surveying Stations and Engineering Software, as approved by Engineer.
- D. Linear Measurement: Unless herein noted differently, linear measurements shall be measured at the item centerline or mean chord, with survey chain, steel tape, approved distance meter, or by use of Total Surveying Stations and Engineering Software, as approved by Engineer.

SECTION 01271 – MEASUREMENT AND PAYMENT (continued)

- E. Stipulated Price Measurement: Items measured by weight, volume, area, or linear means or combination, as appropriate, as a completed item or unit of the Work.

1.05 **PAYMENT**

- A. Payment Includes: Except as modified herein, payment shall be full compensation for all required labor, products, tools, equipment, plant, transportation, services and incidentals; erection, application or installation of an item of the Work; overhead and profit.
- B. Final payment for Work governed by unit prices will be made on the basis of the actual measurements and quantities accepted by the Engineer multiplied by the unit price for Work which is incorporated in or made necessary by the Work.

1.06 **DEFECT ASSESSMENT**

- A. Replace the Work, or portions of the Work, not conforming to specified requirements.
- B. If, in the opinion of the Engineer, it is not practical to remove and replace the Work, the Engineer will direct the following remedy:
 - 1. The defective Work will be repaired to the instructions of the Engineer, and the unit price will be adjusted to a new price at the discretion of the Engineer.
- C. The authority of the Engineer to assess the defect and identify payment adjustment is final.

1.07 **NON-PAYMENT FOR REJECTED PRODUCTS**

- A. Payment will not be made for any of the following:
 - 1. Products wasted or disposed of in a manner that is not acceptable.
 - 2. Products determined as unacceptable before or after placement.
 - 3. Products not completely unloaded from the transporting vehicle.
 - 4. Products placed beyond the lines, levels or boundaries of the required Work.
 - 5. Products remaining on hand after completion of the Work.
 - 6. Loading, hauling and disposing of rejected Products.
 - 7. Work performed beyond the specified limits unless authorized by the Engineer.

SECTION 01271 – MEASUREMENT AND PAYMENT (continued)

1.08 BID ITEMS

1. General Conditions

Payment for the above item will be paid for at the lump sum (LS) price bid. This item includes full compensation for the Performance and Payment bond required by the Contract, and any other items required by the General Conditions or Supplemental Conditions.

2. Mobilization

Payment for the above item will be paid for at the lump sum (LS) price bid. The payment shall cover mobilization required to construct the project as shown on the Plans and stated in the Specifications. This item includes full compensation for the mobilization required by the Contract, including all materials, equipment and labor costs. Mobilization shall not exceed 5% of the total bid amount (not including bonds and insurance and trench and excavation safety).

3. OSHA Trench Safety

Payment for the above item will be paid for at the lump sum (LS) price bid. This item includes full compensation for the OSHA Trench Safety required by the contract. After award of contract, the Contractor shall submit to the Owner a cost breakdown for the work involved in the lump sum price bid for OSHA Trench Safety System and shall, with each periodic payment request, submit a certification by the “competent person” as defined in 29 CFR 1926.650(b) that the Contractor has complied with the provisions of the OSHA Standard for Excavation and Trench Safety Systems, 29 CFR 1926 Subpart P, for work for which payment is requested. Periodic payments will be made in proportion to the amount of work accomplished, as determined by the Owner, and will be full compensation for trench and excavation safety, including all materials, labor, and incidentals necessary to perform the work.

4. Demolish the Existing North Metal Push Wall

Payment for the above item will be paid for at the lump sum (LS) price bid. Payments shall be full compensation for the complete demolition of the existing North Metal Push Wall as shown on the Plans and stated in the Specifications including traffic control, hauling, disposal costs, and all materials, equipment, tools, labor, and incidentals necessary to complete the work.

5. Demolish the Existing South Metal Push Wall

Payment for the above item will be paid for at the lump sum (LS) price bid. Payments shall be full compensation for the complete demolition of the existing South Metal Push Wall as shown on the Plans and stated in the Specifications including traffic control, hauling, disposal costs, and all materials, equipment, tools, labor, and incidentals necessary to complete the work.

SECTION 01271 – MEASUREMENT AND PAYMENT (continued)

6. Demolish the Existing Metal Chute Located Along the Interior East Wall of the Waste Pit

Payment for the above item will be paid for at the lump sum (LS) price bid. Payments shall be full compensation for the complete demolition of the existing Metal Chute located along the interior east wall of the Waste Pit as shown on the Plans and stated in the Specifications including traffic control, hauling, disposal costs, and all materials, equipment, tools, labor, and incidentals necessary to complete the work.

7. Demolish Existing Handrail

Payment for the above item will be paid for at the price bid for each linear foot (LF) measured as removed as shown on the Plans and stated in the Specifications. Payments shall be full compensation for each linear foot of the existing handrail removed including hauling, disposal costs, and all materials, equipment, tools, labor, and incidentals necessary to complete the work.

8. Demolish Existing Ladder

Payment for the above item will be paid for at the lump sum (LS) price bid. Payments shall be full compensation for the complete demolition of the existing ladder as shown on the Plans and stated in the Specifications including hauling, disposal costs, and all materials, equipment, tools, labor, and incidentals necessary to complete the work.

9. Construct the North Metal Push Wall

Payment for the above item will be paid for at the lump sum (LS) price bid. Payments shall be full compensation for the fabrication and installation of the North Metal Push Wall as shown on the Plans and stated in the Specifications including traffic control, hardware, adhesive anchors, field welding, painting, and all materials, equipment, tools, labor, and incidentals necessary to complete the work.

10. Construct the South Metal Push Wall

Payment for the above item will be paid for at the lump sum (LS) price bid. Payments shall be full compensation for the fabrication and installation of the South Metal Push Wall as shown on the Plans and stated in the Specifications including traffic control, hardware, adhesive anchors, field welding, painting, and all materials, equipment, tools, labor, and incidentals necessary to complete the work.

11. Construct the Metal Chute Located Along the Interior East Wall of the Waste Pit

Payment for the above item will be paid for at the lump sum (LS) price bid. Payments shall be full compensation for the fabrication and installation of the Metal Chute located along the interior east wall of the Waste Pit as shown on the Plans and stated in the Specifications including traffic control, hardware, adhesive anchors,

SECTION 01271 – MEASUREMENT AND PAYMENT (continued)

field welding, painting, and all materials, equipment, tools, labor, and incidentals necessary to complete the work.

12. Armor the Existing Elevated Concrete Beam, Located at the North End of the Waste Pit, With Mild Steel Plate

Payment for the above item will be paid for at the lump sum (LS) price bid. Payments shall be full compensation for the fabrication and installation of the mild steel plate armor installed on the existing elevated concrete beam at the north end of the Waste Pit as shown on the Plans and stated in the Specifications including hardware, adhesive anchors, painting, and all materials, equipment, tools, labor, and incidentals necessary to complete the work.

13. Armor the Existing Elevated Concrete Beam, Located at the South End of the Waste Pit, With Mild Steel Plate

Payment for the above item will be paid for at the lump sum (LS) price bid. Payments shall be full compensation for the fabrication and installation of the mild steel plate armor installed on the existing elevated concrete beam at the south end of the Waste Pit as shown on the Plans and stated in the Specifications including hardware, adhesive anchors, painting, materials, equipment, tools, labor, and incidentals necessary to complete the work.

14. Install Aluminum Handrail

Payment for the above item will be paid for at the price bid for linear foot (LF) of aluminum handrail measured as fabricated and installed as shown on the Plans and stated in the Specifications. Payment shall be full compensation for the fabrication and installation of the aluminum handrail, including adhesive anchors and all equipment, tools, labor, and incidentals necessary to complete the work.

15. Install Aluminum Ladder

Payment for the above item will be paid for at the price bid for vertical foot (VF) of aluminum ladder measured as fabricated and installed as shown on the Plans and stated in the Specifications. Payment shall be full compensation for the fabrication and installation of the aluminum ladder, including adhesive anchors and all equipment, tools, labor, and incidentals necessary to complete the work.

16. Install Force Main and Emergency Pump Connection

Payment for the above item will be paid for at the lump sum (LS) bid price. Payment shall be full compensation for the complete construction of the force main and emergency pump connection as shown on the Plans and stated in the Specifications including trenching, bedding, backfill, ductile iron pipe, PVC pipe, ductile iron fittings, valves, pipe supports, tracer wire, tracer wire junction boxes, appurtenances and all materials, equipment, tools, labor, and incidentals necessary to complete the work.

SECTION 01271 – MEASUREMENT AND PAYMENT (continued)

17. Remove and Replace 6" Gravel Paving

Payment for the above item will be paid for at the lump sum (LS) bid price. Payment shall be full compensation for the complete removal and replacement of gravel paving as shown on the Plans and stated in the Specifications including excavation, disposal of all excavated material, Class 7 Base, and all materials, equipment, tools, labor, and incidentals necessary to complete the work.

18. Remove and Replace 8" Concrete Paving

Payment for the above item will be paid for at the lump sum (LS) bid price. Payment shall be full compensation for the complete removal and replacement of concrete paving as shown on the Plans and stated in the Specifications including demolition of the existing pavement, traffic control, excavation, disposal of excavated material, reinforcing steel, coarse drain fill, oversized rock, geotextile membrane, concrete, and all materials, equipment, tools, labor, and incidentals necessary to complete the work.

19. Site Restoration

Payment for the above item will be paid for at the lump sum (LS) bid price. Payment shall be full compensation for the site restoration as shown on the Plans and stated in the Specifications including topsoil, solid sod, and all materials, equipment, tools, labor, and incidentals necessary to complete the work.

20. Waste Transfer Pit Electrical Improvements including Protective Concrete Wall

Payment for the above item will be paid for at the lump sum (LS) bid price. Payment shall be full compensation for the replacement of the existing electrical conduits in the Waste Transfer Pit including the protective concrete wall as shown on the Plans and stated in the Specifications including demolition, conduit, wire, junction boxes, brackets, reinforcing steel, concrete, and all materials, equipment, tools, labor, and incidentals necessary to complete the work.

There shall be no separate payment for all other labor, equipment, materials, incidentals, tools, appurtenances, permits and not specifically listed in the Bid Form work required for a complete installation acceptable to the City of Fayetteville.

1.09 DEDUCTIVE ALTERNATIVES

Deductive Alternatives may be considered and selected by the Owner without invalidating the remainder of the Base Bid. The Owner reserves the right to select any, all, or none of the Deductive Alternatives. The Deductive Alternates, if selected by the City, will be taken in order starting with A, then B, and then C. The Bidder shall insert Deductive Bid Prices for all three (3) Deductive Alternatives in the electronic bid form.

SECTION 01271 – MEASUREMENT AND PAYMENT (continued)

A. Deductive Alternate A

For the deletion of the 6" Force Main including the pump connection, removal and replacement of the gravel paving, and associated site restoration (Bid Items 16, 17, and 19).

B. Deductive Alternate B

For the deletion of the removal and replacement of the concrete site paving (Bid Item 18).

C. Deductive Alternate C

For the deletion of the Waste Transfer Pit Electrical Improvements including Protective Concrete Wall (Bid Item 20).

PART 2 – PRODUCTS - Not Applicable

PART 3 – EXECUTION - Not Applicable

END OF SECTION 01271

Appendix B
Bid 24-31, Construction -
Transfer Station Improvements Rebid
City Issued Bid

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SECTION 01290 – PAYMENT PROCEDURES

PART 1 - GENERAL

1.01 SUMMARY

A. Section Includes:

1. Schedule of values.
2. Applications for payment.

B. Related Sections:

1. DOCUMENT 00700 – GENERAL CONDITIONS.

1.02 APPLICATIONS FOR PAYMENT

A. Comply with Arkansas Code § 22-9-101.

Title 22 Public Property

Chapter 9 Public Works

Subchapter 1 - General Provisions

A.C.A. § 22-9-101. Observation by registered professionals required.

B. Format: Document 01290.01 supported by Document 01290.02 or other approved format.

1. Owner will provide Contractor an electronic copy of Documents 01290.01 and 01290.02.

C. Payment Period: As specified under DOCUMENT 00700 – GENERAL CONDITIONS Article 14.

D. Preparation of Applications:

1. Present required information in typewritten form.
2. Execute application by signature of authorized officer of Contractor's firm.
3. Indicate dollar value in each column of each line item for portion of Work completed through the last day of the application period, and for products properly stored in accordance with the Contract Documents through the last day of the previous application period.
4. Round off dollar values to nearest dollar.
5. Complete every entry on form.
6. Indicate each authorized Change Order as separate items on continuation sheet.
 - a. List by appropriate Change Order Number.

SECTION 01290 – PAYMENT PROCEDURES (continued)

- b. Indicate dollar value breakdown of each Change Order by each applicable Project Manual Section.

E. Submittal Procedure:

1. Comply with DOCUMENT 00700 - GENERAL CONDITIONS Article 14.
2. Submit 1 copy of each Application for Payment.
3. Submit an updated Construction Progress Schedule with each Application for Payment.
4. Submit waivers of mechanics liens from Contractor, Subcontractors, sub-subcontractors, and Material and Equipment Suppliers for amounts certified by Engineer for construction period covered by previous application for payment.
 - a. Submit on form acceptable to Owner.
5. Substantiating data:
 - a. When Owner or Engineer requires substantiating information to support Contractor's application for payment, submit data justifying dollar amounts which are in question.
 - b. Provide 1 copy of data with cover letter for each copy of Application for Payment.
 - (1) Indicate application number and date.
 - (2) List each item in question by continuation sheet identification.
6. Submit application for final payment in accordance with DOCUMENT 00700 – GENERAL CONDITIONS Article 14.

F. Minimum Approvals – City of Fayetteville.

1. Trash and Recycling Manager or Director.
2. Trash and Recycling Superintendent or his representative.

PART 2 – PRODUCTS - Not Applicable

PART 3 – EXECUTION - Not Applicable

END OF SECTION 01290



APPLICATION FOR PAYMENT
Bid 25-31, CONSTRUCTION REBID
Fayetteville Transfer Station Improvements
Metal Push Wall and Chute Replacement

Application Number: _____ Date: _____
Contractor: _____ Ordinance/Resolution Number: _____
Address: _____ Effective: _____
Encumbrance No: _____
Application for Work Accomplished Through the Date of: _____

Original Contract Price [1]\$ _____
Net Change by Change Orders _____ through [2]\$ _____
Current Contract Price (1 + 2) [3]\$ _____
 Completed Work [4]\$ _____
 Stored Material [5]\$ _____
Total Completed and Stored to Date (4+5) [6]\$ _____
 Previous Payments [7]\$ _____
 Previous Retainage [8]\$ _____
Total Previous Applications (7+8) [9]\$ _____
Amount This Application (6-9) [10]\$ _____
Less Retainage This Application* [-][11]\$ _____
Release of Retainage [12]\$ _____
Due This Application (10-11+12) [13]\$ _____

* Retainage on Completed Work Only
Accompanying Documentation: Attached Schedule of Values

CONTRACTOR's Certification:

The undersigned Contractor certifies that (1) all previous progress payments received from Owner on account of Work done under the Contract referred to above have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by all prior Applications for Payment; (2) title of all Work, materials and equipment incorporated into said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Lien, security interest or encumbrance); (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and not defective, and (4) all labor standards contract requirements have been complied with by Contractor and by each subcontractor employing mechanics or laborers at the site of the work.

Dated: _____
CONTRACTOR

By: _____

STATE OF _____)

COUNTY OF _____)

Subscribed and Sworn to before me this _____ day of _____,

My commission expires: _____
Notary Public

OWNER's Certification for Payment:

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Owner's representatives certify that to the best of their knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$ _____

(Attach explanation if amount certified differs from the amount applied for. Initial all figures on this Application and on the Schedule of Values that are changed to conform to the amount certified.)

OWNER's Approval

By: _____ Date: _____

Trash and Recycling Manager

By: _____ Date: _____

Trash and Recycling Superintendent



CERTIFICATE OF SUBSTANTIAL COMPLETION

Contract Number: 25-31, Construction Rebid

Contract Title: FAYETTEVILLE TRANSFER STATION
IMPROVEMENTS – METAL PUSH WALL AND CHUTE
REPLACEMENT

CONTRACTOR: _____

DATE OF ISSUANCE: _____

PROJECT OR DESIGNATED PORTION SHALL INCLUDE:

The Work performed under this Contract has been reviewed and found, to the Engineer's best knowledge, information and belief, to be substantially complete. Substantial Completion is the state in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion of Project or portion thereof designated above is hereby established as _____ which is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below:

A list of items to be completed or corrected is attached hereto. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

ENGINEER _____ BY _____ DATE _____

The Contractor will complete or correct the Work on the list of items attached hereto within _____ days from the above date of Substantial Completion.

CONTRACTOR _____ BY _____ DATE _____

The Owner accepts the Work or designated portion thereof as substantially complete and will assume full possession thereof at _____ (time) on _____ (date).

OWNER'S REPRESENTATIVE _____ BY _____ DATE _____



CONTRACTOR AFFIDAVIT FOR FINAL PAYMENT

Contract Number: 25-31, Construction Rebid

Contract Title: Fayetteville Transfer Station Improvements
Metal Push Wall and Chute Replacement

STATE OF _____)
)SS
COUNTY OF _____)

The Undersigned, _____ of lawful
(Name)

age, being first duly sworn, states under oath as follows:

1. I am the _____ of _____ who is the general
(Title) (Contractor)
contractor for the City on Contract No. _____ and Contract Name/Title: Fayetteville Transfer Station
Improvements
2. All payrolls, material bills, use of equipment and other indebtedness connected with the Work for this Contract
have been paid and all claims of whatever nature have been satisfied, as required by the Contract.
3. Contractor certifies that each Subcontractor has received full payment for its respective work in connection with
the Contract.
4. This affidavit is made in behalf of the Contractor for the purpose of securing from the City of Fayetteville,
Arkansas, the certification of completion of the Contract and receiving payment therefore.

CONTRACTOR _____

By _____
(Signature)

Title _____

On this _____ day of _____, _____, before me

appeared _____, to me personally known to be the

_____ of the _____,

and who executed the foregoing instrument and acknowledged that (s)he executed the same on behalf of

the _____ as its free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year first above
written.

My commission expires:

Notary Public



SUBCONTRACTOR AFFIDAVIT FOR FINAL PAYMENT

Contract Number: 25-31, Construction Rebid

Contract Title: Fayetteville Transfer Station Improvements
Metal Push Wall and Chute Replacement

STATE OF _____)
)SS
COUNTY OF _____)

The Undersigned, _____ of lawful age, being first duly sworn,
(Name)
states under oath as follows:

1. I am the _____ of _____ hereinafter "Subcontractor"
(Title) (Contractor)
to _____, general contractor on Fayetteville Transfer Station Improvements, Bid 25-31
(Name of Contractor) (Contract Title and Number)
2. All payrolls, material bills, use of equipment and other indebtedness connected with the work for this project have been paid and all claims of whatever nature have been satisfied.
3. A total of \$ _____ has been received as full compensation for: _____
performed in connection with the contract. (area / scope of work)
4. This affidavit is made on behalf of the Contractor for the purpose of securing from Fayetteville, Arkansas, the certification of completion of the project and receiving payment therefore.

SUBCONTRACTOR _____

By _____
(Signature)

Title _____

On this _____ day of _____, _____, before me
appeared _____, to me personally known to be the
_____ of the _____,

and who executed the foregoing instrument and acknowledged that (s)he executed the same on behalf of the
_____ as its free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year first above written.

My commission expires:

Notary Public

SECTION 01320 – PROJECT MEETINGS, SCHEDULES, AND REPORTS

PART 1 - GENERAL

1.01 Summary: This Section includes the following administrative and procedural requirements:

A. Project Meetings:

1. Preconstruction conference.
2. Progress meetings.

B. Schedules and Reports:

1. Comply with GENERAL CONDITIONS

C. Related Work Specified Elsewhere:

1. For Schedules: SECTION 01321.

1.02 PROJECT MEETINGS:

A. Preconstruction Conference:

1. Engineer will conduct a meeting within 60 days after the Effective Date of the Agreement, to review items stated in the following agenda and to establish a working understanding between the parties as to their relationships during performance of the Work.
2. Preconstruction conference shall be attended by:
 - a. Contractor and his superintendent.
 - b. Engineer and Resident Project Representative if any.
 - c. Representative(s) of Owner.
 - d. At Engineer's option, representatives of principal Subcontractors and Suppliers.
3. Meeting Agenda:
 - a. Construction schedules.
 - b. Critical Work sequencing.
 - c. Designation of responsible personnel.
 - d. Project coordination.
 - e. Procedures and Processing of:
 - (1) Field decisions.
 - (2) Substitutions.

SECTION 01320 – PROJECT MEETINGS, SCHEDULES, AND REPORTS (continued)

- (3) Submittals.
- (4) Change Orders.
- (5) Applications for Payment.
- (6) Proposal Requests.
- (7) Contract Closeout.
- (8) Requests for Interpretation.
- (9) Field Orders.
- (10) Work Change Directives.
- f. Procedures for testing.
- g. Procedures for maintaining record documents.
- h. Use of Premises:
 - (1) Office, work, and storage areas.
 - (2) Owner's requirements.
- i. Construction facilities, controls, and construction aids.
- j. Temporary utilities.
- k. Safety and first-aid.
- l. Security.
- m. Requirements for start-up of equipment.
- n. Inspection and acceptance of equipment put into service during construction period.
- o. Distribution of Contract Documents
- 4. Location of Meeting: At or near the Project Site.
- 5. Reporting:
 - a. Within 7 working days after the meeting, Engineer will prepare and distribute minutes of the meeting to Owner and Contractor.
 - b. Contractor shall provide copies to Subcontractors and major Suppliers.
- B. Progress Meetings:
 - 1. Engineer shall schedule and conduct monthly meetings, or at other intervals as requested by Owner. Representatives of the Engineer, Resident Project Representative, and Contractor shall be present at each meeting. With

SECTION 01320 – PROJECT MEETINGS, SCHEDULES, AND REPORTS (continued)

Engineer's concurrence, Contractor may request attendance by representatives of Subcontractors, Suppliers, or other entities concerned with current program or involved with planning, coordination, or performance of future activities. All participants in the meeting shall be familiar with the Project and authorized to conclude matters relating to the Work.

- a. Contractor and each Subcontractor represented shall be prepared to discuss the current construction progress report and any anticipated future changes to the schedule.
2. Location of Meetings: At or near Project Site.
3. Reporting:
 - a. Within 7 working days after each meeting, Engineer shall prepare and distribute minutes of the meeting to Owner and Contractor.
 - b. Contractor shall distribute copies to principal Subcontractors and Suppliers.

PART 2 – PRODUCTS - Not Applicable

PART 3 – EXECUTION - Not Applicable

END OF SECTION 01320

SECTION 01320 – PROJECT MEETINGS, SCHEDULES, AND REPORTS (continued)

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Appendix B
Bid 24-31, Construction -
Transfer Station Improvements Rebid
City Issued Bid

SECTION 01321 – SCHEDULE

PART 1 - GENERAL

1.01 SUMMARY

- A. This Section includes procedural requirements for preparation, submittal, and updating of Contractor's construction progress schedules.
- B. Related Work:
 - 1. Documents affecting work of this Section include, but are not limited to: General Conditions, Supplementary Conditions, and Sections in Division 1 of these Specifications.
 - 2. Section 01290 – Payment Procedures.
 - 3. Section 01320 – Project Meetings, Schedules, and Reports.

1.02 FORMAT

- A. Prepare Schedules as either a Gantt chart with separate bar for each major portion of Work or operation, identifying first work day of each week, or a Critical Path Method (CPM) progress schedule.
- B. Sequence of Listings: The chronological order of the start of each item of Work.
- C. Scale and Spacing: To provide space for notations and revisions.
- D. Sheet Size: Minimum multiples of 8-1/2 x 11 inches.

1.03 CONTENT

- A. Show complete sequence of construction by activity, with dates for beginning and completion of each element of construction. The schedule shall clearly indicate the sequence of construction for the various items that involve either existing and/or potentially relocated utilities. This schedule shall have the least negative impact on the adjacent property owners and provide an orderly sequence that will produce the least disruptive action for utilities and their customers.
- B. Identify work of separate stages and other logically grouped activities.
- C. Provide sub-schedules to define critical portions of the entire Schedule.
- D. Show accumulated percentage of completion of each item, and total percentage of Work completed, as of the cut-off date for each monthly pay estimate.

SECTION 01321 – SCHEDULE (continued)

1.04 **SUBMITTALS**

- A. Submit a finalized construction progress schedule within fifteen (15) days after date of Notice of Award or at least seven (7) days prior to the pre-construction conference, whichever occurs first. After review, resubmit required revised data within ten (10) days.
- B. Submit monthly revisions with each pay estimate in the number of opaque reproductions that Engineer requires, plus two copies, which will be retained by Engineer.

1.05 **REVISIONS TO SCHEDULES**

- A. Indicate progress of each activity to date of submittal, and projected completion date of each activity.
- B. Identify activities modified since previous submittal, major changes in scope, and other identifiable changes.
- C. Provide narrative report to define problem areas, anticipated delays, and impact on Schedule. Report corrective action taken, or proposed, and its effect.

1.06 **DISTRIBUTION**

- A. Distribute copies of reviewed Schedules to project site file, Subcontractors, suppliers, and other concerned parties.
- B. Instruct recipients to promptly report, in writing, problems anticipated by projections indicated in Schedules.

PART 2 – PRODUCTS - Not Applicable

PART 3 – EXECUTION - Not Applicable

END OF SECTION 01321

SECTION 01420 – DEFINITIONS AND STANDARDS

PART 1 - GENERAL

1.01 SUMMARY:

A. Definitions:

1. Basic contract definitions used in the Contract Documents are defined in the GENERAL CONDITIONS. Definitions and explanations are not necessarily either complete or exclusive, but are general for the Work.
2. General Requirements are the provisions or requirements of DIVISION 1 Sections, and which apply to the entire Work of the Contract.

B. Related Information Specified Elsewhere: Specification standards and associations applicable to the Work are specified in each Section.

1.02 SPECIFICATION FORMAT AND CONTENT EXPLANATIONS:

A. Specification Format: The Specifications are organized into two (2) major divisions of CONTRACT DOCUMENTS and TECHNICAL SPECIFICATIONS.

B. Specification Content:

1. These Specifications apply certain conventions in the use of language and the intended meaning of certain terms, words, and phrases when used in particular situations or circumstances. These conventions are explained as follows:
 - a. Imperative and Streamlined Language: These Specifications are written in imperative and abbreviated form. This imperative language of the technical Sections is directed at the Contractor, unless specifically noted otherwise. Incomplete sentences shall be completed by inserting “shall,” “the Contractor shall,” and “shall be,” and similar mandatory phrases by inference in the same manner as they are applied to notes on the Drawings. The words “shall be” shall be supplied by inference where a colon (:) is used within sentences or phrases. Except as worded to the contrary, fulfill (perform) all indicated requirements whether stated imperatively or otherwise.
 - b. Specifying Methods: The techniques or methods of specifying requirements varies throughout text, and may include “prescriptive,” “compliance with standards,” “performance,” “proprietary,” or a combination of these. The method used for specifying one unit of Work has no bearing on requirements for another unit of Work.
 - c. Overlapping and Conflicting Requirements: Where compliance with two or more industry standards or sets of requirements is specified, and overlapping of those different standards or requirements establishes different or conflicting minimums or levels of quality, notify Engineer for a decision as specified in GENERAL CONDITIONS.

SECTION 01420 – DEFINITIONS AND STANDARDS (continued)

- d. Abbreviations: Throughout the Contract Documents are abbreviations implying words and meanings which shall be appropriately interpreted. Specific abbreviations have been established, principally for lengthy technical terminology and in conjunction with coordination of Specification requirements with notations on Drawings and in schedules. These are normally defined at first instance of use. Organizational and association names and titles of general standards are also abbreviated.
- C. Assignment of Specialists: In certain instances, Specification text requires that specific Work be assigned to specialists in the operations to be performed. These specialists shall be engaged for performance of those units of Work, and assignments are requirements over which Contractor has no choice or option. These assignments shall not be confused with, and are not intended to interfere with, enforcement of building codes and similar regulations governing the Work, local trade and union jurisdictions, and similar conventions. Nevertheless, final responsibility for fulfillment of Contract requirements remains with Contractor.
- D. Trades: Except as otherwise specified or indicated, the use of titles such as “carpentry” in Specification text, implies neither that the Work must be performed by an accredited or unionized tradesperson of corresponding generic name (such as “carpenter”), nor that specified requirements apply exclusively to work by tradespersons of that corresponding generic name.
- 1.03 **DRAWING SYMBOLS:**
- A. Except as otherwise indicated, graphic symbols used on Drawings are those symbols recognized in the construction industry for purposes indicated. Refer instances of uncertainty to Engineer for clarification.
- 1.04 **INDUSTRY STANDARDS:**
- A. Applicability of Standards: Except where the Contract Documents include more stringent requirements, applicable construction industry standards have the same force and effect as if bound or copied directly into the Contract Documents. Such standards are made a part of the Contract Documents by reference and are stated in each Section.
1. Referenced standards, referenced directly in Contract Documents or by governing regulations, have precedence over nonreferenced standards which are recognized in industry for applicability to the Work.
 2. Where compliance with an industry standard is required, standard in effect shall be as stated in GENERAL CONDITIONS.
 3. Where an applicable code or standard has been revised and reissued after the date of the Contract Documents and before performance of Work affected, the Engineer will decide whether to issue a Change Order to proceed with the updated standard.

SECTION 01420 – DEFINITIONS AND STANDARDS (continued)

4. In every instance the quantity or quality level shown or specified shall be the minimum to be provided or performed. The actual installation may comply exactly, within specified tolerances, with the minimum quantity or quality specified, or it may exceed that minimum within reasonable limits. In complying with these requirements, indicated numeric values are minimum or maximum values, as noted, or appropriate for the context of the requirements. Refer instances of uncertainty to the Engineer for a decision before proceeding.
5. Each entity engaged in construction on the Project is required to be familiar with industry standards applicable to that entity's construction activity. Copies of applicable standards are not bound with the Contract Documents.
 - a. Where copies of standards are needed for performance of a required construction activity, Contractor shall obtain copies directly from the publication source.
- B. Abbreviations and Names: Trade association names and titles of general standards are frequently abbreviated. Where such acronyms or abbreviations are used in the Specifications or other Contract Documents, they mean the recognized name of the trade association, standards generating organization, authority having jurisdiction, or other entity applicable to the context of the text provision.

PART 2 – PRODUCTS - Not Applicable

PART 3 – EXECUTION - Not Applicable

END OF SECTION 01420

SECTION 01420 – DEFINITIONS AND STANDARDS (continued)

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SECTION 01530 – TEMPORARY BARRIERS AND CONTROLS

PART 1 - GENERAL

1.01 SUMMARY:

- A. This Section includes General Requirements for:
 - 1. Safety and protection of Work
 - 2. Safety and protection of existing property
 - 3. Barriers
 - 4. Security
 - 5. Environmental controls
 - 6. Access roads and parking areas
 - 7. Traffic control and use of roadways
 - 8. Railroad service
- B. Related Work Specified Elsewhere:
 - 1. Temporary Utilities and Facilities: SECTION 01560

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 ARKANSAS ONE CALL:

- A. The Contractor will be responsible for contacting Arkansas One Call in order to determine the location of all utilities in all work areas relating to any excavation performed by the contractor. The City of Fayetteville shall be responsible for contacting Arkansas One Call in order to determine the location of all utilities in all work areas relating to any Excavation performed by the City of Fayetteville crews.

3.02 SAFETY AND PROTECTION OF WORK AND PROPERTY:

- A. General:
 - 1. Provide for the safety and protection of the Work as set forth in GENERAL CONDITIONS. Provide protection at all times against rain, wind, storms, frost, freezing, condensation, or heat so as to maintain all Work and Equipment and Materials free from injury or damage. At the end of each day, all new Work likely to be damaged shall be appropriately protected.
 - 2. Notify Engineer immediately at any time operations are stopped due to conditions which make it impossible to continue operations safely or to obtain proper results.

SECTION 01530 – TEMPORARY BARRIERS AND CONTROLS (continued)

3. Construct and maintain all necessary temporary drainage and do all pumping necessary to keep excavations, floors, pits, trenches, manholes, and ducts free of water.
- B. Property Other than Owner's:
 1. Provide for the safety and protection of property as set forth in the GENERAL CONDITIONS. Report immediately to the owners thereof and promptly repair damage to existing facilities resulting from construction operations.
 2. Names and telephone numbers of representatives of agencies and utilities having jurisdiction over streets and utilities in the Work area can be obtained from Engineer for the agencies listed below. Concerned agencies or utilities shall be contacted a minimum of 24 hours prior to performing Work, closing streets and other traffic areas, or excavating near underground utilities or pole lines.
 - a. Water
 - b. Pipeline companies
 - c. Telephone
 - d. Electric
 - e. Fire
 - f. Police
 3. Operation of valves or other appurtenances on existing utilities, when required, shall be by or under the direct supervision of the owning utility.
 4. Where fences are to be breached on private property, the owners thereof shall be contacted and arrangements made to ensure proper protection of any livestock or other property thus exposed.
 5. The applicable requirements specified for protection of the Work shall also apply to the protection of existing property of others.
 6. Before acceptance of the Work by Owner, restore all property affected by Contractor's operations to the original or better condition.
 7. The Contractor shall take precautions and use care to avoid damaging, disturbing, or disrupting existing private facilities on private or public property, i.e., fences, sprinkler facilities, shrubs, landscaping, etc. The Contractor shall restore, to the City of Fayetteville's satisfaction, any property damaged by the Contractor, at the Contractor's expense.

SECTION 01530 – TEMPORARY BARRIERS AND CONTROLS (continued)

3.03 SIGNAGE AND BARRIERS:

A. General:

1. Furnish, install, and maintain suitable barriers as required to prevent public entry, protect the public, and to protect the Work, existing facilities, trees, and plants from construction operations. Remove when no longer needed or at completion of Work.
2. Materials may be new or used, suitable for the intended purpose, but shall not violate requirements of applicable codes and standards or regulatory agencies.
3. Barriers shall be of a neat and reasonable uniform appearance, structurally adequate for the required purposes.
4. Maintain barriers in good repair and clean condition for adequate visibility. Relocate barriers as required by progress of Work.
5. Repair damage caused by installation and restore area to original or better condition. Clean the area.
6. The Contractor is responsible for all signing and barricading and will comply with those portions of the "Arkansas Manual on Uniform Traffic Control Devices for Streets and Highways" which pertain to construction.

B. Tree and Plant Protection:

1. Preserve and protect existing trees and plants at the Site which are designated to remain and those adjacent to the Site.
2. Provide temporary barriers around each, or around each group of trees and plants. Unless indicated or specified otherwise, construct to a height of 6 feet around trees, and to a height to adequately protect plants.
3. Consult with Engineer and remove agreed-on roots and branches which will interfere with construction. Employ qualified tree surgeon to remove and to treat cuts.
4. Protect root zones of trees and plants as follows:
 - a. Do not allow vehicular traffic or parking.
 - b. Do not store materials or products.
 - c. Prevent dumping of refuse or chemically injurious materials or liquids.
 - d. Prevent puddling or continuous running water.
5. Carefully supervise excavating, grading and filling, and subsequent construction operations to prevent damage.

SECTION 01530 – TEMPORARY BARRIERS AND CONTROLS (continued)

6. Remove and replace, or suitably repair, trees and plants which are damaged or destroyed due to construction operations, and which were designated to remain.

3.04 ENVIRONMENTAL CONTROLS:

- A. Noise Control: City of Fayetteville Ordinances and OSHA requirements shall be adhered to for this contract.
- B. Dust Control:
 1. Provide positive methods and apply dust control materials to minimize raising dust from construction operations; and to prevent airborne dust from dispersing into the atmosphere.
 2. Clean interior spaces prior to the start of finish painting and continue cleaning on an as-needed basis until painting is finished.
 3. Schedule operations so that dust and other contaminants resulting from cleaning process will not fall on wet or newly-coated surfaces.
- C. Water and Erosion Control:
 1. Provide methods to control surface water to prevent damage to the Project, the Site, or adjoining properties.
 2. Plan and execute construction and earthwork by methods to control surface drainage from cuts and fills, and from borrow and waste disposal areas, to prevent erosion and sedimentation.
 - a. Hold the areas of bare soil exposed at one time to a minimum.
 - b. Provide temporary control measures such as berms, dikes, and drains.
 3. Control fill, grading, and ditching to direct surface drainage away from excavations, pits, tunnels, and other construction areas; and to direct drainage to proper runoff.
 4. Provide, operate, and maintain hydraulic equipment of adequate capacity to control surface and groundwater.
 5. Dispose of drainage water in a manner to prevent flooding, erosion, or other damage to any portion of the Site or to adjoining areas.
 6. Provide temporary drainage where the roofing or similar waterproof deck construction is completed prior to the connection and operation of the permanent drainage piping system.
 7. Comply with all other requirements indicated or specified.

SECTION 01530 – TEMPORARY BARRIERS AND CONTROLS (continued)

D. Debris Control and Clean-Up:

1. Keep the premises free at all times from accumulations of debris, waste materials, and rubbish caused by construction operations and employees. Responsibilities shall include:
 - a. Adequate trash receptacles about the Site, emptied promptly when filled.
 - b. Periodic cleanup to avoid hazards or interference with operations at the Site and to maintain the Site in a reasonably neat condition.
 - c. The keeping of construction materials such as forms and scaffolding neatly stacked.
 - d. Immediate cleanup to protect the Work by removing splattered concrete, asphalt, oil, paint, corrosive liquids, and cleaning solutions from walls, floors, and metal surfaces before surfaces are marred.
2. Prohibit overloading of trucks to prevent spillages on access and haul routes. Provide periodic inspection of traffic areas to enforce requirements.
3. Final cleanup is specified in SECTION 01780 - CONTRACT CLOSEOUT.

E. Pollution Control:

1. Provide methods, means, and facilities required to prevent contamination of soil, water, or atmosphere by the discharge of hazardous or toxic substances from construction operations.
2. Provide equipment and personnel, perform emergency measures required to contain any spillages, and remove contaminated soils or liquids. Excavate and dispose of any contaminated earth off-Site in approved locations, and replace with suitable compacted fill and topsoil.
3. Take special measures to prevent harmful substances from entering public waters, sanitary, or storm sewers.
4. Adhere to the Spill Prevention Control and Countermeasures Plan (SPCCP) requirements as stated in 40 CFR Part 112.

3.05 **ACCESS ROADS AND PARKING AREAS:**

A. New Temporary On-Site Roads and Parking Areas:

1. Locate roads, drives, walks, and parking facilities to provide access to construction offices, mobilization, Work, storage areas, and other areas required for execution of the Contract.
 - a. Consult with Engineer regarding any desired deviation therefrom.

SECTION 01530 – TEMPORARY BARRIERS AND CONTROLS (continued)

- b. Size of parking facilities shall be adequate to provide for needs of Contractor's personnel, Resident Project Representatives, and visits to Site by Engineer and Owner.
2. Provide access for emergency vehicles. Maintain driveways a minimum of 15 feet wide between and around combustible materials in storage and mobilization areas.
3. Maintain traffic areas free of excavated materials, construction equipment, snow, ice, and debris.
4. Construct temporary bridges and culverts to span low areas and allow unimpeded drainage.
5. Keep fire hydrants and water control valves free from obstruction and accessible for use.
6. Construction:
 - a. Clear areas required.
 - b. Fill, compact, and grade areas as necessary to provide suitable support for vehicular traffic under anticipated loadings. Materials and construction shall be as indicated or specified.
 - c. Provide for surface drainage of facilities and surrounding areas.
 - d. Maintain roads, walks, and parking areas in a sound, clean condition. Repair or replace portions damaged during progress of Work.
7. Removal:
 - a. Completely remove temporary materials and construction when construction needs can be met by use of permanent installation, unless construction is to be integrated into permanent construction. Remove and dispose of compacted materials to depths required by various conditions to be met in completed Work.
 - b. Restore areas to original, better, or specified condition at completion of Work.

3.06 **TRAFFIC CONTROL AND USE OF ROADWAYS:**

A. Traffic Control:

1. The Contractor shall plan and execute the work so that interference with the flow of traffic and the passage of pedestrians will be the minimum possible.
2. The CONTRACTOR shall arrange crews in a way to have continuous work from the time a particular project has begun until it is complete. The Contractor shall schedule crews in a way to have continuous work from the

SECTION 01530 – TEMPORARY BARRIERS AND CONTROLS (continued)

time a work order has been initiated until it is complete. The Contractor shall not demobilize until all work from the work order is complete.

3. It shall be the responsibility of the CONTRACTOR to inform the City of Fayetteville regarding dates and locations of work activities that may impact the flow of traffic.
4. The Contractor shall be responsible for making provisions for the safe and free passage of persons and vehicles by, over, or around the work until the project is completed. Such provisions shall be satisfactory with the Owner and State, County and local authority having jurisdiction in the area of work.
5. Provide, operate, and maintain equipment, services, and personnel, with traffic control and protective devices, as required to expedite vehicular traffic flow on haul routes, at Site entrances, on-Site access roads, and parking areas. This includes traffic signals and signs, flagmen, flares, lights, barricades, and other devices or personnel as necessary to adequately protect the public.
6. Remove temporary equipment and facilities when no longer required. Restore grounds to original, better, or specified condition when no longer required.
7. When required by the State, County or local authority that traffic be maintained over any construction work in a public or private highway, street, road, or other vehicle traffic path, and such traffic cannot be maintained on the alignment of the original roadbed or pavement, the Contractor shall, at his own expense, provide and/or construct and maintain a detour around the work. Such detours shall be satisfactory to the Owner and to State, County, or local authority. The Contractor shall provide and maintain all barricades, signs, torches, lights and markers around the work as may be required by the various agencies having jurisdiction in the work area. The Contractor shall also provide qualified flagmen to direct traffic while working upon a highway, street or road over which traffic must pass.
8. Excavated areas within the traffic lanes of highways, streets or roads and pedestrian walkways shall be backfilled as soon as possible and the area opened to traffic.
9. Bridge over open trenches where necessary to maintain traffic.
10. Consult with governing authorities to establish public thoroughfares which will be used as haul routes and Site access. All operations shall meet the approval of owners or agencies having jurisdiction.
11. The Contractor shall obtain permission from the applicable State, County or local authority(ies) before closing or obstructing any public highway, street or road. This shall include, but not necessarily be limited to, coordination with Fire Departments, 911 services, and other emergency services.

SECTION 01530 – TEMPORARY BARRIERS AND CONTROLS (continued)

12. The Contractor shall make the same provisions as described above for the passage of vehicular and pedestrian traffic between private property and public highways, streets and roads or other provisions that are satisfactory to the Owner and the property owners involved.

B. Maintenance of Roadways:

1. Repair roads, walkways, and other traffic areas damaged by operations. Keep traffic areas as free as possible of excavated materials and maintain in a manner to eliminate dust, mud, and hazardous conditions.
2. All operations and repairs shall meet the approval of owners or agencies having jurisdiction.

END OF SECTION 01530

SECTION 01560 – TEMPORARY UTILITIES AND FACILITIES

PART 1 - GENERAL

1.01 SUMMARY:

- A. This Section includes requirements of a temporary nature not normally incorporated into final Work. It includes the following:
 - 1. Utility services.
 - 2. Construction and support facilities.
 - 3. Construction aids.
 - 4. Safety and health.
 - 5. Fire protection.
- B. Related Work Specified Elsewhere:
 - 1. Temporary Barriers and Controls: SECTION 01530.

1.02 REFERENCES:

- A. American National Standards Association (ANSI):
 - 1. A10 Series – Safety Requirements for Construction and Demolition.
- B. National Electrical Contractors Association (NECA):
 - 1. Electrical Design Library – Temporary Electrical Facilities.
- C. National Fire Protection Association (NFPA):
 - 1. 10 – Portable Fire Extinguishers.
 - 2. 70 – National Electrical Code.
 - 3. 241 – Safeguarding Construction, Alterations, and Demolition Operations.
- D. National Electrical Manufacturers Association (NEMA).
- E. Underwriters Laboratories (UL).

1.03 SUBMITTALS:

- A. Temporary Utilities: Submit reports of tests, inspections, meter readings, and similar procedures performed on temporary utilities.
- B. Implementation and Termination Schedule: Submit a schedule indicating implementation and termination of each temporary utility within 15 days of the date established for commencement of the Work.

SECTION 01560 – TEMPORARY UTILITIES AND FACILITIES (continued)

1.04 QUALITY ASSURANCE:

- A. Regulations: Comply with industry standards and applicable laws and regulations of authorities having jurisdiction, including but not limited to:
 - 1. Building Code requirements.
 - 2. Health and safety regulations.
 - 3. Utility company regulations.
 - 4. Police, Fire Department, and rescue squad rules.
 - 5. Environmental protection regulations.
- B. Standards:
 - 1. Comply with NFPA 10 and 241, and ANSI A10 Series standards "Temporary Electrical Facilities."
 - 2. Comply with NEMA, NECA, and UL standards and regulations for temporary electric service. Install service in compliance with NFPA 70.
- C. Inspections: Arrange for authorities having jurisdiction to inspect and test each temporary utility before use. Obtain required certifications and permits.

1.05 PROJECT CONDITIONS:

- A. Temporary Utilities: Prepare a schedule indicating dates for implementation and termination of each temporary utility. At the earliest feasible time, when acceptable to Owner, change over from use of temporary service to use of the permanent service.
- B. Conditions of Use: Keep temporary services and facilities clean and neat in appearance. Operate in a safe and efficient manner. Take necessary fire prevention measures. Do not overload facilities or permit them to interfere with progress. Do not allow hazardous, dangerous, unsanitary conditions, or public nuisances to develop or persist on the Site.

PART 2 - PRODUCTS

2.01 MATERIALS AND EQUIPMENT:

- A. Provide new materials and equipment. Provide materials and equipment suitable for the use intended, of capacity for required usage, and meeting applicable codes and standards. Comply with requirements of the TECHNICAL SPECIFICATIONS.
- B. Water: Provide potable water approved by local health authorities.
- C. Water Hoses: Provide 3/4-inch (19-mm), heavy-duty, abrasion-resistant, flexible rubber hoses 100 feet (30 m) long, with pressure rating greater than the maximum

SECTION 01560 – TEMPORARY UTILITIES AND FACILITIES (continued)

pressure of the water distribution system. Provide adjustable shutoff nozzles at hose discharge.

- D. Electrical Outlets: Provide properly configured, NEMA-polarized outlets to prevent insertion of 110- to 120V plugs into higher voltage outlets. Provide receptacle outlets equipped with ground-fault circuit interrupters, reset button, and pilot light for connection of power tools and equipment.
- E. Electrical Power Cords: Provide grounded extension cords. Use hard-service cords where exposed to abrasion and traffic. Provide waterproof connectors to connect separate lengths of electric cords if single lengths will not reach areas where construction activities are in progress. Do not exceed safe length-voltage ratio.
- F. Lamps and Light Fixtures: Provide general service incandescent lamps of wattage required for adequate illumination. Provide guard cages or tempered-glass enclosures where exposed to breakage. Provide exterior fixtures where exposed to moisture.
- G. Heating Units: Provide temporary heating units that have been tested and labeled by UL, FM, or another recognized trade association related to the type of fuel being consumed.
- H. Fire Extinguishers: Provide hand-carried, portable, UL-rated, Class A fire extinguishers for temporary offices and similar spaces. In other locations, provide hand-carried, portable, UL-rated, Class ABC, dry-chemical extinguishers or a combination of extinguishers of NFPA-recommended classes for the exposures. Comply with NFPA 10 and NFPA 241 for classification, extinguishing agent, and size required by location and class of fire exposure.

PART 3 - EXECUTION

3.01 TEMPORARY UTILITIES:

A. General:

1. Engage the appropriate local utility company to install temporary service or connect to existing service. Where utility company provides only part of the service, provide the remainder with matching, compatible materials and equipment. Comply with utility company recommendations.
2. Provide adequate utility capacity at each stage of construction. Prior to availability of temporary utilities at the site, provide trucked-in services as required for start-up of construction operations.
3. Obtain and pay for temporary easements required to bring temporary utilities to the Project Site, where the Owner's permanent easement cannot be used for that purpose.
4. Furnish, install, and maintain temporary utilities required for adequate construction, safety, and security. Modify, relocate, and extend systems as Work progresses. Repair damage caused by installation or use of temporary

SECTION 01560 – TEMPORARY UTILITIES AND FACILITIES (continued)

facilities. Grade the areas of Site affected by temporary installations to required elevations and grades, and clean the area. Remove on completion of Work or until service or facilities are no longer needed or are replaced by authorized use of completed permanent facilities.

5. The types of temporary construction utilities and facilities required include, but not by way of limitation, water distribution, drainage, dewatering equipment, enclosure of Work, heat, ventilation, electrical power distribution, lighting, hoisting facilities, stairs, ladders, and roads.
6. Inspect and test each service before placing temporary utilities in use. Arrange for required inspections and tests by governing authorities, and obtain required certifications and permits for use.
7. Materials used for temporary service shall not be used in the permanent system unless so specified or acceptable to Engineer.

3.02 **TEMPORARY ELECTRICITY AND LIGHTING:**

A. New Service:

1. Arrange with utility company and provide service required for power and lighting.
2. Connect temporary service in a manner directed by utility company officials. Provide separate meter for metering of power used by all entities authorized to be at or perform Work at the Project Site.
3. The electric service shall be of sufficient capacity and characteristics for the various construction tools, machinery, lights, heating and air conditioning, pumps, and other tools required by Contractor and his Subcontractors.
4. Provide weatherproof, grounded, power distribution system sufficient to accommodate construction operations requiring power, use of power tools, electrical heating, and lighting. Provide overload protection. Locate multiple outlets spaced so that entire area of construction can be reached by power tools on a single extension cord of 100-foot maximum length. Supply power for electric welding, if any, from either temporary power distribution system or by engine-driven, power-generator sets at Contractor's option.
5. Provide all necessary temporary wiring, panelboards, switches, outlets, and other devices so that power and lighting is available throughout the construction area. Include meters, transformers, overload protection disconnects, automatic ground fault interrupters, and main distribution switch gear. Include overcurrent protection on all conductors of the temporary system.

SECTION 01560 – TEMPORARY UTILITIES AND FACILITIES (continued)

6. Provide adequate artificial lighting for all areas of Work when natural light is not adequate for Work.
 - a. Sufficient light shall be provided for general construction areas and floor areas, with additional sufficient lighting for specific tasks and to meet safety requirements.
- B. Use of Existing System:
 1. Owner's existing system shall not be used for temporary electricity.
- C. Use of Permanent System:
 1. Prior to use of permanent system (facilities being constructed by Contractor) for construction purposes, obtain written permission of Owner.
 2. Maintain permanent system as specified for temporary facilities.
- D. Costs of Installation and Operation:
 1. Pay fees and charges for permits and applications.
 2. Pay costs of installation, maintenance, removal of temporary services, and restoration of any permanent facilities used.
 3. Pay costs of electrical power used.
 4. Obtain and pay costs for temporary easements required across properties other than that of Owner.

3.03 **TEMPORARY WATER:**

- A. New Service:
 1. Arrange with utility service company to provide water for construction purposes.
 2. Connect service to water main in a manner directed by utility company officials. Provide with meter and shut off valve near connection to the water main.
 3. Size water service to provide adequate volume for all anticipated construction uses, and to maintain minimum required pressure.
 4. Install piping with outlets located so that water is available throughout the construction area.
 5. Prevent freezing of water distribution system. Maintain hose connections and outlet valves in leakproof condition.
 6. Sterilize temporary water piping prior to use.

SECTION 01560 – TEMPORARY UTILITIES AND FACILITIES (continued)

B. Use of Existing System:

1. Owner's existing system may be used for temporary water.
2. Make connections to existing facilities to provide water for construction purposes.
 - a. Water Source: Make connections to Owner's service located at point indicated or where instructed by Owner.
3. Modify, supplement, and extend system as necessary to meet temporary water requirements and prevent overloading of existing system.
4. Regulate system to prevent interference with Owner's usage.

C. Use of Permanent System:

1. Prior to use of permanent system for construction purposes, obtain written permission of Owner.
2. Prior to Use of System for Drinking Water:
 - a. Disinfect piping.
 - b. Obtain inspection and approval of governing authority.

D. Costs of Installation and Operation:

1. Pay all costs for installation, maintenance, and removal.
2. Pay all costs for water used.

3.04 **TEMPORARY SANITARY FACILITIES:**

A. Contractor-Furnished Facilities:

1. Furnish, install, and maintain temporary sanitary facilities for use through construction period. Remove on completion of Work.
2. Provide for all construction workers under this Contract and representatives at the Site.
3. Toilet facilities shall be of the chemical, aerated recirculation, or combustion type, properly vented, and fully enclosed with a glass- fiber-reinforced polyester shell or similar nonabsorbent material.
4. Water and sewer connected facilities may be installed to extent permitted by governing regulations.
 - a. Provide lavatories, mirrors, urinals (where applicable), and water closets in water and sewer connected units. Provide only potable water at lavatories. Provide individual compartments for water closets where the unit is intended for occupancy by more than one person. Provide

SECTION 01560 – TEMPORARY UTILITIES AND FACILITIES (continued)

suitable enclosure with nonabsorbent sanitary finish materials and adequate heat, ventilation and lighting.

- b. Provide separate toilet facilities for male and female construction personnel as required.
- 5. Wash Facilities: Install potable water-supplied wash facilities at locations convenient to construction personnel involved in the handling of compounds and materials where wash-up is necessary to maintain a safe, healthy and sanitary condition. Where recommended or required by governing authorities and regulations or recognized standards provide emergency safety showers, emergency eye-wash fountains, showers, and similar facilities. Dispose of drainage properly. Supply soap and other cleaning compounds appropriate for each condition.
- 6. Drinking Water Fixtures: Provide containerized tap-dispenser type drinking water units. Provide drinking water fountains if piped potable water is reasonably accessible from permanent or temporary lines.
- 7. Supply and maintain toilet tissue, paper towels, paper cups and similar disposable materials as appropriate for each facility. Provide appropriate covered waste containers for used material.
- B. Use of Existing Facilities:
 - 1. Not applicable.

3.05 **SEWERS AND DRAINAGE:**

- A. General: Where sewers or drainage facilities are not available for discharge of effluent, provide containers to remove and dispose of effluent off the Site in a lawful manner. If existing sewers are available for temporary drainage near the Site prior to completion of permanent sewers, provide temporary connections to remove effluent that can be lawfully discharged into the sewers. If existing sewers cannot be used for discharge, provide drainage ditches, dry wells, waste stabilization ponds, and similar discharge facilities to remove effluent that can be lawfully discharged in that manner.
- B. Connect temporary sewers to the municipal sewer systems in the manner directed by the sewer department officials.
- C. Maintain temporary sewers and drainage facilities in a clean, sanitary condition. Following heavy usage, restore to normal conditions promptly. Provide and maintain temporary earthen embankments and similar barriers in and around construction excavations and subgrade construction, sufficient to prevent flooding by runoff of storm water from heavy rain storms.

SECTION 01560 – TEMPORARY UTILITIES AND FACILITIES (continued)

3.06 TEMPORARY CONSTRUCTION AIDS:

A. General:

1. Provide construction aids and equipment required by personnel and to facilitate the execution of the Work; scaffolds, staging, ladders, stairs, ramps, runways, platforms, railings, hoists, cranes, chutes, and other such facilities and equipment.
2. Materials may be new or used, must be suitable for the intended purpose, and meet the requirements of applicable codes, regulations, and standards.
3. When permanent stair framing is in place, provide temporary treads, platforms, and railings for use by construction personnel.

3.07 TEMPORARY SAFETY AND HEALTH:

- A. General: Contractor shall be responsible for development of safety and health programs for personnel at Project Site as specified in the GENERAL CONDITIONS.

3.08 TEMPORARY FIRE PROTECTION:

A. General:

1. Contractor shall be responsible for development of a fire prevention and protection program for all Work under this Contract.
2. The program shall comply with the applicable provisions for safety and protection as set forth in the GENERAL CONDITIONS and with applicable parts of the NFPA 10 and 241.
3. Locate fire extinguishers where convenient and effective for their intended purpose, but not less than one extinguisher on each floor at or near such usable stairwell.
4. Store combustible materials in containers in fire-safe locations.
5. Maintain unobstructed access to fire extinguishers, fire hydrants, temporary fire protection facilities, stairways, and other access routes for fighting fires. Prohibit smoking in hazardous fire exposure areas.
6. Provide supervision of welding operations and similar sources of fire ignition.
7. Post warning and instructions at each extinguisher location, and instruct construction personnel on proper use of extinguishers and other available facilities at Project Site. Post local fire department telephone number on or near each telephone instrument at Project Site.

SECTION 01560 – TEMPORARY UTILITIES AND FACILITIES (continued)

B. Permanent Fire Protection:

1. Complete each fire protection facility at earliest reasonable date, place into operation, and make ready for emergency use.
2. Instruct personnel at Site on availability and proper use.

3.09 **INSTALLATION AND REMOVAL:**

- A. Relocation: Relocate construction aids as required by progress of construction, storage limitations, or Work requirements and to accommodate requirements of Owner and other contractors at the Site.
- B. Removal: Remove temporary materials, equipment, and services when construction needs can be met and allowed by use of permanent construction, or at completion of the Project.
- C. Repair: Clean and repair damage caused by installation or by use of temporary facilities.
 1. Remove foundations and underground installations for construction aids.
 2. Grade the areas of the Site affected by temporary installations to required elevations and clean the area.

END OF SECTION 01560

SECTION 01560 – TEMPORARY UTILITIES AND FACILITIES (continued)

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SECTION 02003 – TRENCH SAFETY/PROTECTIVE SYSTEMS

PART 1 - GENERAL

1.01 WORK INCLUDED

- A. Comply with OSHA (Occupational Safety and Health Administration) Standards 29 CFR 1926 Safety and Health Regulations for Construction Subpart P, Excavations, Standard 1926.650, of the Code of Federal Regulations and as follows.
- B. The Contractor is responsible for ensuring that safe working conditions exist and safety procedures are being followed at the work site. The Contractor is responsible to comply with all Federal, State and City laws, rules or regulations stated or not stated within these specifications.
- C. If the Contractor is working for any Arkansas public body (state agency, county, municipality, school district, or other local tax unit or improvement district), and has entered into a contract under the provisions of Arkansas Code Title 22. Public Property §§ 22-9-202-204, then the engineer and the contractor shall comply with Arkansas Code Title 22. Public Property § 22-9-212 Public improvements generally - Trench or excavation safety systems.

The requirements include, but are not necessarily limited to:

22-9-212. Public improvements generally -- Trench or excavation safety systems.

- a. Whenever any agency of this state or of any county, municipality, or school district, or other local taxing unit or improvement district, enters into a contract covered by the provisions of 22-9-202 - 22-9-204 for the making of repairs or alterations or the erection of buildings or for the making of any other improvements, or for the construction or improvement of highways, roads, streets, sidewalks, curbs, gutters, drainage or sewer projects, or for any other construction project in which the public work or public improvement construction project involves any trench or excavation which equals or exceeds five feet (5') in depth, the agency, county, municipality, school district, local taxing unit, or improvement district shall require:

- (1) That the current edition of Occupational Safety and Health Administration Standard for Excavation and Trenches Safety System, 29 CFR 1926, Subpart P, be specifically incorporated into the specifications for the project; and
- (2) That the contract bid form include a separate pay item for trench or excavation safety systems to be included in the base bid.

- b. In the event a contractor fails to complete a separate pay item in accordance with the applicable provisions of subsection (a) of this section, the agency, county, municipality, school district, local taxing unit, or improvement district shall declare that the bid fails to comply fully with the provisions of the specifications and bid documents and will be considered invalid as a nonresponsive bid. The

SECTION 02003 – TRENCH SAFETY/PROTECTIVE SYSTEMS (continued)

owners of the above-stated project shall notify the Safety Division of the Department of Labor of the award of a contract covered by this section.

The contractor is responsible for compliance with the latest version of this Code (Arkansas Code Title 22. Public Property § 22-9-212 Public improvements generally - Trench or excavation safety systems).

- D. Protective Systems - The Contractor shall design or provide an engineered design, and shall install, and maintain Protective Systems in strict compliance with OSHA (Occupational Safety and Health Administration) Standards 29 CFR 1926 – Construction, of the Code of Federal Regulations and all other applicable Federal, State, and local requirements.

1.02 **29 CFR 1926, SUBPART P, INCORPORATED**

- A. The current edition of Occupational Safety and Health Administration Standard for Excavation and Trenches Safety System, 29 CFR 1926, Subpart P, is incorporated by reference into these Standard specifications.

- B. Additional information may be found at:

United states Department of Labor, Occupational Safety and Health Administration, Regulations (Standards – 29 CFR) Construction Standard Number 1926 – Safety and Health Regulations for Construction.

[https://www.osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=STANDARD
S&p_toc_level=1&p_keyvalue=1926](https://www.osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=STANDARD&p_toc_level=1&p_keyvalue=1926)

Trenching and Excavation Safety OSHA 2226-10R 2015 Booklet at:

<https://www.osha.gov/Publications/osh2226.pdf>

1.03 **MEASUREMENT AND PAYMENT**

- A. Measurement and Payment for the work included in this section will be in accordance with the prices set forth in the Unit Price Bid Schedule for the quantity of work performed and accepted and as specified elsewhere within the Contract Documents.

END OF SECTION 02003

SECTION 02004 – CONFINED SPACES

PART 1 - GENERAL

1.01 GENERAL

- A. Comply with OSHA (Occupational Safety and Health Administration) Standards 29 CFR 1910 Occupational Safety and Health Standards including Subpart J, General Environmental Controls Excavations, Standard 1910, including but not limited to 29 CFR 1910.146, Permit-required Confined Spaces of the Code of Federal Regulations and as follows.
- B. The Contractor is responsible for ensuring that safe working conditions exist and safety procedures are being followed at the work site. The Contractor is responsible to comply with all Federal, State and City laws, rules or regulations stated or not stated within these specifications. The Contractor is responsible to notify OSHA of the commencement of all construction.
- C. The Contractor is responsible to notify the Trash and Recycling Director, and the Engineer, when personnel are to work in, or near, a Permit-Required Confined Space and contractor shall coordinate such work with the Trash and Recycling Director, and the Engineer.
- D. Contractor shall inform the Trash and Recycling Director, and the Engineer, of type of Permit-Required Confined Space documentation, permit and program used by the contractor.
- E. Contractor shall inform the Trash and Recycling Director, and the Engineer, of any hazards confronted or created in a Permit-Required Confined Space.
- F. The Contractor is responsible to notify the Trash and Recycling Director, and the Engineer, when personnel are to work in, or near, a Non-Permit-Required Confined Space and contractor shall coordinate such work with the Trash and Recycling Director, and the Engineer.
- G. Contractor shall inform the Trash and Recycling Director, and the Engineer, of type of Non-Permit-Required Confined Space documentation and program used by the contractor.
- H. Contractor shall inform the Trash and Recycling Director, and the Engineer, of any hazards confronted or created in a Non-Permit-Required Confined Space.

END OF SECTION 02004

SECTION 02004 – CONFINED SPACES (continued)

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SECTION 02005 – PUBLIC EMPLOYEES RIGHT TO KNOW ACT

PART 1 - GENERAL

1.01 **WORK INCLUDED**

- A. Comply with OSHA (Occupational Safety and Health Administration) Standards 29 CFR 1910 Occupational Safety and Health Standards including Subpart H, Hazardous Materials, Standard 1910.120, of the Code of Federal Regulations and as follows.
- B. Comply with State of Arkansas Act 556 of 1991, Arkansas Code Ann. Sec 8-7-1101 et. Seq.: Public Employees Chemical Right to Know Act, and as follows.
- C. The Contractor is responsible for ensuring that safe working conditions exist and safety procedures are being followed at the work site. The Contractor is responsible to comply with all Federal, State and City laws, rules or regulations stated or not stated within these specifications.
- D. The Contractor shall provide to the Trash and Recycling Director, and the Engineer, a list of all hazardous chemicals and a copy of the appropriate Safety Data Sheets (SDS) (previously aka Material Safety Data Sheets) brought onto the property. This information is required prior to any work being started.
- E. The City will provide to the contractor a list of hazardous chemicals at any City facility where work is being performed. The locations and SDS information will be provided prior to any work starting. The contractor is responsible for disseminating this information to its employees.

END OF SECTION 02005

SECTION 02005 – PUBLIC EMPLOYEES RIGHT TO KNOW ACT (continued)

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Appendix B
Bid 24-31, Construction -
Transfer Station Improvements Rebid
City Issued Bid

SECTION 01010 - SPECIAL CONDITIONS

PART 1 GENERAL

1.01 BUILDING PERMITS

- A. The City of Fayetteville requires all buildings constructed for their use to be permitted and inspected by the City of Fayetteville Building Safety Division and constructed in accordance with current City of Fayetteville Building Codes. As stated in the Section 00700, General Conditions, all fees except for state mandated craft fees for City of Fayetteville issued permits will be waived.

1.02 CONSTRUCTION PERIOD

A. Demolition and Construction Activities

1. All demolition and construction activities within the Transfer Station shall occur between May 1 and June 29, 2025. Construction materials shall be on-site prior to May 1, 2025, so that work may immediately commence on May 1st. All construction activities shall be complete by no later than June 29, 2025.
2. All demolition and construction activities to the metal push walls shall be limited to either the north metal push wall or the south metal push wall to minimize operational impacts to the Transfer Station. A temporary construction barrier shall be erected to protect the Contractor's personnel during demolition and construction activities associated with the metal push walls. The temporary construction barrier shall be installed in the location shown on the plans.
3. All construction activities associated with armoring the existing elevated concrete beams in the Waste Pit shall be limited to the following hours: 4:00 P.M. through 4:00 A.M. daily. Furthermore, the Waste Pit must be fully returned to operation on a daily basis.
4. All construction activities associated with the metal chute in the waste pit shall be limited to a consecutive seven (7) day calendar period between June 15 and June 29, 2025, and shall not commence until the completion of all improvements associated with the metal push wall and the armoring of the existing elevated concrete beams in the waste pit. The Contractor shall be subject to Liquidated Damages in the amount of One Thousand Dollars (\$1,000.00) per calendar day for each day the metal chute remains incomplete and the Transfer Station can be restored to its full operational capacity following the consecutive seven (7) day calendar period.

END OF SECTION 01010

SECTION 01010 - SPECIAL CONDITIONS (continued)

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SECTION 01111 - SITE CONDITIONS

PART 1 GENERAL

1.01 SCOPE OF WORK

- A. In general, follow the guidelines below when dealing with existing conditions on or adjacent to the site. These guidelines are not intended to restrict or replace professional judgment by the Contractor.

1.02 RELATED SECTIONS

- A. Section 00800 – Supplementary Conditions
- B. Section 01110 – Summary of Work

1.03 SITE CONDITIONS

A. Site Information

- 1. The Contractor is advised that the Fayetteville Transfer Station and Materials Processing Facility is an active facility and that the Materials Processing Facility will be operational during the construction period. Contractor shall ensure that access to the Materials Processing Facility is not interrupted at any time.
- 2. Confine all activities to public rights-of-way or to the Owner's property unless specific authorization is granted to use other properties.

B. Subsurface Information

- 1. Available subsurface information is defined in Section 00800 under Paragraph SC-1.28, *Subsurface Data*. If available, the Contractor may obtain copies of geotechnical and/or environmental reports from the Engineer.
- 2. The information contained in the reports identified above is based on surface observations only at specific locations at the site or is based on subsurface conditions only at specific boring locations, and only at the time that the observations and borings were conducted. The Contractor should not infer that this technical data is indicative of the entire site. Further, the Bidder is required to conduct additional site investigations as necessary to satisfy any additional questions prior to Bidding.
- 3. The reliability of the reports identified above is defined in Section 00800 under Paragraph SC-1.28, *Subsurface Data*. The Contractor is not entitled to rely upon any other information or data known to or identified by Owner and Engineer.

C. Site Investigation and Representation

- 1. The Contractor acknowledges that he has satisfied himself as to the nature and location of the Work; the general and local conditions, particularly those bearing upon availability of transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads, and uncertainties of weather, river/stream stages, or similar physical

SECTION 01111 - SITE CONDITIONS (continued)

conditions at the site; the conformation and conditions of the ground; the character of equipment and facilities needed preliminary to and during the prosecution of the Work and all other matters which can in any way affect the Work or the cost thereof under this Contract.

2. The Contractor further acknowledges that he has satisfied himself as to the character, quality, and quantity of surface and subsurface materials to be encountered from inspecting the site and from evaluating any information on subsurface and physical conditions provided by the Owner. Any failure by the Contractor to acquaint himself with all the available information will not relieve him from responsibility for properly estimating the difficulty or cost of successfully performing the Work. Neither the Owner nor the Engineer assumes responsibility for any conclusion or interpretation made by the Contractor based on the information made available by the Owner or the Engineer.
3. The Contractor shall be responsible for the notification of utility location services, including Arkansas 811 and other utilities location services not specifically listed, sufficiently in advance of excavation activities to allow for the field location of any underground utilities and structures. The Arkansas 811 telephone number is 1-800-482-8998. A minimum of 48 hours prior notification is required.

D. Responsibility for Utility Properties and Service

1. The Drawings show known utilities and structures adjacent to or to be encountered in the Work. The locations shown are taken from existing records and the best information available from existing plans; however, it is expected that there may be some discrepancies and omissions in the locations and quantities of utilities and structures shown. This information is shown only for the Contractor's convenience, and neither the Owner nor the Engineer assumes any responsibility as to its accuracy or completeness. The Contractor shall make every effort to locate all underground utilities and structures by prospecting in advance of excavation activities.
2. Neither the Owner nor his officers or agents shall be responsible for damages as a result of the Contractor's failure to protect utilities encountered in the Work.
3. Provide unobstructed access to fire hydrants, underground conduit, manholes, and water or gas valve boxes.
4. Where the Contractor's operations are adjacent to existing utilities and services; and when operations could cause damage that would result in considerable loss, expense and inconvenience; then the Contractor shall not commence the Work until making necessary arrangements for their protection. These utilities and service shall include but not be limited to railway, fiber optic, telephone, television, power, oil, gas, water, sanitary sewer, storm drain, irrigation or other systems.
5. Notify all utility offices that are affected by the construction operation at least fifteen (15) days in advance of commencing construction operations. Do not expose any utility without first obtaining permission from the affected agency. Once permission has been granted, locate and if necessary, expose and provide temporary support for all existing underground utilities in advance of operations.

SECTION 01111 - SITE CONDITIONS (continued)

6. The Contractor shall be solely and directly responsible to the owners and operators of such utility properties for any damage, injury, expense, loss, inconvenience, delay, suits, actions, or claims of any character brought because of any injuries or damage that may result from the construction operations under this Contract.
7. In the event of interruption to domestic water, sanitary sewer, storm drain, or other utility services because of accidental breakage due to construction operations, the Contractor shall promptly notify the proper authority, cooperate with said authority in restoration of service as promptly as possible, and bear all costs of repair. In no event shall interruption of any public or franchised utility service be allowed unless the owner of the utility grants prior approval.
8. Replace at Contractor's expenses any existing utilities or structures removed or damaged during construction, unless the Contract Documents indicate otherwise.
9. Where existing utility lines or structures are so located as to physically conflict with permanent structures to be constructed under this Contract, the conflicting utility line or structure shall be permanently relocated. Such relocations shall be considered as required by this Contract.
10. Give immediate notice to the Engineer, the Owner, and the owner of the utility (where applicable) when a physical conflict or interference is determined to exist; and then obtain approval to relocate such utility or to discontinue service therein from the Engineer and the owner of the utility. The owner of the utility shall have the right to do all work required to discontinue, relocate, and replace interfering utilities and charge the Contractor for all costs thereof. When approved by the Engineer and the owner of the utility, all work required to discontinue, relocate, and replace interfering utilities may be done by the Contractor. All such discontinuance, relocation, and replacement shall be accomplished in accordance with all requirements of the owner of the utility.
11. When notified by the Contractor that an interference or conflict has been determined to exist, the Engineer will determine whether such interference shall be considered as required by construction or as incidental to construction.
12. Where existing utility lines or structures are so located as to interfere with the Contractor's prosecution of the Work, but do not physically conflict with permanent structures to be constructed under this Contract; then any modification, alteration, or relocation of interfering utility, either permanent or temporary, shall be accomplished at the expense of the Contractor.

E. Interfering Structures

1. Take necessary precautions to prevent damage to existing structures whether on the surface, aboveground, or underground. An attempt has been made to show major structures on the Drawings. While the information has been compiled from the best available sources, its completeness and accuracy cannot be guaranteed, and it is presented as a guide to avoid known possible difficulties.

SECTION 01111 - SITE CONDITIONS (continued)

2. Protect existing structures from damage, whether or not they lie within the right-of-way or the limits of the easements obtained by the Owner. Where existing structures must be removed to conduct the Work properly, or are damaged during the Work, they shall be restored at the Contractor's own expense to at least their original condition and to the satisfaction of the Engineer.
3. The Contractor may, with the approval of the Engineer and without additional compensation, remove and replace in a condition as good as or better than original, any small interfering structures such as fences and signposts that interfere with the Contractor's operations.

F. Field Relocation

1. During the progress of the Work, minor relocations of the Work may be necessary that do not require changes in the Contract time or price. Make such relocations only at the direction of the Engineer (by Field Order). If existing structures are encountered that will prevent construction as shown, notify the Engineer before continuing with the Work in order that the Engineer may make such field revisions as necessary to avoid conflict with the existing structures. If the Contractor fails to notify the Engineer when an existing structure is encountered and proceeds with the Work despite this interference, the Contractor shall be responsible for any damage that may occur.

G. Land Monuments

1. Preserve or replace any existing federal, state, county, city, or private land monuments encountered. A land surveyor, licensed in the state where the project is located, shall replace damaged or missing monuments at the Contractor's expense.

1.04 PAYMENT PROCEDURES

- A. The Work specified in this Section shall be considered incidental and payment will be included as part of the appropriate lump sum or unit price bid items in the Bid Form.

PART 2 PRODUCTS – Not Used

PART 3 EXECUTION – Not Used

END OF SECTION 01111

SECTION 01300 - SUBMITTALS

7PART 1 GENERAL

1.01 SCOPE OF WORK

- A. This Section specifies the general methods and requirements of submissions applicable to Shop Drawings, Materials and Product Data, Test Results, Samples, Permits, Construction Photos, and Construction or Submittal Schedules. Additional general submission requirements are contained the General Conditions. Detailed submittal requirements are specified in the technical sections.
- B. Clearly identify all submittals by reference to Section Number, Paragraph, Drawing Number or Detail as applicable. Submittals shall be clear and legible and of sufficient size for presentation of data.

1.02 SCHEDULING

- A. Coordination of Submittal Times: Prepare and transmit each submittal sufficiently in advance of performing the related work or other applicable activities, or within the time specified for the associated work of other related Sections. The Work shall not be delayed by processing times and issues involving the following: disapproval and resubmittal (if required); coordination with other submittals; or for testing, purchasing, fabrication, delivery, and similar sequenced activities. No extension of time will be authorized because of the Contractor's failure to transmit submittals sufficiently in advance of the Work.

PART 2 PRODUCTS

2.01 SHOP DRAWINGS, MATERIALS AND PRODUCT DATA, SAMPLES

- A. Shop Drawings
 - 1. Shop drawings as specified in individual Sections include custom-prepared data such as fabrication and erection or installation drawings, scheduled information, setting diagrams, actual shop work manufacturing instructions, custom templates, special wiring diagrams, coordination drawings, individual system or equipment inspection reports, and test reports including performance curves and certifications.
 - 2. All shop drawings submitted by subcontractors shall be sent directly to the Contractor for checking. The Contractor shall be responsible for their submission at the proper time so as to prevent delays in delivery of materials.
 - 3. Check all subcontractor's shop drawings regarding measurements, size of members, materials and details to make sure that they conform to the intent of the Drawings and related Sections. Return shop drawings found to be inaccurate or otherwise in error to the subcontractors for correction before submission to the Engineer.

SECTION 01300 – SUBMITTALS (continued)

4. All details on shop drawings shall show clearly the relation of the various parts to the main members and lines of the structure; and where correct fabrication of the work depends upon field measurements, such measurements shall be made and noted on the drawings before being submitted.

B. Materials and Product Data

1. Submit material data in accordance with the individual specification sections. When required, furnish test data to indicate material and installation compliance with the appropriate specification or standard. Materials requiring certification include, but are not limited to the following: select material, topsoil, sand, rock, crushed stone, concrete, grout, slurry, metals, etc. Compliance or certification statements may include manufacturer's printed statements of compliances and applicability; production or quality control inspection/test reports; certifications; mill reports; and long and short-term storage instructions.
2. Submit product data in accordance with the individual specification sections. Product data shall include, but not be limited to the following: standard prepared manufacturer's product data (sometimes referred to as catalog data or cut sheets); manufacturer's product specification and installation instructions; availability of colors, patterns and materials; manufacturer's printed statements of compliances and applicability; roughing-in diagrams and templates; product photographs; standard wiring diagrams; printed performance curves and operational-range diagrams; production or quality control inspection and test reports and certifications; mill reports; product operating and maintenance instructions; long and short term storage instructions; recommended spare parts listings; and printed product warranty documentation.
3. In addition to the list of recommended spare parts, submit a separate list of spare parts that will be provided by the manufacturer with the equipment, as required by the individual equipment specifications. During the startup of the equipment, the manufacturer's representative, in coordination with the Contractor, shall verify that all required spare parts have been delivered to the project site and are in satisfactory condition for use by the Owner. At Final Completion, compile two (2) copies of each required (delivered) spare parts list and deliver such to the Owner. Organize the spare parts lists into an orderly sequence based on the table of contents of the Project Manual and include the number of parts delivered and the part number of each.

2.02 PERMITS

A. Construction and Environmental Permits

1. Submit permits in accordance with the contract documents or in individual technical specification sections. When required, furnish copies of permits from governmental agencies for the following: demolition permits, street closure and crossing permits, highway and railroad permits, environmental permits, building permits, grading permits, blasting permits, and safety permits.

SECTION 01300 – SUBMITTALS (continued)

2.03 PROFESSIONAL ENGINEER (P.E.) CERTIFICATION FORM

- A. If specifically required in other related Sections, submit a State of Arkansas P.E. Certification for each item required, in the form attached to this Section, completely filled in and stamped.

PART 3 EXECUTION

3.01 CONTRACTOR'S RESPONSIBILITIES

- A. Review shop drawings, product data and samples, including those by subcontractors, prior to submission to determine and verify the following:
 - 1. Conformance of materials and equipment with related Sections
 - 2. Equipment (or field) measurements
 - 3. Equipment (or field) construction criteria
 - 4. Catalog numbers and similar data

3.02 SUBMISSION REQUIREMENTS

- A. Make submittals promptly in accordance with approved schedule and in such sequence as to cause no delay in the Work or in the work of any other subcontractor.
- B. Each submittal, appropriately coded, will be returned within 20 business days following receipt of submittal by the Engineer.
- C. Number of submittals required:
 - 1. Electronic Copies: Provide one (1) electronic copy (scanned PDF file) of each shop drawing, structural drawing, and material and product data sheets to the Engineer. Include Contractor's submittal cover sheet and certification statement in electronic copy.
 - 2. Samples: Submit the number stated in the respective Sections.
- D. Submittals shall contain:
 - 1. The dates of receipt by the Contractor and submission to the Engineer, and the dates of any previous submissions,
 - 2. The Project title and number,
 - 3. Contractor identification,
 - 4. The names of the Contractor, Supplier and Manufacturer,
 - 5. Identification of the product, with the section number, page and paragraph(s),
 - 6. Equipment (or field) dimensions, clearly identified as such,
 - 7. Relation to adjacent or critical features of the work or materials,
 - 8. Applicable standards, such as ASTM or Federal Standards numbers,
 - 9. Identification of deviations from Contract Documents,
 - 10. Identification of revisions on resubmittals,
 - 11. A 4-inch by 8-inch (4" x 8") blank space for Contractor and Engineer stamps,

SECTION 01300 – SUBMITTALS (continued)

12. Where calculations are required to be submitted by the Contractor, the calculations shall have been checked by a qualified individual other than the preparer. The submitted calculations shall clearly show the names of the preparer and of the checker.
- E. Affix the following Certification Statement to each submittal, along with the Contractor's Company name and signature of the Contractor:
 1. "Certification Statement: By this submittal, I hereby represent that I have determined and verified all equipment (or field) measurements, equipment (or field) construction criteria, materials, dimensions, catalog numbers and similar data, and I have checked and coordinated each item with other applicable approved shop drawings and all Contract requirements."
- F. Shop drawings and product data sheets 11 by 17-inch (11"x 17") and smaller shall be bound together in an orderly fashion by specification section and bear the above Certification Statement on the cover sheet. The cover sheet shall fully describe the packaged data and include a listing of all items within the package. Provide to the Resident Project Representative a copy of each transmittal sheet for shop drawings, product data and samples at the time of submittal to the Engineer.
- G. Utilize a 10-character submittal identification numbering system in the following manner:
 1. The first character shall be a D, S, P or M: which represents Shop/Working Drawing and other Product Data (D), Sample (S), Preliminary Submittal (P) or Operating/ Maintenance Manual (M).
 2. The next five (5) digits shall be the applicable specification Section Number.
 3. The next three (3) digits shall be the numbers 001 to 999, which shall sequentially number each initial separate item or drawing submitted under each specific Section Number.
 4. The last character shall be a letter, A to Z, indicating the submission, or resubmission of the same Drawing, i.e., A = 1st submission, B = 2nd submission, C = 3rd submission, etc. A typical submittal number would be as follows:

D-03300-008-B
D = Shop Drawing
03300 = Specification Section for Concrete
008 = The eighth initial submittal under this section
B = The second submission (first resubmission) of that particular shop drawing
- H. Notify the Engineer in writing, at the time of submittal, of any deviations in the submittals from the requirements of the Contract Documents.
- I. The review and approval of shop drawings, samples or product data by the Engineer shall not relieve the Contractor from the responsibility of fulfilling the terms of the Contract. All risks of error and omission are assumed by the Contractor, and the Engineer will have no responsibility therefor.

SECTION 01300 – SUBMITTALS (continued)

- J. No portion of the work requiring a shop drawing, sample, or product data shall be started nor shall any materials be fabricated prior to the approval or qualified approval of such item. Fabrication performed or materials purchased that do not conform to approved shop drawings and data shall be at the Contractor's risk. The Owner will not be liable for any expense or delay due to corrections or remedies required to accomplish conformity.
- K. Project work, materials, and fabrication shall conform to approved shop drawings, applicable samples, and product data.

3.03 REVIEW OF SHOP DRAWINGS, PRODUCT DATA, WORKING DRAWINGS AND SAMPLES

- A. The review of shop drawings, data and samples will be for general conformance with the design concept and Contract Documents. They shall not be construed:
 - 1. As permitting any departure from the Contract requirements
 - 2. As relieving the Contractor of responsibility for any errors, including details, dimensions, and materials
 - 3. As approving departures from details furnished by the Engineer, except as otherwise provided herein
- B. The Contractor remains responsible for details and accuracy, for coordinating the work with all other associated work and trades, for selecting fabrication processes, for techniques of assembly, and for performing work in a safe manner.
- C. If the shop drawings, data or samples as submitted describe variations and show a departure from the Contract requirements, which Engineer finds to be in the interest of the Owner and to be so minor as not to involve a change in Contract Price or Contract Time, the Engineer may return the reviewed drawings without noting an exception.
- D. Submittals will be returned to the Contractor under one of the following codes.
 - Code 1 – “NO EXCEPTIONS NOTED” is assigned when there are no notations or comments on the submittal. When returned under this code the Contractor may release the equipment or material for procurement.
 - Code 2 – “COMMENTS NOTED” is assigned when a confirmation of the notations and comments is not required by the Contractor. The Contractor may release the equipment or material for procurement; however, all notations and comments must be incorporated into the final product.
 - Code 3 – “COMMENTS NOTED/CONFIRM” is assigned when a confirmation of the notations and comments is required by the Contractor. The Contractor may release, at his own risk, the equipment or material for procurement; however, all notations and comments must be incorporated into the final product. This confirmation shall specifically address each omission and nonconforming item that was noted.

SECTION 01300 – SUBMITTALS (continued)

Confirmation shall be received by the Engineer within ten (10) calendar days of the date of the Engineer's transmittal requiring the confirmation.

Code 4 – "COMMENTS NOTED/RESUBMIT" is assigned when Engineer's review notations and comments are extensive enough to require a resubmittal of the package. This resubmittal shall specifically address all comments, omissions and non-conforming items that were noted. Resubmittal shall be received by the Engineer within fifteen (15) calendar days of the date of the Engineer's transmittal requiring the resubmittal.

Code 5 – "REJECTED/RESUBMIT" is assigned when the submittal does not meet the intent of the Contract Documents. The Contractor must resubmit the entire package revised to bring the submittal into conformance. It may be necessary to resubmit using a different manufacturer/vendor to meet the Contract Documents. At the Engineer's request, resubmit large packages in two (2) or more, small submittal packages.

Code 6 – "RECEIPT ACKNOWLEDGED" is assigned to acknowledge the receipt of a submittal that is not subject to the Engineer's review and approval; and is being filed for informational purposes only. This code is generally used in acknowledging receipt of means and methods of construction work plan, field conformance test reports, and Health and Safety plans.

E. Resubmittals will be handled in the same manner as first submittals. On resubmittals, identify all revisions made to the submittals, either in writing on the letter of transmittal, or on the shop drawings by use of revision triangles or other similar methods. The resubmittal shall clearly respond to each comment made by the Engineer on the previous submission. Additionally, direct specific attention to any revisions made other than the corrections requested by the Engineer on previous submissions.

F. The Engineer may elect not to review partial submittals, and will be the only judge as to the completeness of a submittal. Submittals not complete will be returned to the Contractor and will be considered "Not Approved" until resubmitted. The Engineer may at his option provide a list or mark the submittal directing the Contractor to the areas that are incomplete.

G. Repetitive Review

1. Shop drawings and other submittals will be reviewed no more than twice at the Owner's expense. All subsequent reviews will be performed at times convenient to the Engineer and at the Contractor's expense, based on the Engineer's then prevailing rates. The Contractor shall reimburse the Owner for all such fees invoiced to the Owner by the Engineer. Submittals are required until approved.

2. Any need for more than one (1) resubmission, or any other delay in obtaining Engineer's review of submittals, will not entitle Contractor to extension of the Contract Time.

SECTION 01300 – SUBMITTALS (continued)

- H. If the Contractor considers any correction indicated on the shop drawings to constitute a change to the Contract Documents, the Contractor shall give written notice thereof to the Engineer at least seven (7) working days prior to release for manufacture.
- I. When the shop drawings have been completed to the satisfaction of the Engineer, the Contractor shall carry out the manufacture of products in accordance therewith and shall make no further changes therein except upon written instructions from the Engineer.

3.04 **DISTRIBUTION**

- A. Distribute reproductions of approved shop drawings and copies of approved product data and samples, where required, to the job site file and elsewhere as directed by the Engineer.

END OF SECTION 01300

Appendix B - Construction -
Bid 24-31, Construction -
Transfer Station Improvements Rebid
City Issued Bid

SECTION 01300 – SUBMITTALS (continued)

PROFESSIONAL ENGINEER (P.E.) CERTIFICATION FORM

The undersigned hereby certifies that he/she is a professional engineer registered in the State of Arkansas and that he/she has been employed by

(Name of Contractor)

to design _____
(Insert P.E. Responsibilities)

in accordance with Specification Section _____

for the Fayetteville Transfer Station Improvements – Metal Push Wall and Chute Replacement, Bid No. 22-47.

The undersigned further certifies that he/she has performed the design of the item(s) listed above in conformance with all applicable local, State and Federal codes, rules, and regulations, and that his/her signature and P.E. stamp have been affixed to all calculations and drawings used in, and resulting from, the design.

The undersigned hereby agrees to make all original design drawings and calculations available to the Owner or Owner's representative within seven (7) days following written request therefor by the Owner.

CERTIFIED BY ENGINEER:

ACKNOWLEDGED BY CONTRACTOR:

Signature

Date

Signature

Date

Professional Engineer's Name

Project Manager's Name

Name of Company

Name of Contractor

Address

Address

SECTION 01781 - PROJECT RECORD DOCUMENTS

PART 1 GENERAL

1.01 SCOPE OF WORK

- A. Maintain one (1) record copy of the following documents at the site for the Owner's periodic review and use:
 - 1. Drawings showing as-built revisions.
 - 2. Specifications showing as-built revisions.
 - 3. Duly issued and approved bidding addenda.
 - 4. Duly issued and approved Change Orders and other Owner-approved modifications to the Contract.
 - 5. Engineer's Field Change Orders and other written instructions.
 - 6. Duly processed Requests for Information and documentation.
 - 7. Approved Shop Drawings, Material Submittals, Working Drawings, and Samples.
 - 8. Field Test Reports.
 - 9. Latest approved progress schedule.
- B. The Owner will not approve progress payments unless Project Record Documents are current with construction progress.

1.02 RELATED SECTIONS - NOT USED

1.03 SUBMITTALS

- A. See Section 01300 – Submittals, for submittal procedures.
- B. At contract closeout, deliver the Record Documents to the Engineer for the Owner's permanent files. The Record Documents shall generally consist of redlined drawings, specifications, and other information as necessary to represent accurately the completed Work.
- C. Label all document containers and boxes clearly to indicate their content.
- D. Accompany submittals with a transmittal letter in duplicate, containing the following:
 - 1. Date,
 - 2. Project title and project number,
 - 3. Contractor's name and address,

SECTION 01781 - PROJECT RECORD DOCUMENTS (continued)

4. Title and number of each Record Document,
 5. Signatures of the Contractor or his authorized representative certifying that the submittal is complete and as required by the Contract Documents.
- E. The Owner will not grant Final Acceptance of the project until the Record Documents have been turned over to and approved by the Engineer.
- F. Owner reserves the right to withhold retainage fees until after the acceptable Record Documents have been submitted and approved by the Engineer.

PART 2 PRODUCTS

2.01 MARKING DEVICES

- A. Provide waterproof felt tip pens as required to maintain as-built drawings described in this section using the following color coding:
1. Red: Document changes
 2. Yellow: Work installed without change
 3. Orange: Dimensional and other notations
 4. Green: Work deleted

2.02 ELECTRONIC MEDIA

- A. Provide electronic copies of construction progress photos; approved equipment submittals; approved O&M manuals; and details and schematics of installed electrical and instrumentation improvements in accordance with Paragraph 3.02.D.
- B. All record documents in electronic format shall be provided on compact disk (CD), DVD, or portable hard drive in Portable Document Format (.pdf) with borders and title blocks clearly identifying Contract, equipment, and the scope of the drawing.
- C. Drawing quality and size of presentation shall be legible at a fifty percent (50%) reduction of such drawings, and reduced drawings will be used for insertion in Operations and Maintenance manuals.

2.03 PROJECT LAYOUT EQUIPMENT

- A. The Contractor shall have the capability of laying out the Work and recording information for the Record Documents using a survey coordinate system established by the Engineer. Layout and recording as-builts shall be accomplished using total station or global positioning system (GPS) equipment.

SECTION 01781 - PROJECT RECORD DOCUMENTS (continued)

PART 3 EXECUTION

3.01 MAINTENANCE OF DOCUMENTS AND SAMPLES

- A. Store record documents and samples in the Contractor's field office apart from documents used for construction.
 - 1. Provide files and racks for the storage of documents.
 - 2. Provide locked cabinet or secure storage space for the storage of samples.
- B. File documents and samples in accordance with CSI format.
- C. Maintain documents in a clean, dry, legible condition, and in good order. Do not use Record Documents for construction purposes.
- D. Make documents and samples available at all times for the inspection by the Engineer or the Owner.
- E. As a prerequisite for monthly progress payments, the Contractor shall exhibit the currently updated record documents for the review of the Engineer and Owner. The failure of the Engineer and/or Owner to review the documents shall not relieve the Contractor of the responsibility of them being available and up-to-date.

3.02 RECORDING

- A. Label each document and sample "PROJECT RECORD" with a rubber stamp.
- B. Record information monthly and concurrently with construction progress. Do not conceal any work until the required information is recorded.
- C. Drawings (hard copies): Legibly mark on full-size drawings to record actual construction noting any variation in materials, equipment, conditions and dimensions for the following:
 - 1. Elevations of various structure elements in relation to elevation datum.
 - a. Elevations referenced to control points established by the Engineer.
 - b. Elevations of all structural finished floors and tops of concrete.
 - c. Elevations of all weirs and other flow control devices.
 - d. Bottom of pipe (B/P) or top of pipe (T/P) elevations for all exposed piping, indoors or outdoors.
 - 2. All underground piping with elevations and dimensions, changes to piping location, horizontal and vertical locations of underground utilities and appurtenances, reference to permanent surface improvements, actual installed pipe material, class, etc.

SECTION 01781 - PROJECT RECORD DOCUMENTS (continued)

- a. Top of pipe or top of concrete (TOC) elevations for all underground pipelines or encased pipes or conduits exposed during construction, whether installed or not. On straight runs of new pipe or conduit, record at least one (1) T/P elevation every 100 feet of pipe or conduit.
 - b. Coordinates and elevations of site piping, electrical conduits and duct banks, including starting and ending points and directional changes. Record the horizontal location of every piping or conduit bend (vertical or horizontal), valves, other fittings, or specialty items exposed during construction, whether installed or not. On long, straight runs of pipe or conduit, record similar information between bends and other fittings at least once every 200 feet.
 - c. Locate all underground utilities, structures, obstacles, etc. encountered during construction, whether being installed or not, in the manner indicated above for underground pipes and conduits.
3. All embedded, buried and concealed features of mechanical piping, site piping, electrical conduit, and structural embedments with elevations and dimensions. Reference to a permanent surface improvement or visible feature all changes to horizontal and vertical locations of pipe, fittings, underground utilities and appurtenances. Note actual installed pipe materials, class, etc.
 4. Depth of foundation elements in relation to ground elevation.
 5. Field changes of dimensions and details.
 6. Changes made by Field Change Order or by Change Order.
 7. Details not on the original Contract Documents.
 8. Equipment and piping locations.
- D. Specifications and Addenda: Legibly mark each Section to record the following:
1. Manufacturer, trade name, catalog number, and supplier of each product and time of equipment actually installed.
 2. Changes made by Field Change Order or by Change Order.
- E. Shop Drawings and Submittals: After final review and approval of shop drawings and other material and equipment submittals, provide the following:
1. One (1) hard copy set of Engineer-approved shop drawings and submittals for each piece of equipment, piping, electrical system, and instrumentation system.
 2. One (1) electronic copy of Engineer-approved shop drawings and submittals with the electronic file naming system equivalent to the submittal logging convention detailed in Section 01300, Submittals.

SECTION 01781 - PROJECT RECORD DOCUMENTS (continued)

3.03 DELIVERY OF PROJECT RECORD DOCUMENTS

- A. Record documents will be used to verify and document progress as stated in progress payment request. Work not included in the record drawings will not be included for payment in progress payment requests.
- B. Prior to the Contractor's request for a notice of Substantial Completion of any area or system on the project, the Contractor shall transmit Record Documents to the Engineer. The record documents shall include a statement indicating completion of record information for specific areas or, if for project closeout, that the documentation is completed and in compliance with Contract requirements.
- C. Revise record documents as a result of any changes made or discovered during project closeout and/or commissioning.

END OF SECTION 01781

SECTION 01781 - PROJECT RECORD DOCUMENTS (continued)

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Appendix B
Bid 24-31, Construction -
Transfer Station Improvements Rebid
City Issued Bid

SECTION 02070 SELECTIVE DEMOLITION

PART 1 GENERAL

1.01 SCOPE OF WORK

- A. Furnish all labor, materials, equipment and incidentals; and demolish selective portions of work shown on the Drawings and as specified herein.
- B. The work shall include selective demolition of portions of existing buildings, foundations, slabs, and other items encountered during construction activities.
- C. Except as noted, dispose of all demolished materials and other debris off-site.
- D. Coordinate demolition activities with the ongoing operations of the Transfer Station and Materials Processing Facility. Exercise due concern for the existing facilities and equipment to remain in operation during construction and direct all construction and demolition activities toward maintaining continuous operation and minimizing disruptions.

1.02 RELATED SECTIONS

- A. Section 01110 – Summary of Work
- B. Section 01300 – Submittals

1.03 DEFINITIONS

- A. Remove: Remove and legally dispose of items except those indicated to be reinstalled, salvaged, or to remain the Owner's property.
- B. Remove and Salvage: Items indicated to be removed and salvaged remain the Owner's property. Remove, clean, and pack or crate items to protect against damage. Identify contents of containers and deliver to Owner's designated storage area.
- C. Remove and Reinstall: Remove items indicated; clean, service, and otherwise prepare them for reuse; store and protect against damage. Reinstall items in the same locations or in locations indicated on the Drawings.
- D. Remove and Replace: Remove and legally dispose of items and replace with new items as indicated.
- E. Existing to Remain: Protect construction indicated to remain against damage and soiling during selective demolition. When permitted by the Engineer, items may be removed to a suitable, protected storage location during selective demolition, and then cleaned and reinstalled in their original locations.

1.04 MATERIALS OWNERSHIP

- A. Except for items or materials indicated to be reused, salvaged, reinstalled, or otherwise indicated to remain the Owner's property, demolished materials become the Contractor's property. Remove

SECTION 02070 SELECTIVE DEMOLITION (continued)

demolished materials from the site with further disposition at the Contractor's option, subject to any restrictions indicated herein or in other sections of these Specifications.

- B. At least 48 hours prior to commencing demolition or removal, notify the Engineer in writing of the proposed schedule. The Owner shall inspect any affected existing equipment and identify those items that are to remain the property of the Owner. No removals shall start without authorization from the Engineer.
- C. Any such material damaged due to improper handling will not be accepted and the replacement value of the material deducted from the payment to the Contractor.

1.05 SUBMITTALS

- A. See Section 01300, Submittals for submittal procedures.
- B. Submit a schedule of selective demolition activities indicating the following:
 - 1. Detailed sequence of selective demolition and removal work, with starting and ending dates for each activity,
 - 2. Sequence of selective demolition shall identify the Contractor's means and methods for demolition of the existing Transfer Station concrete wearing surface and shall clearly describe how the existing concrete subfloor will be protected from damage during demolition activities.
 - 3. Contractor shall demonstrate their proposed demolition means and methods on an area of the existing concrete subfloor selected by the Owner. The purpose of the demonstration shall be to confirm the Contractor's proposed demolition means and methods do not result in damage to the existing concrete subfloor.
 - 4. Coordination of Owner's continuing occupancy of portions of existing site and of Owner's partial occupancy of completed Work.
- C. Submit an inventory of items to be removed and salvaged.
- D. Coordinate with the Owner to prepare an inventory of items to be removed by Owner.
- E. Submit photographs or videotape, sufficiently detailed, of existing conditions of adjoining construction and site improvements that might be misconstrued as damage caused by selective demolition operations.
- F. Provide Record Drawings at Project closeout in accordance with Section 01781, Project Record Documents. Identify and accurately locate capped utilities and other subsurface structural, electrical, or mechanical conditions.
- G. Provide copies of disposal records indicating receipt and acceptance of hazardous wastes by a landfill facility licensed to accept hazardous wastes.

SECTION 02070 SELECTIVE DEMOLITION (continued)

1.06 QUALITY ASSURANCE

- A. Regulatory Requirements: Comply with governing EPA notification regulations before starting selective demolition. Comply with hauling and disposal regulations of authorities having jurisdiction.

1.07 PROJECT CONDITIONS

- A. Provide not less than a 48-hour notice to the Owner prior to the commencement of demolition or removal work and notify the Engineer in writing of the proposed demolition schedule. Owner shall inspect the existing equipment and identify those items that are to remain on the Owner's property. No removals shall be started without the permission of the Engineer.
- B. Owner will occupy or continue to utilize portions of the site immediately adjacent to selective demolition areas. Conduct selective demolition so that Owner's operations will not be disrupted. Provide not less than a 48-hour notice to Owner of activities that will affect Owner's operations.
- C. The Owner and Engineer assume no responsibility for actual condition of buildings, structures or equipment to be selectively demolished. The Owner will maintain building and site conditions existing at the time of bidding insofar as practical. However, variations within a structure or at the site may occur prior to the start of demolition work.
- D. Storage or sale of removed items or materials on-site will not be permitted.
- E. The Contractor shall be required to file a Notice of Intent (NOI) to remove asbestos containing materials, prepare an abatement plan in accordance with state and federal regulations, and accomplish the removal of asbestos containing material accordingly. Asbestos abatement shall conform to the following:
 - 1. Arkansas Pollution Control & Ecology Commission, Regulation 21 - Arkansas Asbestos Abatement Regulation.
 - 2. U.S. Department of Labor, Occupational Safety and Health Administration, 29 CFR 1926.1101, Asbestos.

1.08 WARRANTY

- A. Existing Special Warranty: Remove, replace, patch, and repair materials and surfaces that are cut or damaged during selective demolition by methods and with materials so as not to void existing warranties.

SECTION 02070 SELECTIVE DEMOLITION (continued)

PART 2 PRODUCTS

2.01 MATERIALS

- A. Use repair materials identical to existing materials.
 - 1. Where identical materials are unavailable or cannot be used for exposed surfaces, use materials that visually match existing adjacent surfaces to the fullest extent possible.
 - 2. Use materials whose installed performance equals or surpasses that of existing materials.

PART 3 EXECUTION

3.01 EXAMINATION

- A. Verify that utilities have been disconnected and capped.
- B. Survey existing conditions and correlate with requirements indicated to determine extent of selective demolition required.
- C. Inventory and record the condition of items to be removed and reinstalled and the condition of items to be removed and salvaged.
- D. When unanticipated mechanical, electrical, or structural elements are encountered that conflict with the intended function or design, investigate and measure the nature and extent of the conflict. Promptly submit a written report to the Engineer.
- E. Survey the condition of the building to determine whether removing any element might result in structural deficiency or unplanned collapse of any portion of the structure or adjacent structures during selective demolition.
- F. Perform surveys as the Work progresses to detect hazards resulting from selective demolition activities.

3.02 PREPARATION

- A. Drain, purge, or otherwise remove, collect, and properly dispose of chemicals, gases, explosives, acids, flammables, or other dangerous materials before proceeding with selective demolition operations.
- B. Do not close or obstruct streets, walks, or other adjacent occupied or used facilities without permission from the Owner and authorities having jurisdiction. Provide alternate routes around closed or obstructed traffic ways if required by the governing authority or regulations.
- C. Conduct demolition operations and remove debris to ensure minimum interference with roads, streets, walks, and other adjacent occupied and used facilities.
 - 1. Do not close or obstruct streets, walks, or other adjacent occupied or used facilities without permission from Owner and authorities having jurisdiction. Provide alternate routes around closed or obstructed traffic ways if required by governing regulations.

SECTION 02070 SELECTIVE DEMOLITION (continued)

- D. Conduct demolition operations to prevent injury to people and damage to adjacent buildings and facilities to remain. Ensure safe passage of people around selective demolition area.
 - 1. Erect temporary protection, such as walks, fences, railings, canopies, and covered passageways, where required by authorities having jurisdiction.
 - 2. Protect existing site improvements, appurtenances, and landscaping to remain.
 - 3. Provide temporary weather protection, during interval between demolition and removal of existing construction, on exterior surfaces and new construction to ensure that no water leakage or damage occurs to structure or interior areas.
- E. Provide and maintain interior and exterior shoring, bracing, or structural support to preserve stability and prevent movement, settlement, or collapse of building to be selectively demolished.
 - 1. Strengthen or add new supports when required during progress of selective demolition.

3.03 UTILITY SERVICES

- A. Maintain existing utilities indicated to remain in service and protect them against damage during selective demolition operations.
- B. Do not interrupt existing utilities serving occupied or operating facilities, except when authorized in writing by Owner and authorities having jurisdiction. Provide temporary services during interruptions to existing utilities, as acceptable to Owner and to governing authorities.
- C. Provide not less than 48-hour notice to Owner if shutdown of service is required during changeover. Cooperate with the Owner to shut off utilities serving structures of the existing facilities as required by the demolition operations.
- D. Be solely responsible for making all necessary arrangements and for performing any necessary work involved in connection with the discontinuance or interruption of all public and private utilities or services under the jurisdiction of the utility companies.
- E. All utilities being abandoned shall be disconnected and terminated at the service mains in conformance with the requirements of the franchised utility companies or the municipality owning or controlling the utility.
- F. Utility Requirements: Refer to Division 2 for cutting, plugging or relocation of existing buried piping.

3.04 POLLUTION CONTROLS

- A. Use water mist, temporary enclosures, and other suitable methods to limit the spread of dust and dirt. Comply with governing environmental protection regulations. Do not use water when it may damage existing construction or create hazardous or objectionable conditions, such as ice, flooding, and pollution.

SECTION 02070 SELECTIVE DEMOLITION (continued)

- B. Remove and transport debris for disposal in a manner that will prevent spillage on adjacent surfaces and areas.
- C. Clean adjacent structures and improvements of dust, dirt, and debris caused by selective demolition operations. Return adjacent areas to condition existing before start of selective demolition.

3.05 SELECTIVE DEMOLITION

- A. Demolish and remove existing construction only to the extent required by new construction and as indicated on the Drawings. Use methods required to complete Work within limitations of governing regulations and as follows:
 - 1. Proceed with selective demolition systematically, from higher to lower level.
 - 2. Neatly cut openings and holes plumb, square, and true to dimensions required. Use cutting methods least likely to damage construction to remain or adjoining construction. To minimize disturbance of adjacent surfaces, use hand or small power tools designed for sawing or grinding, not hammering and chopping.
 - 3. Do not use cutting torches until work area is cleared of flammable materials. At concealed spaces, such as duct and pipe interiors, verify condition and contents of hidden space before starting flame-cutting operations. Maintain portable fire-suppression devices during flame-cutting operations.
 - 4. Maintain adequate ventilation when using cutting torches.
 - 5. Remove decayed, vermin-infested, or otherwise dangerous or unsuitable materials and promptly dispose of off-site.
 - 6. Locate selective demolition equipment throughout the structure and remove debris and materials so as not to impose excessive loads on supporting walls, floors, or framing.
 - 7. Return elements of construction and surfaces to remain to condition existing before start of selective demolition operations.

3.06 STRUCTURAL REMOVALS

- A. Remove and dispose of or salvage existing north metal push wall and south metal push wall in the Transfer Station, the existing metal chute in the Waste Pit, and the existing handrail and ladder behind the north metal push wall, taking care to ensure that the surrounding structure is not damaged during demolition activities. Following the removal and disposal or salvage of these items, the Contractor shall high pressure power wash these areas such that they can be inspected by the Owner and the Engineer prior to the replacement of these proposed improvements. The Contractor shall also high pressure power wash the existing elevated concrete beams located on the north and south ends of the Waste Pit for inspection by the Owner and Engineer prior to the beams being armored with mild steel plate.

SECTION 02070 SELECTIVE DEMOLITION (continued)

- B. Demolish concrete and masonry in small sections. Cut concrete and masonry at junctures with construction to remain, using power-driven masonry saws or hand tools; do not use power-driven impact tools. Refer to Division 3 for cutting and repair of existing concrete structures.
- C. Break up and remove concrete foundations and slabs on grade, unless otherwise shown to remain.
- D. Remove structural framing members and lower to ground by means of hoists, derricks or other suitable methods to avoid free fall and to prevent ground impact or dust generation.
- E. Unless otherwise approved by the Engineer, remove concrete, brick, tile, concrete block, roofing materials, reinforcement, structural or miscellaneous metals, plaster, wire mesh, and other items, whole or in part, as shown on the Drawings.

3.07 MECHANICAL REMOVALS – NOT USED

3.08 ELECTRICAL REMOVALS – NOT USED

3.09 PATCHING AND REPAIRS

- A. Promptly patch and repair holes and damaged surfaces caused to adjacent construction by selective demolition operations.
- B. Where repairs to existing surfaces are required, patch to produce surfaces suitable for new materials. Completely fill holes and depressions in existing masonry walls to remain with an approved masonry patching material, applied according to manufacturer's printed recommendations.
- C. Restore exposed finishes of patched areas and extend finish restoration into adjoining construction to remain in a manner that eliminates evidence of patching and refinishing.

3.10 ASBESTOS HANDLING AND DISPOSAL – NOT USED

3.11 LEAD-BASED PAINT HANDLING AND DISPOSAL – NOT USED

3.12 DISPOSAL OF DEMOLISHED MATERIALS

- A. General: Promptly dispose of demolished materials into Owner-provided waste containers. Do not allow demolished materials to accumulate on-site. On-site storage or sale of items removed is prohibited.
- B. Burning: Do not burn demolished materials.
- C. Disposal: The Owner will transport demolished materials off-site.

3.13 CLEANING

- A. Remove from the site all debris resulting from demolition operations as it accumulates. Upon completion of the Work, remove all materials, equipment, waste and debris, leaving clean, neat and orderly premises.

SECTION 02070 SELECTIVE DEMOLITION (continued)

- B. Sweep buildings and structures broom clean upon completion of selective demolition operations.
- C. Change filters on air-handling equipment upon completion of selective demolition operations.

END OF SECTION 02070

Appendix B
Bid 24-31, Construction -
Transfer Station Improvements Rebid
City Issued Bid

SECTION 02316 STRUCTURAL EXCAVATION, BACKFILLING AND GRADING

PART 1 GENERAL

1.01 SCOPE OF WORK

- A. Furnish all labor, materials, equipment and incidentals necessary to perform structural excavation work, grading; placement and compaction of backfill and embankment fill; and the removal and disposal of unsuitable, waste and surplus excavation materials.
- B. Furnish and install temporary excavation support systems, including sheeting, shoring and bracing, to ensure the safety of personnel and protect adjacent structures, piping, etc., in accordance with federal, state and local laws, regulations and requirements.

1.02 RELATED SECTIONS – NOT USED

1.03 REFERENCE STANDARDS

- A. American Association of State Highway and Transportation Officials (AASHTO), latest edition:
 - 1. AASHTO M57 Standard Specification for Materials for Embankments and Subgrades
 - 2. AASHTO M145 Standard Specification for Classification of Soils and Soil-Aggregate Mixtures for Highway Construction Purposes
 - 3. AASHTO M146 Standard Specification for Terms Relating to Subgrade, Soil-Aggregate, and Fill Materials.
 - 4. AASHTO T99 Standard Method of Test for Moisture-Density Relations of Soils Using a 2.5-kg (5.5-lb) Rammer and a 305-mm (12-in.) Drop
 - 5. AASHTO T180 Standard Method of Test for Moisture-Density Relations of Soils Using a 4.54-kg (10-lb) Rammer and a 457-mm (18-in.) Drop
 - 6. AASHTO T310 Standard Specification for In-Place Density and Moisture Content of Soil and Soil-Aggregate by Nuclear Methods (Shallow Depth)
- B. American Society for Testing and Materials (ASTM), latest edition:
 - 1. ASTM C33 Standard Specification for Concrete Aggregates
 - 2. ASTM D698 Standard Test Methods for Laboratory Compaction Characteristics of Soils Using Standard Effort (12,400 ft-lbf/ft³ (600 kN-m/m³))
 - 3. ASTM D1557 Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lbf/ft³ (2,700 kN-m/m³))
 - 4. ASTM D4318 Standard Test Methods for Liquid Limit, Plastic Limit, and Plasticity Index of Soil

SECTION 02316 STRUCTURAL EXCAVATION, BACKFILLING AND GRADING (continued)

5. ASTM D6938 Standard Test Method for In-Place Density and Water Content of Soil and Soil-Aggregate by Nuclear Methods (Shallow Depth)

C. Occupational Safety and Health Administration (OSHA), latest edition:

1. All excavations and support systems shall conform to applicable OSHA excavation, trenching, and shoring standards that are contained in the U.S. Code of Federal Regulations 29 CFR 1926.650-1926.653, and other federal, state or local requirements. In the event of a conflict, comply with the more restrictive applicable requirements.
2. The current edition of Occupational Safety and Health Administration Standard for Excavation and Trench Safety Systems, 29 CFR 1926, Subpart P, is specifically incorporated and made a part of these specifications and contract documents as required by Arkansas Code Annotated 22-9-212.

1.04 DEFINITIONS

- A. Where the phrase "in-the-dry" is used in these Specifications, it shall be defined to mean a soil condition where the in-place moisture content of the soil is no more than two percent (2%) above the optimum moisture content of that soil. The optimum moisture content shall be as determined by the laboratory test of the moisture-density relationship appropriate to the specified level of compaction, unless otherwise recommended in the geotechnical report.
- B. Where used in this Specification "structures" refers to all buildings, wet wells, manholes and below grade vaults. Stormwater structures and duct banks are not considered "structures" in this context.

1.05 SUBMITTALS

- A. See Section 01300, Submittals for submittal procedures.
- B. Submit the proposed methods of construction, including excavation, backfilling and filling, compaction, and designs for excavation support systems for the various portions of the Work. Review by the Engineer will be for information purposes only. Contractor shall remain responsible for the adequacy and safety of construction means, methods and techniques.
- C. Submit the proposed methods of excavation, backfilling and grading for all structures.
- D. Submit an excavation and trench safety plan for excavations greater than or equal to 5 feet deep. Submittal of the plan shall be for the Engineer's review for information purposes only. Coordinate with the requirements in Section 02250, Excavation Shoring and Protection.
- E. Furnish test data to indicate compliance of all earthwork materials, placement, and compaction methods with this specification, including off-site material proposed for the Project.

SECTION 02316 STRUCTURAL EXCAVATION, BACKFILLING AND GRADING (continued)

1.06 QUALITY ASSURANCE

- A. Responsibilities for providing the quality control and quality assurance testing activities are defined on the Plans.
- B. Furnish manufacturer or supplier certification for all products and materials from off-site sources for approval by the Engineer. Materials shall include but not be limited to select material, clay and crushed stone. Provide initial material certifications at no additional cost to the Owner.

1.07 PROJECT SITE CONDITIONS

- A. Subsurface Conditions
 - 1. The availability and reliability of geotechnical and other subsurface information known to the Owner is defined in Section 00800, Supplementary Conditions. Do not assume that materials other than those disclosed by the soil borings or test pits will not be encountered, or that the proportions or character of the various materials will not vary from those indicated in the geotechnical investigation report. Any conclusions drawn by the Contractor from the investigation report including the character of the materials to be encountered and degree of difficulty to be expected in the performance of the Work are the sole responsibility of the Contractor.
 - 2. The Contractor is encouraged to perform an independent subsurface investigation. Coordinate access to the site with the Owner.
 - 3. No claim for extra compensation or extension of time will be considered because of any variation in site, soil, or water conditions described in the geotechnical report to that encountered during construction.

1.08 COORDINATION

- A. Coordinate the work of this Section with the work of other sections. Verify at the site both the dimensions and work of other trades adjoining items of work in this Section before commencement of items herein specified.
- B. Furnish to the pertinent trades all items included under this Section that are to be built into the work of other sections.

1.09 FIELD MEASUREMENTS

- A. Take field measurements at the site to verify or supplement indicated dimensions and to ensure proper coordination of all other construction items.

SECTION 02316 STRUCTURAL EXCAVATION, BACKFILLING AND GRADING (continued)

PART 2 PRODUCTS

2.01 COMMON FILL

- A. Common Fill: Soil material substantially free of organic materials, topsoil, wood, peat, loam, trash or other objectionable materials that may be compressible through decomposition or that may not be properly compacted. Common fill shall not contain rocks or stones larger than 4 inches in the largest diameter and shall have a maximum of 75 percent (75%) passing the No. 40 sieve and a maximum of 20 percent (20%) passing the No. 200 sieve. Common fill shall have a maximum liquid limit of 45 and a maximum plasticity index (PI) of 25 (per ASTM D4318).
- B. Common fill shall not contain granite blocks, broken concrete, masonry rubble or other similar materials. It shall have physical properties such that it can be readily spread and compacted during filling. Snow, ice and frozen soil are not permitted. Subject to the Engineer's approval, native material (excluding sandy, lean clay) conforming to these requirements may be used as common fill.

2.02 SELECT BACKFILL

- A. Select Backfill: Select backfill must be free of sod, stumps, logs, roots, or other perishable or deleterious matter. It shall be a granular material with a maximum particle size of 3 inches, well-graded from coarse to fine. The select material shall conform to AASHTO classification A-1, A-2-4 or A-2-5, or with the Engineer's approval, a sandy or gravelly clay conforming to classification A-2-6 or A-6. The following additional restrictions apply:
 - 1. Select backfill material classified as AASHTO A-2-6 may be submitted for review and evaluation by the Engineer provided that it has a plasticity index less than 15,
 - 2. Select backfill material classified as AASHTO A-6 may be submitted for review and evaluation by the Engineer provided that it has a plasticity index less than 15,
 - 3. Evaluation of A-2-6 or A-6 material shall not imply any obligation of the Engineer to accept it for use in the Work,
 - 4. Crusher screenings, including nepheline syenite granite fines (Donna Fill®) will not be allowed as select fill or backfill material,
 - 5. The Contractor shall furnish certified test results to indicate compliance of select material from off-site stockpiles with this specification at no additional cost to the Owner,
 - 6. Select backfill with more than 30 percent (30%) retained on a No. 4 sieve may be tested in accordance with ASTM D1557.

SECTION 02316 STRUCTURAL EXCAVATION, BACKFILLING AND GRADING (continued)

2.03 CRUSHED AGGREGATE (COARSE DRAIN FILL)

- A. Coarse Drain Fill: Crushed aggregate shall be well graded, hard, durable, angular or subangular particles ranging from 3/4-inch maximum diameter to the No. 4 sieve. Unless otherwise approved by the Engineer, the material shall meet the requirements of ASTM C33, Gradation 67 for coarse aggregate.

PART 3 EXECUTION

3.01 PREPARATION

- A. Test Pits
 - 1. Perform exploratory excavation work (test pits) for the purpose of verifying the location of underground utilities and structures and to check for unknown utilities and structures, prior to commencing excavation work.
 - 2. Backfill test pits as soon as the desired information has been obtained. Stabilize backfilled surfaces in accordance with approved erosion and sedimentation control.
- B. Dewatering and Drainage Systems
 - 1. Temporary dewatering and drainage systems shall be in place and operational prior to beginning excavation work.

3.02 EXCAVATION SUPPORT

- A. Furnish, install, monitor and maintain excavation support (e.g., shoring, sheeting, bracing, trench boxes, etc.) as required by federal, state or local laws, ordinances, regulations and safety requirements. Support the sides of excavation, to prevent any movement that could in any way reduce the width of the excavation below that necessary for proper construction and protect adjacent structures from undermining, settlement or other damage. Take care to prevent the formation of voids outside of sheeting. If voids occur behind sheeting, immediately backfill and compact the voids with common fill material. Fill voids in locations that cannot be properly backfilled and compacted with lean concrete or as indicated by the Engineer.
- B. Install excavation supports outside the neat lines of foundations. Supports shall be plumb and securely braced and tied in position. Excavation support shall be adequate to withstand all pressures to which the supports will be subjected. Correct any movement or bulging of supports to provide the necessary clearances, dimensions and structural integrity.
- C. Excavation Supports Left in Place
 - 1. Excavation supports that are required to remain in place, if applicable, are indicated on the Drawings.

SECTION 02316 STRUCTURAL EXCAVATION, BACKFILLING AND GRADING (continued)

2. The Owner or Engineer may direct that certain excavation supports remain in place or be cut off at any specific elevation. If the Contractor believes that such a directive increases Contractor's cost and would thereby entitle Contractor to a change in Contract cost, Contractor shall notify the Engineer in accordance with Article 11 in the General Conditions pertaining to changes in the Work.
 3. The right of the Owner or Engineer to direct that certain excavation supports remain in place shall not be construed as creating any obligation on the Owner or Engineer to give such direction. Furthermore, failure by the Owner or Engineer to give such direction shall not relieve the Contractor from liability for damages to persons or property occurring from or upon the work occasioned by negligence or otherwise, growing out of a failure on the part of the Contractor to leave in place sufficient excavation supports to prevent any movement of the ground or damage to adjacent structures.
- D. Remove excavation supports carefully and in such manner so as not to endanger the Work or other adjacent structures, utilities, or property. Fill all voids left or caused by withdrawal of supports immediately with lean concrete or as directed by the Engineer.

3.03 STRUCTURAL EXCAVATION PROCEDURES

- A. Excavations for structures shall be suitably wide for construction of the structures including excavation supports, dewatering and drainage systems, and working clearances.
- B. Perform excavation in-the-dry and accomplish such by methods that preserve the undisturbed state of subgrade soils. Drainage and dewatering systems shall be in place and operational prior to beginning excavation work. In no case shall the earth be plowed, scraped or excavated by any means so near to the finished subgrade that would disturb the finished subgrade. Hand excavation of the final 3 to 6 inches may be required to obtain a satisfactory, undisturbed subgrade. Remove subgrade soils that become soft, loose, "quick", or otherwise unsatisfactory for support of structures because of inadequate excavation, dewatering, or other construction methods. Replace subgrade material with crushed stone, subject to prior approval by the Engineer, and at no additional cost to the Owner.
- C. Subgrade Preparation: Unless otherwise shown on the Drawings, compact the subgrade for all structures as follows:
 1. Compact the top 12 inches of subgrade to a minimum of 100% standard proctor in accordance with AASHTO T99 (ASTM D698).
 2. Where structures are supported by piles or drilled shaft piers, compact the top 12 inches of subgrade to a minimum of 95% standard proctor in accordance with AASHTO T99 (ASTM D698).
 3. Where existing subgrade contains a significant amount of clay or cohesive soils, over-excavate sufficiently below the bottom of the structure and place a 6-inch minimum working mat of crushed stone or lean concrete. Prior to placement of the working mat, compact the top 12 inches of existing subgrade to a minimum of 100% standard proctor in accordance with AASHTO T99 (ASTM D698).

SECTION 02316 STRUCTURAL EXCAVATION, BACKFILLING AND GRADING (continued)

- D. When excavations have reached the required subgrade, including any allowances for working mats or base materials, and prior to the placement of working mats or base materials, the Contractor shall notify the soils testing laboratory to verify the suitability of the existing subgrade soils for the anticipated foundation and structural loadings. When directed by the Engineer, the Geotechnical Engineer shall inspect the subgrade for conformance with the specified subgrade preparation requirements. If the existing subgrade soils are determined to be unsuitable, the Engineer will provide direction regarding removal and replacement with suitable materials. If Contractor believes that such a directive increases Contractor's cost and would thereby entitle Contractor to a change in Contract cost, Contractor shall notify the Engineer in accordance with Article 11 in the General Conditions pertaining to changes in the Work.
- E. Over-excavation beyond the limits and depths required by the Contract Documents shall be replaced at no additional cost to the Owner by bedding rock or other approved material subject to the prior approval of the Engineer.

3.04 GENERAL FILLING AND BACKFILLING PROCEDURES

- A. Place fill and backfill materials in lifts to suit the specified compaction requirements to the lines and grades required, making allowances for settlement and placement of cover materials (i.e. topsoil, sod, etc.). Correct soft spots or uncompacted areas by reworking.
- B. Do not place fill and backfill materials on frozen surfaces, or surfaces covered by snow or ice. Fill and backfill material shall be free of snow, ice and frozen earth.
- C. Compact each layer of fill to a mass density not less than the minimum density specified. The moisture content of compacted backfill shall be within two percent (2%) (+/-) of the optimum moisture content.
- D. Compact fill placed adjacent to structures by means of manually directed power tampers or plate vibrators. Unless otherwise specified or approved by the Engineer, do not operate heavy equipment including backhoe mounted power tampers, vibrating compactors, or manually directed vibratory rollers within 2 feet of any structure. Do not operate towed or self-propelled vibrating rollers (with 4 to 6-foot diameter drums) within 10 feet of any structure. Compaction by means of drop weights operating from a crane or hoist will not be permitted. Maximum layer thickness of fill lift for hand compactors or manually directed power tampers shall not exceed 6 inches.

3.05 FILL AND BACKFILL PROCEDURES

- A. Fill and backfill material placed immediately adjacent to and within 10 feet of all structures shall be select fill. Complete all watertightness tests and damp proofing and/or waterproofing prior to placing fill or backfill around structures. Backfill may be placed prior to testing with the approval of the Engineer. Place and compact select fill in even lifts of 6 inches (compacted thickness) uniformly around the structure.
- B. Common fill may be used in areas beyond those designated for select fill unless shown or specified otherwise. Place and compact common fill in even lifts having a maximum thickness (measured before compaction) of 12 inches.

SECTION 02316 STRUCTURAL EXCAVATION, BACKFILLING AND GRADING (continued)

- C. Fill required beneath building slabs or slabs on grade (except sidewalks) shall be select backfill, or as shown on the Plans. Place and compact structural fill in even lifts of 6 inches (compacted thickness) as specified on the plans. On-site material considered for use as select fill beneath building slabs may be submitted to the Engineer for review but shall not imply any obligation of the Engineer to accept it for use in the Work

3.06 EMBANKMENT FILL PROCEDURES

- A. Prior to placing embankment fill materials, remove all organic materials (including peat and loam) and loose inorganic silt material (loess) from areas beneath the proposed embankments. If the subgrade slopes are excessive, construct steps in the subgrade to produce a stable, horizontal surface for the placement of embankment materials. Scarify and recompact the existing subgrade to a depth of at least 6 inches before placing the first lift of embankment fill or as directed by the Engineer.
- B. Embankment fill shall consist of common fill material, placed and compacted in even lifts of 12 inches (compacted thickness).
- C. Rock may be used in embankment fill only with prior, written approval of the Engineer.

3.07 IMPERVIOUS FILL

- A. Place impervious fill in controlled, even lifts having a maximum thickness (measured before compaction) of 6 inches. Compaction shall be sufficient to attain a permeability of less than 1×10^{-7} centimeter/second.
- B. Maintain the moisture content of impervious fill during placement and compaction at or near its optimum moisture content (up to plus 3%).

3.08 SOIL COMPACTION

- A. Within 10 feet of structures: Compact the top 12 inches of existing subgrade and each layer of fill or backfill to a minimum of 95 percent (95%) standard proctor (ASTM D698) at or near its optimum moisture content.
- B. Embankments (except under roadways), lawn and unimproved areas: Compact the top 6 inches of existing subgrade and each layer of fill or backfill to a minimum of 95 percent (95%) standard proctor (ASTM D698) at or near its optimum moisture content.
- C. Beneath building slabs and slabs on grade (except sidewalks): Compact the top 12 inches of existing subgrade (and each layer of fill if applicable) to a minimum of 100 percent (100%) standard proctor (ASTM D698) at or near its optimum moisture content, or to the density specified on the Drawings.
- D. Sidewalks: Compact the top 6 inches of existing subgrade (and each 6-inch layer of fill if applicable) to a minimum of 100 percent (100%) standard proctor (ASTM D698) at or near its optimum moisture content.

SECTION 02316 STRUCTURAL EXCAVATION, BACKFILLING AND GRADING (continued)

- E. Roads, paved areas and roadway embankments: Compact the top 12 inches of existing subgrade and each layer of fill or backfill to a minimum of 100 percent (100%) standard proctor (ASTM D698) at or near its optimum moisture content.
- F. The moisture content of the material being compacted shall be within a range of two percent (2%) below the optimum to a maximum of two percent (2%) above. Adjust the moisture content of the material to maintain the range specified by the addition of water or by aeration.

3.09 DISPOSAL OF UNSUITABLE, WASTE AND/OR SURPLUS EXCAVATED MATERIAL

- A. Remove and dispose of unsuitable, waste and surplus excavated material off-site. Materials may be temporarily stockpiled in an area within the limits of construction that do not disrupt construction activities, create any nuisances or safety hazards, or otherwise restrict access to the site of the Work.

3.10 GRADING

- A. Perform grading to the lines and grades shown on the Drawings. Remove all objectionable material encountered within the limits indicated and dispose of off-site. Provide complete and continuous drainage and dewatering of subgrades throughout the grading process. Install temporary drains, drainage ditches, etc., to intercept or divert surface water that may affect the execution or condition of grading work.
- B. If at the time of grading it is not possible to place any material in its proper section of the Work, stockpile the fill material in approved areas for later use. No extra payment will be made for the stockpiling or double handling of excavated or borrow material.
- C. Stones or rock fragments larger than 4 inches in their greatest dimensions will not be permitted within the top 6 inches of the finished grade of fills and embankments.
- D. In cut areas, remove all loose or protruding rocks in slopes to the line or finished grade of the slope. Dress all cut and fill slopes in a uniform manner to the grade, cross-section and alignment shown on the Drawings unless otherwise directed by the Engineer.

3.11 FIELD TESTING

- A. Prior to and during placement of backfill and embankment fill, coordinate with the soils testing laboratory to perform in-place soil density to verify the existing subgrade soil meets the requirements herein. Unless otherwise noted, conduct testing in accordance with the following minimum frequencies:
 - 1. Determine a moisture-density relationship for each type of subgrade and backfill materials encountered, and conduct testing in accordance with AASHTO T99 or T180 (ASTM D698 or D1557).
 - 2. Conduct field density and moisture testing of earthwork subgrade below all structures in accordance with AASHTO T310 (ASTM D6938). Unless otherwise indicated, in-place density and moisture testing frequency shall be one (1) test per 3,000 square-feet of subgrade.

SECTION 02316 STRUCTURAL EXCAVATION, BACKFILLING AND GRADING (continued)

3. Conduct field density and moisture testing of structural backfill in accordance with AASHTO T310 (ASTM D6938). Unless otherwise indicated, in-place density and moisture testing frequency shall be one (1) test per 3,000 square-feet of area in each lift of embankment.
4. Conduct permeability testing for clay and other modified soil liner using a certified soil testing laboratory. Unless otherwise indicated, the permeability of the liner shall be less than 1.0×10^{-7} cm/sec.

3.12 **RIPRAP AND SLOPE STABILIZATION – NOT USED**

END OF SECTION 02316

SECTION 03200 - CONCRETE REINFORCEMENT

PART 1 GENERAL

1.01 SCOPE OF WORK

- A. Furnish all labor, materials, equipment, and incidentals required and install all concrete reinforcement complete as shown on the Drawings and as specified herein.
- B. Unless specified otherwise, all materials shall be 100% United States of America domestic products. Exceptions shall be made for specifically named products listed on the Plans and in the Specifications. The Contractor shall provide material certifications listing the country of origin and/or manufacture for all material, pipe, fittings, castings, products, concrete, reinforcement, and appurtenances.

1.02 RELATED SECTIONS

- A. Section 03250 – Concrete Joints and Joint Accessories
- B. Section 03300 – Cast-in-Place Concrete
- C. Section 03740 – Modification or Repair of Existing Concrete

1.03 REFERENCE STANDARDS

- A. American Society for Testing and Materials (ASTM), latest edition:
 - 1. ASTM A36 Standard Specification for Carbon Structural Steel
 - 2. ASTM A615 Standard Specification for Deformed and Plain Carbon-Steel Bars for Concrete Reinforcement
 - 3. ASTM A706 Standard Specification for Deformed and Plain Low-Alloy Steel Bars for Concrete Reinforcement
 - 4. ASTM A722 Standard Specification for High-Strength Steel Bars for Prestressed Concrete
 - 5. ASTM A934 Standard Specification for Epoxy-Coated Prefabricated Steel Reinforcing Bars
 - 6. ASTM A1064 Standard Specification for Carbon-Steel Wire and Welded Wire Reinforcement, Plain and Deformed, for Concrete
 - 7. ASTM F3125 Standard Specification for High Strength Structural Bolts, Steel and Alloy Steel, Heat Treated, 120 ksi (830 MPa) and 150 ksi (1040 MPa) Minimum Tensile Strength, Inch and Metric Dimensions

SECTION 03200 - CONCRETE REINFORCEMENT (continued)

B. American Concrete Institute (ACI), latest edition:

1. ACI 301 Specifications for Structural Concrete
2. ACI 318 Building Code Requirements for Structural Concrete
3. SP-66 ACI Detailing Manual

C. Concrete Reinforcing Steel Institute (CRSI), latest edition:

1. Manual of Standard Practice

D. American Welding Society (AWS), latest edition:

1. AWS D1.4 Structural Welding Code—Reinforcing Steel

1.04 **SUBMITTALS**

A. See Section 01300, Submittals for submittal procedures. Submit shop drawings and product data showing materials of construction and details of installation for:

1. Reinforcing steel: Placement drawings shall conform to the recommendations of ACI 301 and SP-66 ACI Detailing Manual. All reinforcement in a concrete placement shall be included on a single placement drawing or cross-referenced to the main pertinent placement drawing. This drawing shall include the additional reinforcement (around openings, at corners, etc.) shown on the standard detail sheets. Bars to have special coatings or to be of special steel or special yield strength are to be clearly identified.
2. Bar bending details: The bars shall be referenced to the same identification marks shown on the placement drawings. Bars to have special coatings or to be of special steel or special yield strength are to be clearly identified.
3. Schedule of all placements to contain synthetic reinforcing fibers. The amount of fibers per cubic yard to be used for each of the placements shall be noted on the schedule. The name of the manufacturer of the fibers and the product data shall be included with the submittal.

B. Submit samples of each of the following items.

1. One sample of each type of mechanical reinforcing steel connectors, if used.

C. Furnish test data to indicate compliance with the following:

1. Certified copy of mill test on each steel proposed for use showing the physical properties of the steel and the chemical analysis.

SECTION 03200 - CONCRETE REINFORCEMENT (continued)

2. Certified copy of test reports for each foreign manufactured steel proposed for use in the fabrication of reinforcement. The tests shall be specifically made for this project at the expense of the Contractor by a domestic independent testing laboratory certified to perform the tests. The testing shall be for conformity to the applicable ASTM standard.
3. Welder's certification. The certification shall be in accordance with AWS D1.4 when welding of reinforcement is required.

1.05 QUALITY ASSURANCE

- A. Provide services of a manufacturer's representative having at least two (2) years' experience in the use of the reinforcing fibers for a preconstruction meeting and assistance during the first placement of the material.

1.06 DELIVERY, HANDLING, AND STORAGE

- A. Reinforcing steel shall be substantially free from mill scale, rust, dirt, grease, or other foreign matter.
- B. Reinforcing steel shall be shipped and stored with bars of the same size and shape fastened in bundles with durable tags, marked in a legible manner with waterproof markings showing the same "mark" designations as those shown on the submitted Placing Drawings.
- C. Reinforcing steel shall be stored off the ground, protected from moisture and kept free from dirt, oil, or other injurious contaminants.

PART 2 PRODUCTS

2.01 MATERIALS

- A. Materials shall be new and shall comply with the following material specifications.
- B. Deformed Concrete Reinforcing Bars: ASTM A615, Grade 60 deformed bars.
- C. Concrete Reinforcing Bars required on the Drawings to be field bent or welded: ASTM A706.
- D. Spiral Reinforcement
 1. ASTM A615, Grade 60 for hot-rolled plain or deformed bars
 2. ASTM A1064 for cold-drawn wire
- E. Welded Steel Wire Fabric: ASTM A1064
- F. The following alternate materials are allowed:
 1. ASTM A615 Grade 60 may be used for ASTM A706 provided the following requirements are satisfied:

SECTION 03200 - CONCRETE REINFORCEMENT (continued)

- a. The actual yield strength of the reinforcing steel based on mill test shall not exceed the specified yield strength by more than 18,000 psi. Retests shall not exceed this value by more than an additional 3,000 psi.
- b. The ratio of the actual ultimate tensile strength to the actual tensile yield strength of the reinforcement shall not be less than 1.25.
- c. The carbon equivalency (CE) of ASTM A615 bars shall be 0.55 or less.

G. Reinforcing Steel Accessories

1. Plastic Protected Bar Supports: CRSI Bar Support Specifications Class 1-Maximum Protection,
2. Stainless Steel Protected Bar Supports: CRSI Bar Support Specifications, Class 2-Moderate Protection,
3. Precast Concrete Block Bar Supports: CRSI Bar Support Specifications, Precast Blocks. Blocks shall have equal or greater strength than the surrounding concrete.

H. Tie Wire

1. Tie Wire for Reinforcement shall be 16-gauge or heavier, black annealed wire.

I. Mechanical reinforcing steel butt splices shall be positive connecting threaded type couplers such as Lenton rebar splices by Erico Products, Inc.; MRC Couplers by Dayton Superior, or approved equal. They shall meet all ACI 318 Building Code requirements. Bar couplers shall be torqued to manufacturer's recommended value.

1. Unless otherwise noted on the Drawings, mechanical tension splices shall be designed to produce a splice strength in tension or compression of not less than 125 percent (125%) of the ASTM specified minimum yield strength of the rebar in pounds based on the gross area of the rebar.
2. Compression type mechanical splices shall provide concentric bearing from one bar to the other bar and shall be capable of developing the ultimate strength of the rebar in compression.

J. Fiber Reinforcement (Fiber mesh): Synthetic reinforcing fiber must meet the requirements of ASTM C1116. Synthetic reinforcing fiber for concrete shall be 100 percent (100%) polypropylene collated, fibrillated fibers as manufactured by Propex Concrete Systems Corp., Chattanooga, Tennessee, or approved equal. Fiber length and quantity for the concrete mix shall be in strict compliance with the manufacturer's recommendations as approved by the Engineer.

K. Epoxy-Coated Reinforcing Steel: shall be provided at locations specified on the Drawings. Epoxy-coated bars shall conform to ASTM A934.

2.02 FABRICATION

- A. Fabrication of reinforcement shall be in compliance with the CRSI Manual of Standard Practice.**

SECTION 03200 - CONCRETE REINFORCEMENT (continued)

- B. Bars shall be cold bent. Bars shall not be straightened or re-bent.
- C. Bars shall be bent around a revolving collar having a diameter of not less than that recommended by the CRSI.
- D. Bar ends that are to be butt spliced, placed through limited diameter holes in metal, or threaded, shall have the applicable end(s) saw-cut. Such ends shall terminate in flat surfaces within 1-1/2 degrees (1.5°) of a right angle to the axis of the bar.
- E. Spirals (may be substituted for non-spiral ties in circular columns)
 - 1. Provide a minimum of one and one-half (1-1/2) finishing turns at the top and bottom.
 - 2. Splices shall be tension lap splices at least 48 bar diameters, but not less than 12 inches in length. Welded splices shall only be used where specifically approved by the Engineer.
 - 3. Provide spacers as recommended by the CRSI.

PART 3 EXECUTION

3.01 INSTALLATION

- A. Surface condition, bending, spacing and tolerances of placement of reinforcement shall comply with the CRSI Manual of Standard Practice. The Contractor shall be solely responsible for providing an adequate number of bars and maintaining the spacing and clearances shown on the Drawings.
- B. Except as otherwise indicated on the Drawings, the minimum concrete cover of reinforcement shall be as follows:
 - 1. Concrete cast against and permanently exposed to earth: 3 inches
 - 2. Concrete exposed to soil, water, sludge, or weather: 2 inches
 - 3. Concrete not exposed to soil, water, sludge, or weather: 1-1/2 inches
- C. Reinforcement which will be exposed for a considerable length of time after being placed shall be coated with a heavy coat of neat cement slurry.
- D. No reinforcing steel bars shall be welded either during fabrication or erection unless specifically shown on the Drawings or specified, or unless prior written approval has been obtained from the Engineer. All bars that have been welded, including tack welds, without such approval shall be immediately removed from the work. When welding of reinforcement is approved, or called for, it shall comply with AWS D1.4.
- E. Reinforcing steel interfering with the location of other reinforcing steel, conduits, or embedded items, may be moved within the specified tolerances or one (1) bar diameter, whichever is greater. Greater displacement of bars to avoid interference shall only be made with the approval of the

SECTION 03200 - CONCRETE REINFORCEMENT (continued)

Engineer. Do not cut reinforcement to install inserts, conduits, mechanical openings, or other items without the prior approval of the Engineer.

- F. Securely support and tie reinforcing steel to prevent movement during concrete placement. Secure dowels in place before placing concrete.
- G. Securely tie reinforcement steel at each intersection (100%) for all reinforcement steel splice locations, and at every third intersection (33%) otherwise. Two (2) ties are required at each tie location.
- H. Reinforcing steel bars shall not be field bent except where shown on the Drawings or specifically authorized in writing by the Engineer. If authorized, bars shall be cold-bent around the standard diameter spool specified in the CRSI. Do not heat bars. Closely inspect the reinforcing steel for breaks. If the reinforcing steel is damaged, replace, Cadweld or otherwise repair as directed by the Engineer. Do not bend reinforcement after it is embedded in concrete unless specifically shown otherwise on the Drawings.

3.02 REINFORCEMENT AROUND OPENINGS

- A. Unless specific additional reinforcement around openings is shown on the Drawings, provide additional reinforcing steel on each side of the opening equivalent to one half of the cross-sectional area of the reinforcing steel interrupted by an opening. The bars shall have sufficient length to develop bond at each end beyond the opening or penetration.

3.03 SPLICING OF REINFORCEMENT

- A. Splices designated as compression splices on the Drawings, unless otherwise noted, shall be 30 bar diameters, but not less than 12 inches. The lap splice length for column vertical bars shall be based on the bar size in the column above.
- B. Tension lap splices shall be provided at all laps in compliance with ACI 318 and as detailed on the Drawings. Class A splices may be used when 50 percent (50%) or less of the bars are spliced within the required lap length. Class B splices shall be used at all other locations.
- C. Splicing of reinforcing steel in concrete elements noted to be "tension members" on the Drawings shall be avoided whenever possible. However, if required for constructability, splices in the reinforcement subject to direct tension shall be welded to develop, in tension, at least 125 percent (125%) of the specified yield strength of the bar. Splices in adjacent bars shall be offset the distance of a Class C splice.
- D. Install wire fabric in as long lengths as practicable. Splices in welded wire fabric shall be lapped in accordance with the requirements of ACI 318 but not less than 12 inches. The spliced fabrics shall be tied together with wire ties spaced not more than 24 inches on center and laced with wire of the same diameter as the welded wire fabric. Do not position laps midway between supporting beams, or directly over beams of continuous structures. Offset splices in adjacent widths to prevent continuous splices.

SECTION 03200 - CONCRETE REINFORCEMENT (continued)

- E. Mechanical reinforcing steel splicers shall be used only where shown on the Drawings. Splices in adjacent bars shall be offset by at least 30 bar diameters. Mechanical reinforcing splices are only to be used for special splice and dowel conditions approved by the Engineer.

3.04 SHRINKAGE AND TEMPERATURE REINFORCEMENT

- A. Shrinkage and temperature reinforcement shall be provided as indicated on the Drawings. Shrinkage and temperature reinforcing bars should be placed at right angles to structural steel for all structural slabs, unless otherwise specified

3.05 ACCESSORIES

- A. The Contractor shall be solely responsible for determining, providing and installing accessories such as chairs, chair bars and the like in sufficient quantities and strength to adequately support the reinforcement and prevent its displacement during the erection of the reinforcement and the placement of concrete.
- B. Use precast concrete blocks where the reinforcing steel is to be supported over soil.
- C. Stainless steel bar supports or steel chairs with stainless steel tips shall be used where the chairs are set on forms for a concrete surface that will be exposed to weather, high humidity, or liquid (including bottom of slabs over liquid containing areas). Use of galvanized or plastic tipped metal chairs is permissible in all other locations unless otherwise noted on the Drawings or specified.
- D. Alternate methods of supporting top steel in slabs, such as steel channels supported on the bottom steel or vertical reinforcing steel fastened to the bottom and top mats, may be used if approved by the Engineer.

3.06 INSPECTION

- A. In no case shall any reinforcing steel be covered with concrete until the installation of the reinforcement, including size, spacing and position of the reinforcement has been observed by the Engineer and the Engineer's release to proceed with the concreting has been obtained. The Engineer shall be given ample prior notice of the readiness of placed reinforcement for observation. The forms shall be kept open until the Engineer has finished his/her observations of the reinforcing steel.

END OF SECTION 03200

SECTION 03200 - CONCRETE REINFORCEMENT (continued)

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Appendix B
Bid 24-31, Construction -
Transfer Station Improvements Rebid
City Issued Bid

SECTION 03250 – CONCRETE JOINTS AND JOINT ACCESSORIES

PART 1 GENERAL

1.01 SCOPE OF WORK

- A. Furnish all labor, materials, equipment, and incidentals required and install accessories for concrete joints as shown on the Drawings and as specified herein.

1.02 RELATED SECTIONS

- A. Section 03200 – Concrete Reinforcement
- B. Section 03300 – Cast-in-Place Concrete
- C. Section 03740 – Modification or Repair of Existing Concrete
- D. Section 07901 – Joint Sealants

1.03 REFERENCE STANDARDS

- A. American Society for Testing and Materials (ASTM), latest edition:
 - 1. ASTM C1059 Standard Specifications for Latex Agents for Bonding Fresh to Hardened Concrete
 - 2. ASTM D1751 Standard Specification for Preformed Expansion Joint Filler for Concrete Paving and Structural Construction (Nonextruding and Resilient Bituminous Types)
 - 3. ASTM D1752 Standard Specification for Preformed Sponge Rubber Cork and Recycled PVC Expansion Joint Fillers for Concrete Paving and Structural Construction

1.04 SUBMITTALS

- A. See Section 01300, Submittals for submittal procedures. Shop drawings and product data shall include the following:
 - 1. Waterstops: Product data including catalog cut, technical data, storage requirements, splicing methods, and conformity to ASTM standards.
 - 2. Pre-molded joint fillers: Product data including catalog cut, technical data, storage requirements, installation requirements, location of use, and conformity to ASTM standards.
 - 3. Bond breaker: Product data including catalog cut, technical data, storage requirements, installation requirements, location of use, and conformity to ASTM standards.
 - 4. Compressible joint filler: Product data including catalog cut, technical data, storage requirements, installation requirements, location of use, and conformity to ASTM standards.

SECTION 03250 – CONCRETE JOINTS AND JOINT ACCESSORIES (continued)

5. Bonding agents: Product data including catalog cut, technical data, storage requirements, product life, application requirements, and conformity to ASTM standards.
6. Expansion joint dowels: Product data including dowels, coatings, lubricants, expansion caps, installation requirements, and conformity to ASTM standards.

B. Certifications:

1. Certification that all materials used within the joint system are compatible with each other.

PART 2 PRODUCTS

2.01 GENERAL

- A. The use of manufacturer's name and model or catalog number is for the purpose of establishing the standard of quality and general configuration.
- B. All materials used together in a given joint (bond breaker, backer rods, joint fillers, sealants, etc.) shall be compatible with one another. Coordinate selection of supplies and products to ensure compatibility. Under no circumstances shall asphaltic bond breakers or joint fillers be used in joints receiving sealant.

2.02 MATERIALS

A. Waterstops

1. Plastic waterstop – Non-expansion joint in liquid retaining structure: 9 inches by 3/8 inch (9" x 3/8") ribbed type flat waterstops in base slabs and 6 inches by 3/8 inch (6" x 3/8") ribbed type flat waterstops otherwise. Plastic waterstop shall be made by extruding elastomeric plastic compound with polyvinylchloride as the basic resins. Minimum tensile strength of waterstops shall be 1,750 psi. Waterstops shall be style FR-6380 by Paul Murphy Plastics Co., Roseville, Michigan; Style 679 by Greenstreak Plastic Products, St. Louis, Missouri; Style R6-38 by Vinylex Corp., Knoxville, Tennessee; or approved equal.
2. Pre-formed adhesive waterstops: The waterstops shall be a formulated compound of bentonite/butyl that swells upon contact with water. The waterstops shall be Waterstop RX 101 as manufactured by CETCO of Arlington Heights, Illinois, or approved equal. Primer for the material shall be as recommended by the waterstop manufacturer. Waterstop RX 102 shall be used in all locations where there is less than 3-inch concrete cover above pre-formed adhesive waterstop.

B. Pre-molded Joint Filler

1. Pre-molded joint filler – structures: Self-expanding cork, pre-molded joint filler shall conform to ASTM D1752 Type III. The thickness shall be 3/4 inch unless otherwise shown on the Drawings.

SECTION 03250 – CONCRETE JOINTS AND JOINT ACCESSORIES (continued)

2. Pre-molded joint fillers – sidewalk and roadway concrete pavements or where fiber joint filler is specifically noted on the Drawings. The joint filler shall be asphalt-impregnated fiber board conforming to ASTM D1751. Thickness shall be 3/4 inch unless otherwise shown on the Drawings.

C. Bond Breaker

1. Bond breaker tape shall be an adhesive-backed glazed butyl or polyethylene tape which will satisfactorily adhere to the pre-molded joint filler or concrete surface as required. The tape shall be the same width as the joint.
2. Bond breaker for concrete other than where tape is specifically called for shall be either bond breaker tape or a non-staining type bond prevention coating such as Williams Tilt-up Compound by Williams Distributors, Inc.; Silco Seal 77, by SCA Construction Supply Division, Superior Concrete Accessories; or approved equal.

D. Bonding Agent

1. Epoxy bonding agent shall be as specified in Section 03740, Modification or Repair of Existing Concrete.

PART 3 EXECUTION

3.01 INSTALLATION

A. Waterstops

1. Install waterstops for all joints where indicated on the Drawings. Waterstops shall be continuous around all corners and intersections so that a continuous seal is provided. Splices shall be made by welding in accordance with the manufacturer's recommendations, subject to acceptance of the Engineer. Only manufacturer's special approved tools shall be used for welding. The finished splices shall provide a cross-section that is dense and free of porosity.
2. To properly secure waterstops in wall joints before concrete is placed, drill holes in waterstops approximately 1 inch from each edge or between the outermost ribs at each edge (unless integral fastening system is provided) and center the waterstop in the joint. Tie both edges of the waterstop to reinforcing steel with black annealed steel tie wire as specified for tying reinforcing steel and secure in place so that the waterstop will be perpendicular to the joint and remain in the required position during concrete placement.
3. The spacing of the waterstop ties shall match the spacing of the adjacent reinforcing, but need not be spaced closer than 12 inches on center.
4. Horizontal waterstops on slabs shall be clamped in position by the bulkhead (unless previously set in concrete) and the edge of the waterstops shall be lifted while placing concrete below the waterstop. Then the waterstop shall be manually forced against and into the placed concrete and covered with fresh concrete to ensure adequate encasement of the waterstop in concrete.

SECTION 03250 – CONCRETE JOINTS AND JOINT ACCESSORIES (continued)

5. Each piece of the waterstop shall be of maximum practicable length to provide a minimum number of splices.
6. Waterstops shall be installed so that half of the width will be embedded on each side of the joint. Care shall be exercised to ensure that the waterstop is completely embedded in void-free concrete.
7. Install pre-formed adhesive waterstops, including concrete surface preparation and application of primers, in accordance with the recommendations of the waterstop manufacturer.

B. Construction Joints

1. Make construction joints only at locations shown on the Drawings or as approved by the Engineer. Any additional or relocation of construction joints proposed by the Contractor, must be submitted to the Engineer for written approval.
2. Additional or relocated joints should be located where they least impair strength of the member. In general, locate joints within the middle third of spans of slabs, beams and girders. However, if a beam intersects a girder at the joint, offset the joint a distance equal to twice the width of the member being connected. Locate the joints in walls and columns at the underside of floors, slabs, beams, or girders and at tops of footings or floor slabs. Do not locate joints between beams, girders, column capitals, or drop panels and the slabs above them. Do not locate joints between brackets or haunches and walls or columns supporting them.
3. All joints shall be perpendicular to main reinforcement. Continue reinforcing steel through the joints as indicated on the Drawings.
4. Provide sealant grooves for joint sealant where indicated on the Drawings.
5. At all construction joints and at concrete joints designated on the Drawings to be "roughened", uniformly roughen the surface of the concrete to a full amplitude (distance between high and low points or side to side) of approximately 1/4 inch with suitable tools to expose a fresh face. Thoroughly clean joint surfaces of loose or weakened materials by waterblasting or sandblasting and prepare for bonding. At least two (2) hours before and again shortly before the new concrete is deposited, the joints shall be saturated with water. After glistening water disappears, the joints shall be given a thorough coating of neat cement slurry mixed to the consistency of very heavy paste. The surfaces shall receive a coating at least 1/8-inch-thick, well-scrubbed-in by means of stiff bristle brushes whenever possible. Horizontal wall joints with no access to the earlier concrete placement surface shall have the roughened surface thoroughly coated with a neat cement slurry of pouring consistency. New concrete shall be deposited before the neat cement dries.
6. In lieu of the above method for securing bond between new and set concrete, the following optional method may be used. Concrete must be allowed to set a minimum of 28 days. Use an epoxy bonding agent applied to roughened and cleaned surfaces of set concrete in strict

SECTION 03250 – CONCRETE JOINTS AND JOINT ACCESSORIES (continued)

accordance with manufacturer's recommendations and as specified in Section 03740 with respect to preparation of surfaces and applications of bonding agent.

7. Provide waterstops in all wall and slab construction joints in liquid containment structures and at other locations shown on the Drawings.
8. Keyways shall not be used in construction joints unless specifically shown on the Drawings or approved by the Engineer.

C. Control Joints

1. Provide sealant grooves, sealants and waterstops at control joints in slabs on grade and walls as detailed. Provide waterstops at all wall and slab control joints for water containment structures and at all other locations identified on the Drawings.
2. Control joints may be sawed if specifically approved by the Engineer. If control joint grooves are sawed, properly time the saw cutting with time of the concrete set. Start cutting as soon as concrete has hardened sufficiently to prevent aggregates from being dislodged by the saw. Complete cutting before shrinkage stresses have developed sufficiently to induce cracking. No reinforcing shall be cut during sawcutting.
3. Extend every other bar for reinforcing steel through control joints or as indicated on the Drawings. Where specifically noted on the Drawings, coat the concrete surface with a bond breaker prior to placing new concrete against it. Avoid coating reinforcement or waterstops with bond breaker at these locations.

END OF SECTION 03250

SECTION 03250 – CONCRETE JOINTS AND JOINT ACCESSORIES (continued)

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SECTION 03300 CAST-IN-PLACE CONCRETE

PART 1 GENERAL

1.01 SCOPE OF WORK

- A. Furnish all labor and materials required and install cast-in-place concrete as shown on the Drawings and as specified herein.

1.02 RELATED SECTIONS

- A. Section 03200 – Concrete Reinforcement
- B. Section 03250 – Concrete Joint Accessories
- C. Section 03740 – Modification or Repair of Existing Concrete
- D. Division 7 – Moisture Protection

1.03 REFERENCE STANDARDS

- A. American Society for Testing and Materials (ASTM) International, latest edition:
 - 1. ASTM C31 Standard Practice for Making and Curing Concrete Test Specimens in the Field
 - 2. ASTM C33 Standard Specification for Concrete Aggregates
 - 3. ASTM C39 Standard Test Method for Compressive Strength of Cylindrical Concrete Specimens
 - 4. ASTM C42 Standard Test Method for Obtaining and Testing Drilled Cores and Sawed Beams of Concrete
 - 5. ASTM C94 Standard Specification for Ready-Mixed Concrete
 - 6. ASTM C143 Standard Test Method for Slump of Hydraulic Cement Concrete
 - 7. ASTM C150 Standard Specification for Portland Cement
 - 8. ASTM C156 Standard Test Method for Water Loss [from a Mortar Specimen] Through Liquid Membrane-Forming Curing Compounds for Concrete
 - 9. ASTM C171 Standard Specification for Sheet Materials for Curing Concrete
 - 10. ASTM C172 Practice for Sampling Freshly Mixed Concrete
 - 11. ASTM C173 Standard Test Method for Air Content of Freshly Mixed Concrete by the Volumetric Method

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

12. ASTM C231 Standard Test Method for Air Content of Freshly Mixed Concrete by the Pressure Method
 13. ASTM C260 Standard Specification for Air-Entraining Admixtures for Concrete
 14. ASTM C309 Standard Specification for Liquid Membrane-Forming Compounds for Curing Concrete
 15. ASTM C311 Standard Test Methods for Sampling and Testing Fly Ash or Natural Pozzolans for Use in Portland-Cement Concrete
 16. ASTM C330 Specification for Lightweight Aggregates for Structural Concrete
 17. ASTM C494 Standard Specification for Chemical Admixtures for Concrete
 18. ASTM C567 Test Method for Determining Density of Structural Lightweight Concrete
 19. ASTM C618 Standard Specification for Coal Fly Ash and Raw or Calcined Natural Pozzolan for Use in Concrete
 20. ASTM C881 Specification for Epoxy-Resin-Base Bonding Systems for Concrete
 21. ASTM C1611 Standard Test Method for Slump Flow of Self-Consolidating Concrete
 22. ASTM E1745 Standard Specification for Plastic Water Vapor Retarders Used in Contact with Soil or Granular Fill under Concrete Slabs
- B. American Concrete Institute (ACI), latest edition:
1. ACI 211.1 Standard Practice for Selecting Proportions for Normal, Heavyweight and Mass Concrete
 2. ACI 301 Specifications for Structural Concrete
 3. ACI 303.1 Standard Specification for Cast-in-Place Architectural Concrete
 4. ACI 304 Guide for Measuring, Mixing, Transporting, and Placing Concrete
 5. ACI 304.2 Placing Concrete by Pumping Methods
 6. ACI 305.1 Guide to Hot Weather Concreting
 7. ACI 306.1 Guide to Cold Weather Concreting
 8. ACI 308 Guide to External Curing of Concrete
 9. ACI 309 Guide for Consolidation of Concrete

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

- 10. ACI 318 Building Code Requirements for Structural Concrete and Commentary
- 11. ACI 350 Code Requirements for Environmental Engineering Concrete Structures

1.04 SUBMITTALS

- A. See Section 01300, Submittals for submittal procedures. Shop drawings and product data shall include the following:
 - 1. Concrete mix designs for all classes of concrete proposed for use on the project.
 - 2. Sources of cement, pozzolan, and aggregates.
 - 3. Material Safety Data Sheets (MSDS) for all concrete components and admixtures.
 - 4. Air-entraining admixture: Product data including catalog cut, technical data, storage requirements, product life, recommended dosage, temperature considerations, and conformity to ASTM standards.
 - 5. Water reducing admixture: Product data including catalog cut, technical data, storage requirements, product life, recommended dosage, temperature considerations, and conformity to ASTM standards.
 - 6. High range water-reducing admixture (super-plasticizer): Product data including catalog cut, technical data, storage requirements, product life, recommended dosage, temperature considerations, retarding effect, slump range, and conformity to ASTM standards. Identify proposed locations of use.
 - 7. Sheet curing material: Product data including catalog cut, technical data, and conformity to ASTM standard.
 - 8. Liquid curing compound: Product data including catalog cut, technical data, storage requirements, product life, application rate, and conformity to ASTM standards. Identify proposed locations of use.
- B. Samples
 - 1. Fine and coarse aggregates if requested for examination by the Engineer.
- C. Furnish test data to indicate compliance with the following:
 - 1. Sieve analysis, mechanical properties, and deleterious substance content for coarse and fine aggregate.
 - 2. Chemical analysis and physical tests of each type of cement.
 - 3. Chemical analysis and physical tests of pozzolan.

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

D. Certifications

1. Certify admixtures used in the same concrete mix are compatible with each other and the aggregates.

E. Qualifications

1. Independent testing laboratory: Name, address, and qualifications. Laboratories affiliated with the Contractor or in which the Contractor or its officers have a beneficial interest are not acceptable.

1.05 QUALITY ASSURANCE

- A. Only one source of cement and aggregates shall be used on any one structure. Concrete shall be uniform in color and appearance.
- B. Furnish manufacturer or supplier certifications for all products and materials.
- C. Well in advance of placing concrete, the Contractor shall discuss with the Engineer the sources of individual materials and batched concrete proposed for use. Contractor shall discuss placement methods, waterstops and curing. Contractor shall propose methods of hot and cold weather concreting as required.
- D. A meeting shall be held prior to placement of plasticized concrete. The plasticizer (high range water reducer) manufacturer's representative and the Contractor shall be available to discuss the properties and techniques of batching and placing plasticized concrete.
- E. If during the progress of the work, it is impossible to secure concrete of the required workability and strength with the materials being furnished, the Engineer may order such changes in proportions or materials, or both, as may be necessary to secure the desired properties. All changes so ordered shall be made at the Contractor's expense.
- F. If during the progress of the work, the materials from the sources originally accepted change in characteristics, the Contractor shall, at his/her expense, make new acceptance tests of aggregates and establish new design mixes. Such testing and design shall be accomplished with the assistance of an independent testing laboratory acceptable to the Engineer.
- G. Reinforced concrete shall comply with ACI 318, the recommendations of ACI 350, and other stated specifications, codes and standards.
- H. The responsibility for field testing is defined in Section 01450, Field Quality Control. However, the Contractor shall provide sufficient quality assurance field testing of concrete to provide confirmation of the concrete quality. Such quality assurance testing shall be at no additional cost to the Owner. Methods of testing will comply with the latest applicable ASTM methods.
- I. Samples of constituents and of concrete as-placed will be subjected to laboratory tests. All materials incorporated in the Work shall conform to accepted samples.

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

1.06 DELIVERY, STORAGE, AND HANDLING

- A. Cement: Store in weathertight buildings, bins, or silos to provide protection from dampness and contamination and to minimize warehouse set.
- B. Aggregate: Arrange and use stockpiles to avoid excessive segregation or contamination with other materials or with other sizes of like aggregates. Do not use frozen or partially frozen aggregate.
- C. Sand: Arrange and use stockpiles to avoid contamination. Allow sand to drain to a uniform moisture content before using. Do not use frozen or partially frozen aggregates.
- D. Admixtures: Store in closed containers to avoid contamination, evaporation or damage. Provide suitable agitating equipment to assure uniform dispersion of ingredients in admixture solutions which tend to separate. Protect liquid admixtures from freezing and other temperature changes which could adversely affect their characteristics.
- E. Pozzolan: Store in weathertight buildings, bins, or silos to provide protection from dampness and contamination.
- F. Sheet Curing Materials: Store in weathertight buildings or off the ground and under cover.
- G. Liquid curing compounds: Store in closed containers.

PART 2 PRODUCTS

2.01 GENERAL

- A. The use of manufacturer's name and model or catalog number is for the purpose of establishing the standard of quality and general configuration desired.
- B. Like items or materials shall be the end products of one manufacturer in order to provide standardization for appearance, maintenance, and manufacturer's service.

2.02 MATERIALS

- A. Materials shall comply with these Specifications and any applicable state or local requirements.
- B. Cement: Domestic Portland cement complying with ASTM C150. Air entraining cements shall not be used. Cement brand shall be subject to approval by the Engineer and one brand shall be used throughout the Work. Refer to Table 1 for cement type(s) to be used with each class of concrete.
- C. Fine aggregate: Washed natural sand conforming to the requirements of ASTM C33.
- D. Coarse aggregate: Well-graded crushed stone or washed gravel conforming to the requirements of ASTM C33. Grading requirements shall be listed in ASTM C33 Table 2 for the specified coarse aggregate size number. Limits of Deleterious Substances and Physical Property Requirements shall be listed in ASTM C33 Table 3 for severe weathering regions. Size numbers for concrete mixes as shown in Table 1 herein. The nominal maximum size of coarse aggregate cannot exceed

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

one-fifth (1/5) the narrowest form dimension, one-third (1/3) of slab total thickness, and three-fourth (3/4) the minimum clear spacing between reinforcing steel bars.

- E. Water: Potable water free from injurious amounts of oil, alkali, organic matter, or other deleterious substances, and meet the requirements of ASTM C1602.
- F. Admixtures: Admixtures shall be free of chlorides and alkalis (except for those attributable to water). When it is required to use more than one (1) admixture in a concrete mix, the admixtures shall be from the same manufacturer. Admixtures shall be compatible with the concrete mix including other admixtures.
 - 1. Air entraining admixture. The admixture shall comply with ASTM C260. Proportioning and mixing shall be in accordance with manufacturer's recommendations.
 - 2. Water reducing agent. The admixture shall comply with ASTM C494, Type A. Proportioning and mixing shall be in accordance with manufacturer's recommendations.
 - 3. High-Range Water Reducer (Plasticizer). The admixture shall comply with ASTM C494 Type F and shall result in non-segregating plasticized concrete with little bleeding and with physical properties of low water/cement ratio concrete. The treated concrete shall be capable of maintaining plastic state in excess of 30 minutes to two (2) hours depending upon the product used. Proportioning and mixing shall be in accordance with manufacturer's recommendations.
 - 4. Admixtures causing retarded or accelerated setting of concrete shall not be used without written approval from the Engineer. When allowed, the admixtures shall be retarding or accelerating water reducing or high range water reducing admixtures.
- G. Pozzolan (Fly ash)
 - 1. Pozzolan shall be Class C fly ash complying with ASTM C618, including the requirements of Table 1 except the Loss of Ignition (LOI) shall be limited to 3 percent (3%) maximum.
 - 2. Testing of the fly ash and/or the fly ash and concrete mixture is required to provide test data confirming that the fly ash in combination with the cement to be used meets all strength requirements and is compatible with the other concrete additives. Provide material certifications from the fly ash supplier.
 - a. Pozzolan shall be tested in compliance with ASTM C311 with the following restriction: A minimum of one (1) sample weighing four (4) pounds shall be taken from each 200 tons of pozzolan supplied for the project.
- H. Sheet Curing Materials: Waterproof paper, polyethylene film, or white burlap-polyethylene sheeting all complying with ASTM C171.
- I. Liquid Curing Compound: Liquid membrane-forming curing compound shall comply with the requirements of ASTM C309 Type 1-D (clear or translucent with fugitive dye) and shall contain no wax, paraffin, or oil.

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

- J. Vapor Retarder: Vapor retarder shall be Stego 10 mil Class A vapor retarder or approved equal.

2.03 MIXES

- A. Development of mix designs and testing shall be by a concrete ready-mix supplier acceptable to the Engineer, engaged by and at the expense of the Contractor.
- B. Select proportions of ingredients to meet the design strength and materials limits specified in Table 1 and produce concrete having proper placability, durability, strength, appearance, and other required properties. Proportion ingredients to produce a homogenous mixture which will readily work in corners and angles of forms and around reinforcement without permitting materials to segregate or allowing excessive free water to collect on the surface.
- C. The design mix shall be based on historical experience and previous experience with prior mixes with essentially the same proportions of the same constituents or, if not available, be developed by laboratory tests.
1. If developed by laboratory tests, water content of the concrete shall be based on a curve showing the relation between water cementitious ratio and seven (7) and 28-day compressive strengths of concrete made using the proposed materials. The curves shall be determined by four or more points, each representing an average value of at least three (3) test specimens at each age. The curves shall have a range of values sufficient to yield the desired data, including the compressive strengths specified, without extrapolation. The water content of the concrete mixes to be used, as determined from the curve, shall correspond to strengths 16 percent (16%) greater than the required design strengths. The resulting mix shall not conflict with the limiting values for maximum water cementitious ratio and net maximum cementitious content as specified in Table 1.
- D. Compressive Tests: The proposed concrete mix or mixes shall be tested to demonstrate compliance with the compression strength requirements in conformity with the provisions of ACI 318.
- E. Entrained air, as measured by ASTM C231, shall be as shown within the range of 4.0 to 7.0%.
1. If the air entraining agent proposed for use in the mix requires testing methods other than ASTM C231 to accurately determine air content, make special note of this requirement in the admixture submittal required under paragraph 1.04.
- F. Slump of the concrete as measured by ASTM C143, shall be 4-inch maximum. If the plasticizer is used, the slump indicated shall be that measured before plasticizer is added. Plasticized concrete shall have a slump ranging from 6 to 9 inches.
- G. Proportion admixtures according to the manufacturer's recommendations. Two or more admixtures specified may be used in the same mix provided that the admixtures in combination retain full efficiency and have no deleterious effect on the concrete or on the properties of each other.

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

- H. The concrete mix design in Table 1 shall contain SikaFiber Novomesh-850 blended fiber, or approved equal, at a dosage rate of 24 pounds per cubic yard. Fibers shall be added from the manufacturer's pre-measured bags and according to the manufacturer's recommendations in a manner which will ensure complete dispersion of the fiber bundles as single monofilaments within the concrete.
- I. The concrete mix design in Table 1 shall contain Silica Fume admixture at a dosage rate of 7.5% by weight of cementitious material. The Silica Fume shall be in addition to rather than a replacement of cementitious material.

Table 1					
Cementitious Class	Cement 1	Compressive Strength 2	Minimum Bags of Portland Cement	Fine Aggregate 3	Coarse Aggregate 4
C	C150 Type I	4,000	6.5	C33	57
Cementitious Class	W/C Ratio 5	Fly Ash 6	AE 7	WR 8	HRWR 9
C	0.45 max	15-25	Yes	Yes	Yes

NOTES:

1. ASTM designation
2. Minimum compressive strength in psi at 3 days
3. ASTM designation
4. Size Number in ASTM C33
5. W/C is Water Cementitious ratio by weight
6. Fly ash, percent of total cementitious material by weight. Reduce fly ash percentage to 15 to 20 percent (15-20%) from October through March. Fly ash may be used in any mix in accordance with the requirements of Article 2.02.G and other provisions of this section.
7. AE is air entraining admixture
8. WR is water reducing admixture
9. HRWR is high range water reducer

PART 3 EXECUTION

3.01 MEASURING MATERIALS

- A. Concrete shall be composed of Portland cement, fine aggregate, coarse aggregate, water, and admixtures as specified and shall be produced by a plant acceptable to the Engineer. The addition

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

of any high range water reducer will occur on site after concrete has been tested for slump and air content and sampled for compressive strength (if as directed by Engineer).

- B. Measure materials for batching concrete by weighing in conformity with and within the tolerances given in ASTM C94 except as otherwise specified. Scales shall have been certified by the local Sealer of Weights and Measures within one (1) year of use.
- C. Measure the amount of free water in fine aggregates with a moisture meter. Compensate for varying moisture contents of fine aggregates. Record the number of gallons of water as batched on printed batching tickets.
- D. Admixtures shall be dispensed either manually using calibrated containers or measuring tanks, or by means of an automatic dispenser approved by the manufacturer of the specified admixture.
 - 1. Charge air-entraining and chemical admixtures into the mixer as a solution using an automatic dispenser or similar metering device.
 - 2. Inject multiple admixtures separately during the batching sequence.

3.02 MIXING AND TRANSPORTING

- A. Concrete shall be ready-mixed concrete produced by equipment acceptable to the Engineer. No hand-mixing will be permitted. Clean each transit mix truck drum and reverse drum rotation before the truck proceeds under the batching plant. Equip each transit-mix truck with a continuous, non-reversible, revolution counter showing the number of revolutions at mixing speeds.
- B. Ready-mix concrete shall be transported to the site in watertight agitator or mixer trucks loaded not in excess of their rated capacities as stated on the name plate.
- C. Added water shall be incorporated by additional mixing of at least 35 revolutions. The amount of water added shall be shown on each delivery ticket. The addition of water shall not result in an exceedance of the maximum water/cement ratio of the concrete mix design, nor shall it result in an exceedance of the maximum permitted slump of 4 inches without the addition of approved concrete admixtures.
- D. All central plant and rolling stock equipment and methods shall comply with ACI 318 and ASTM C94.
- E. Select equipment of size and design to ensure continuous flow of concrete at the delivery end. Metal or metal-lined non-aluminum discharge chutes shall be used and shall have slopes not exceeding one (1) vertical to two (2) horizontal and not less than one (1) vertical to three (3) horizontal. Chutes more than 20 feet long and chutes not meeting slope requirements may be used if concrete is discharged into a hopper before distribution.
- F. Re-tempering of concrete or mortar that has partially hardened (that is, mixing with or without additional cement, aggregate, or water) will not be permitted.

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

- G. Handle concrete from mixer to placement as quickly as practicable while providing concrete of required quality in the placement area. Dispatch trucks from the batching plants so they arrive at the work site just before the concrete is required, thus avoiding excessive mixing of concrete while waiting or delays in placing successive layers of concrete in the forms.
- H. Furnish a delivery ticket for ready mixed concrete to the Engineer as each truck arrives. Each ticket shall provide a printed record of the weight of cement and each aggregate as batched individually. Use the type of indicator that returns for zero punch or returns to zero after a batch is discharged. Clearly indicate the weight of fine and coarse aggregate, cement and water in each batch, the quantity delivered, the time any water is added, and the numerical sequence of the delivery. Show the time of day batched and time of discharge from the truck.
- I. Temperature Mixing Time Control
 - 1. In cold weather (see paragraph 3.07.D) maintain the as-mixed temperature of the concrete and concrete temperatures at the time of placement in the forms as indicated in Table 2.
 - 2. If water or aggregate has been heated, combine water with aggregate in the mixer before cement is added. Do not add cement to mixtures of water and aggregate when the temperature of the mixture is greater than 90°F.
 - 3. In hot weather, cool ingredients before mixing to maintain temperature of the concrete below the maximum placing temperature of 90°F. If necessary, substitute well-crushed ice for all or part of the mixing water.
 - 4. The maximum time interval between the addition of mixing water and/or cement to the batch and placing of concrete in the forms shall not exceed the following:

Table 2	
Air or Concrete Temperature (Whichever Is Higher) Maximum Time	
(27°C) 80°F to 90°F (32°C).....	45 minutes
(21°C) 70°F to 79°F (26°C).....	60 minutes
(5°C) 40°F to 69°F (20°C).....	90 minutes

If an approved high range water reducer (plasticizer) is used to produce plasticized concrete, the maximum time interval shall not exceed 90 minutes.

3.03 INSTALLATION – CONCRETE TOPPING

- A. Remove the debris and clean the surface by sweeping and vacuuming of all dirt and other foreign materials.
- B. Saturate the concrete surface for at least 24 hours prior to placement of the concrete grout. Saturation may be maintained by ponding, by the use of soaker hoses, or by other methods acceptable to the Engineer. Remove excess water just prior to placement of the concrete grout.

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

Place a cement slurry immediately ahead of the concrete grout so that the slurry is moist when the grout is placed. Work the slurry over the surface with a broom until it is coated with approximately 1/16 to 1/8-inch thick cement paste.

1. A bonding grout may be substituted for the cement slurry. The bonding grout shall be composed of one part Portland cement, 1.5 parts fine sand, an approved bonding admixture, and water; mixed to achieve the consistency of thick paint.

C. Provide tooled control joints as indicated on the Drawings.

D. Finish and cure the concrete grout as specified in this Specification.

3.04 INSPECTION AND COORDINATION

- A. The batching, mixing, transporting, placing, and curing of concrete shall be subject to the inspection of the Engineer at all times. The Contractor shall advise the Engineer of readiness to proceed with each concrete placement at least 24 hours in advance. The Engineer will inspect the preparations for concreting including the preparation of previously placed concrete; the reinforcing; and the alignment, cleanliness, and tightness of formwork. No placement shall be made without the inspection and acceptance of the Engineer.

3.05 CONCRETE APPEARANCE

- A. Concrete mix showing either poor cohesion or poor coating of the coarse aggregate with paste shall be remixed. If this does not correct the condition, the concrete shall be rejected. If the slump is within the allowable limit, but excessive bleeding, poor workability, or poor finishability are observed, changes in the concrete mix shall be obtained only by adjusting one or more of the following:
 1. The gradation of aggregate,
 2. The proportion of fine and coarse aggregate,
 3. The percentage of entrained air, within the allowable limits.
- B. Concrete for the Work shall provide a homogeneous structure which, when hardened, will have the required strength, durability, and appearance. Mixtures and workmanship shall be such that concrete surfaces, when exposed, will require no finishing. When concrete surfaces are stripped, the concrete when viewed in good lighting from 10 feet away shall be pleasing in appearance, and at 20 feet shall show no visible defects.

3.06 PLACING AND COMPACTING

A. Placing

1. Verify that all the formwork completely encloses concrete to be placed and is securely braced prior to concrete placement. Remove ice, excess water, dirt, and other foreign materials from forms. Confirm that reinforcement and other embedded items are securely in place. Have a competent workman at the location of the pour who can assure that reinforcement and

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

embedded items remain in designated locations while concrete is being placed. Add water to semiporous subgrades or forms to eliminate suction of water from the mix. Seal extremely porous subgrades in an approved manner.

2. Deposit concrete as near its final position as possible to avoid segregation due to rehandling or flowing. Place concrete continuously at a rate which ensures the concrete is being integrated with fresh plastic concrete. Do not deposit concrete which has partially hardened or has been contaminated by foreign materials or on concrete which has hardened sufficiently to cause formation of seams or planes of weakness within the section. If the section cannot be placed continuously, place construction joints as specified or as approved.
3. Pumping of concrete will be permitted. Use a mix design suitable for pumping and submit for approval. The maximum size of coarse aggregate used in the mix should be limited to one-third of the smallest inside diameter of the delivery system.
4. Remove temporary spreaders from forms when the spreader is no longer useful. Temporary spreaders may remain embedded in concrete only when made of galvanized metal or concrete and if prior approval has been obtained.
5. Do not place concrete for supported elements until concrete previously placed in the supporting element (columns, slabs, and/or walls) has reached adequate strength. Prepare previously placed and hardened concrete surfaces by cleaning using steel brushes and applying bonding agent in accordance with manufacturer's instructions.
6. Where surface mortar is to form the base of a finish, especially surfaces designated to be painted, work coarse aggregate back from forms with a suitable tool to bring the full surface of the mortar against the form. Prevent the formation of excessive surface voids.
7. Slabs
 - a. After suitable bulkheads, screeds, and jointing materials have been positioned, the concrete shall be placed continuously between construction joints beginning at a bulkhead, edgeform, or corner. Each batch shall be placed into the edge of the previously placed concrete to avoid stone pockets and segregation.
 - b. Avoid delays in casting. If there is a delay in casting, the concrete placed after the delay shall be thoroughly spaded and consolidated at the edge of that previously placed to avoid cold joints. Concrete shall then be brought to correct level and struck off with a straightedge. Bull floats or darbies shall be used to smooth the surface, leaving it free of humps or hollows.
 - c. Where slabs are to be placed integrally with the walls below them, place the walls and compact as specified. Allow one (1) hour to pass between placement of the wall and the overlying slab to permit consolidation of the wall concrete. Keep the top surface of the wall moist so as to prevent cold joints.

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

8. Formed Concrete

- a. Place concrete in forms using tremie tubes and taking care to prevent segregation. Bottom of tremie tubes shall preferably be in contact with the concrete already placed. Do not permit concrete to drop freely more than 4-feet. Place concrete for walls in 12-inch to 24-inch lifts, keeping the surface horizontal. If plasticized concrete is used, the maximum lift thickness may be increased to 7 feet and the maximum free fall of concrete shall not exceed 15 feet.

B. Compacting

1. Consolidate concrete by vibration, puddling, spading, rodding, or forking so that concrete is thoroughly worked around reinforcement, embedded items, and openings, and into corners of forms. Puddling, spading, etc. shall be continuously performed along with vibration of the placement to eliminate air or stone pockets which may cause honeycombing, pitting, or planes of weakness.
2. All concrete shall be placed and compacted with mechanical vibrators. The number, type, and size of the units shall be approved by the Engineer in advance of placing operations. No concrete shall be ordered until sufficient approved vibrators (including standby units in working order) are on the job.
3. A minimum frequency of 7,000 revolutions per minute is required for mechanical vibrations. Insert vibrators and withdraw at points from 18 inches to 30 inches apart. At each insertion, vibrate sufficiently to consolidate concrete, generally from 5 to 15 seconds. Do not over vibrate so as to segregate. Keep a spare vibrator on the site during concrete placing operations.
4. Concrete Slabs: Concrete for slabs less than 8 inches thick shall be consolidated with vibrating screeds; slabs 8 inches to 12 inches thick shall be compacted with internal vibrators and (optionally) with vibrating screeds. Vibrators shall always be placed into concrete vertically and shall not be laid horizontally or laid over.
5. Walls and Columns: Internal vibrators (rather than form vibrators) shall be used unless otherwise approved by the Engineer. In general, for each vibrator needed to melt down the batch at the point of discharge, one or more additional vibrators must be used to densify, homogenize, and perfect the surface. The vibrators shall be inserted vertically at regular intervals, through the fresh concrete, and slightly into the previous lift, if any.
6. Amount of Vibration: Vibrators are to be used to consolidate properly placed concrete but shall not be used to move or transport concrete in the forms. Vibration shall continue until:
 - a. Frequency returns to normal
 - b. Surface appears liquefied, flattened, and glistening
 - c. Trapped air ceases to rise
 - d. Coarse aggregate has blended into surface but has not disappeared.

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

3.07 CURING AND PROTECTION

- A. Protect all concrete work against injury from the elements and defacements of any nature during construction operations.
- B. Curing Methods
 - 1. Curing Methods for Concrete Surfaces: Cure concrete to retain moisture and maintain specified temperatures at the surface for a minimum of three (3) days after placement. Curing methods to be used are as follows:
 - a. Water Curing: Keep entire concrete surface wet by ponding, continuous sprinkling, or covered with saturated burlap. Begin wet cure as soon as concrete attains an initial set and maintain wet cure over 24 hours a day.
 - b. Sheet Material Curing: Cover entire surface with sheet material. Securely anchor sheeting to prevent wind and air from lifting the sheeting or entrapping air under the sheet. Place and secure sheet as soon as initial concrete set occurs.
 - c. Liquid Membrane Curing: Apply over the entire concrete surface except for surfaces to receive additional concrete. Curing compound shall not be placed on any concrete surface where additional concrete is to be placed, where surface coatings are to be used, or where the concrete finish requires an integral floor product. Curing compound shall be applied as soon as the free water on the surface has disappeared and no water sheen is visible, but not after the concrete is dry or when the curing compound can be absorbed into the concrete. Application shall be in compliance with the manufacturer's recommendations.
 - 2. Specified applications of curing methods.
 - a. Slabs for Water Containment Structures: Water curing only.
 - b. Slabs on Grade and Footings (not used to contain water): Water curing, sheet material curing, or liquid membrane curing.
 - c. Structural Slabs (other than water containment): Water curing or liquid membrane curing.
 - d. Horizontal Surfaces that will receive additional concrete, coatings, grout, or other material that requires bond to the substrate: Water curing.
 - e. Formed Surfaces: None if non-absorbent forms are left in place seven (7) days. Water cure if absorbent forms are used. Sheet cured or liquid membrane cured if forms are removed prior to seven (7) days. Exposed horizontal surfaces of formed walls or columns shall be water cured for seven (7) days or until next placement of concrete is made.

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

- f. Concrete Joints: Water cured or sheet material cured.
- C. Finished surfaces and slabs shall be protected from the direct rays of the sun to prevent checking and crazing.
- D. Cold Weather Concreting
1. For this Specification, "cold weather" is defined as a period when, for more than three (3) consecutive days, the average daily outdoor temperature is less than 40°F. The average daily temperature shall be calculated as the average of the highest and the lowest temperature during the period from midnight to midnight.
 2. Concrete placed during cold weather shall be batched, delivered, cured, and protected in compliance with the recommendations of ACI 306.1 and the additional requirements of this Section.
 3. The Contractor shall discuss proposed cold weather work plan with the Engineer. The discussion shall encompass the methods and procedures proposed for use during the cold weather including the production, transportation, placement, protection, curing, and temperature monitoring of the concrete. The procedures to be implemented upon abrupt changes in weather conditions or equipment failures shall also be discussed. Cold weather concreting shall not begin until the work plan is acceptable to the Engineer.
 4. The minimum temperature of concrete immediately after placement and during the protection period shall be as indicated in Table 3. The temperature of the concrete in place and during the protection period shall not exceed these values by more than 20°F. Prevent overheating and non-uniform heating of the concrete.

Table 3		
Concrete Temperatures Minimum Dimension of Section		
	<12 inches	12 to 36 inches
Min. concrete temperature:	55°F	50°F

5. During periods of cold weather, concrete shall be protected to provide continuous warm, moist curing (with supplementary heat when required) for a total of at least 350 degree-days of curing.
 - a. Degree-days are defined as the total number of 24 hour periods multiplied by the weighted average daily air temperature at the surface of the concrete (e.g., 5 days at an average 70°F = 350 degree-days).
 - b. To calculate the weighted average daily air temperature, sum hourly measurements of the air temperature in the shade at the surface of the concrete taking any measurement less than 50°F as 0°F. Divide the sum thus calculated by 24 to obtain the weighted average temperature for that day.

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

6. Salt, manure, or other chemicals shall not be used for protection.
7. At the end of the protection period, allow the concrete to cool gradually to the ambient temperature. If water curing has been used, the concrete shall not be exposed to temperatures below those shown in Table 3 unless at least 24 hours has elapsed since water curing has been terminated.
8. During periods not defined as cold weather, but when freezing temperatures are expected or occur, protect concrete surfaces from freezing for the first 24 hours after placing.

E. Hot Weather Concreting

1. For this Specification, "hot weather" is defined as any combination of high air temperatures, low relative humidity and wind velocity which produces a rate of evaporation as estimated in ACI 305.1, approaching or exceeding 0.2 pounds per square foot per hour (lb/ft²-hr).
2. Concrete placed during hot weather, shall be batched, delivered, placed, cured, and protected in compliance with the recommendations of ACI 305.1 and the additional requirements of this Specification.
 - a. Temperature of concrete being placed shall not exceed 90°F and every effort shall be made to maintain a uniform concrete mix temperature below this level. The temperature of the concrete shall be such that it will cause no difficulties from loss of slump, flash, set, or cold joints.
 - b. All necessary precautions shall be taken to promptly deliver, to promptly place the concrete upon its arrival at the job and to provide vibration immediately after placement.
 - c. The Engineer may direct the Contractor to immediately cover plastic concrete with sheet material.
3. The Contractor shall discuss with the Engineer a work plan describing the methods and procedures he/she proposes to use for concrete placement and curing during hot weather periods. Hot weather concreting shall not begin until the work plan is acceptable to the Engineer.

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

3.08 REMOVAL OF FORMS

- A. Except as otherwise specifically authorized by the Engineer, forms shall not be removed before the concrete has attained a strength of at least 30 percent (30%) of its specified strength, nor before reaching the following number of degree-days of curing (whichever is longer):

Table 4	
Forms for	Degree Days
Beams and elevated slabs	500
Walls and vertical surfaces	100

(See definition of degree-days in paragraph 3.07.D.5.a)

- B. Shores shall not be removed until the concrete has attained at least 70 percent (70%) of its specified design strength and also sufficient strength to support safely its own weight and the construction live loads upon it.

3.09 FIELD TESTS

- A. Sets of field control cylinder specimens will be taken during the progress of the Work, in compliance with ASTM C31. The number of sets of concrete test cylinders taken of each class of concrete placed each day shall not be less than once a day, nor less than once for each 50 cubic-yards of concrete.
1. A "set" of test cylinders consists of six (6) cylinders: three (3) to be broken at three (3) days and their strengths averaged, and three (3) to be used to verify strength after 3 days if 3 days breaks are low.
 2. Cylinders should be capped before testing to maintain a uniform load distribution. Cylinders are general capped with sulfur mortar in compliance with ASTM C617 or neoprene pad caps in compliance with ASTM C1231.
 3. When the average 3 day compressive strength of the cylinders in any set falls below the required compressive strength, proportions, water content, or temperature conditions shall be changed to achieve the required strengths.
- B. The Contractor shall cooperate in the making of tests by allowing free access to the work for the selection of samples; providing an insulated closed curing box for specimens; affording protection to the specimens against injury or loss through Contractor's operations; and furnishing material and labor required for the purpose of taking concrete cylinder samples. Curing boxes shall be acceptable to the Engineer.
- C. Slump tests will be made in the field immediately prior to placing the concrete. Such tests shall be made in accordance with ASTM C143. If the slump is greater than the specified range, the concrete shall be rejected. If slump test resulted in a shear slump failure, the slump test should be repeated. If shear slump failure re-occurs the concrete batch is to be rejected.

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

- D. Slump flow tests will be made in the field immediately prior to placing Self Compacting Concrete (SCC) in compliance with ASTM C1611. Slump flow spread average diameters should not exceed 30 inches.
- E. Air Content: Test for air content shall be made on a fresh concrete sample. Air content for concrete made of ordinary aggregate having low absorption shall be made in compliance with either the pressure method complying with ASTM C231 or by the volumetric method complying with ASTM C173. If lightweight aggregates or aggregates with high absorptions are used, the latter test method shall be used.
- F. Temperature. Test for temperature shall be made on a fresh concrete sample in accordance with ASTM C1064.
- G. Density. Test for density shall be made in accordance with ASTM C138.

3.10 FIELD CONTROL

- A. The Engineer may require that cores be taken from any questionable area in the concrete work such as construction joints and other locations as required for determination of concrete quality. The results of tests on such cores shall be the basis for acceptance, rejection, or determining the continuation of concrete work.
- B. The Contractor shall cooperate in obtaining cores by allowing free access to the Work and permitting the use of ladders, scaffolding and such incidental equipment as may be required. The Contractor shall repair all core holes. The work of cutting and testing the cores will be in accordance with the Plans.

3.11 FAILURE TO MEET REQUIREMENTS

- A. Should the strengths shown by the test specimens made and tested in compliance with the previous provisions fall below the values given in Table 1, the Engineer shall have the right to require changes in proportions outlined to apply to the remainder of the Work. Furthermore, the Engineer shall have the right to require additional curing on those portions of the structure represented by the test specimens which failed. The cost of such additional curing shall be at the Contractor's expense. In the event that such additional curing does not give the strength required, as evidenced by core and/or load test, the Engineer shall have the right to require strengthening or replacement of those portions of the structure which fail to develop the required strength. The cost of all such core borings and/or load tests and any strengthening or concrete replacement required because strengths of test specimens are below that specified, shall be entirely at the expense of the Contractor. In such cases of failure to meet the strength requirements the Contractor and Engineer

shall confer to determine what adjustment, if any, can be made in compliance with the subsections titled "Strength" and "Failure to Meet Strength Requirements" of ASTM C94. The "purchaser" referred to in C94 is the Contractor in this Specification.

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

- B. When the tests on control specimens of concrete fall below the required strength, the Engineer will permit check tests for strengths to be made by means of typical cores drilled from the structure in compliance with ASTM C42 and C39. In the case of failure of the cores, the Engineer, in addition to other resources, may require, at the Contractor's expense, load tests on any one of the slabs, beams, piles, caps, and columns in which such concrete was used. Test need not be made until concrete has aged 60 days.
- C. Should the strength of test cylinders fall below 60 percent (60%) of the required minimum 7-day strength, the concrete shall be rejected and shall be removed and replaced.

3.12 PATCHING

- A. As soon as the forms have been stripped and the concrete surfaces exposed, fins and other projections shall be removed; recesses left by the removal of form ties shall be filled; and surface defects, which do not impair structural strength, shall be repaired. Clean all exposed surfaces and adjoining work stained by leakage of concrete, to approval of the Engineer.
- B. Immediately after removal of forms remove plugs and break off metal ties. Holes are then to be promptly filled upon stripping as follows: Moisten the hole with water, followed by a 1/16-inch brush coat of neat cement slurry mixed to the consistency of a heavy paste. Immediately plug the hole with a 1 to 1.5 mixture of cement and concrete sand mixed slightly damp to the touch (just short of "balling"). Hammer the grout into the hole until dense, and an excess of paste appears on the surface on the form of a spiderweb. Trowel smooth with heavy pressure. Avoid burnishing.
- C. When patching exposed surfaces, the same source of cement and sand as used in the parent concrete shall be employed. Adjust color if necessary, by addition of proper amounts of white cement. Rub lightly with a fine Carborundum stone at an age of one (1) to five (5) days if necessary to bring the surface down with the parent concrete. Exercise care to avoid damaging or staining the virgin skin of the surrounding parent concrete. Wash thoroughly to remove all rubbed matter.

3.13 REPAIRS

- A. It is the intent of this Specification to require quality work including adequate forming, proper mixture and placement of concrete, and curing so completed concrete surfaces will require no patching.
- B. Defective concrete and honeycombed areas as determined by the Engineer shall be repaired as specified in Section 03740, Modification or Repair of Existing Concrete.

SECTION 03300 CAST-IN-PLACE CONCRETE (continued)

3.14 **SCHEDULE**

- A. The following (Table 5) represents the general applications for the various concrete classes and design strengths:

Table 5		
Class	Design Strength(psi)	Description
C	4,000	Concrete subfloor and concrete wearing surface

END OF SECTION 03300

Appendix B
Bid 24-31, Construction
Transfer Station Improvements Rebid
City Issued Bid

SECTION 03740 – MODIFICATION OR REPAIR OF EXISTING CONCRETE

PART 1 GENERAL

1.01 SCOPE OF WORK

- A. Furnish all labor, materials, equipment required to modify or repair existing concrete as shown on the Drawings and as specified herein.
- B. Work includes patching concrete, removal of anchor bolts or any embedment. Work under this section also includes bonding new concrete pours to existing/hardened concrete.
- C. Work under this Section may be performed as a remedy for improperly placed or poorly placed concrete. Perform such work only after receiving written directions from the Engineer.

1.02 RELATED SECTIONS

- A. Section 02316 – Structural Excavation, Backfilling and Grading
- B. Section 03200 – Concrete Reinforcement
- C. Section 03250 – Concrete Joints and Joint Accessories
- D. Section 03300 – Cast-in-Place Concrete

1.03 REFERENCE STANDARDS

- A. American Society for Testing and Materials (ASTM), latest edition:
 - 1. ASTM C109 Standard Test Method for Compressive Strength of Hydraulic Cement Mortars (Using 2-in. or [50-mm] Cube Specimens)
 - 2. ASTM C881 Standard Specification for Epoxy-Resin-Base Bonding Systems for Concrete
 - 3. ASTM C882 Standard Test Method for Bond Strength of Epoxy-Resin Systems Used With Concrete By Slant Shear
 - 4. ASTM D790 Standard Test Methods for Flexural Properties of Unreinforced and Reinforced Plastics and Electrical Insulating Materials
 - 5. ASTM G109 Standard Test Method for Determining the Effects of Chemical Admixtures on Corrosion of Embedded Steel Reinforcement in Concrete Exposed to Chloride Environments

SECTION 03740 – MODIFICATION OR REPAIR OF EXISTING CONCRETE (continued)

1.03 SUBMITTALS

- A. See Section 01300, Submittals for submittal procedures. Submit shop drawings and product data showing materials of construction and details of installation for:
 - 1. Bonding adhesives. Product data including catalog cuts, technical data, storage and handling requirements, product life, mixing and application instructions, temperature considerations, and conformity to ASTM or other standards specified. Submit Material Safety Data Sheets (MSDS) for all adhesives.
 - 2. Patching materials. Product data including catalog cuts, technical data, storage and handling requirements, product life, mixing and application instructions, temperature considerations, and conformity to ASTM or other standards specified. Submit Material Safety Data Sheets (MSDS) for all patching materials.
- B. Samples
 - 1. Samples of adhesive capsule anchoring system if requested by the Engineer.
- C. Design Data
 - 1. Doweling adhesive. Submit manufacturer's load test data indicating bond and shear strengths for the types of reinforcement to be bonded to existing concrete.
- D. Test Reports
 - 1. Manufacturer's certified tests for adhesives, performed by an independent testing laboratory, indicating the following strength properties and the ASTM method used to determine each: Compressive strength, tensile, bond strength, modulus of elasticity, and shear strength.
 - 2. Manufacturer's certified tests for patching materials, performed by an independent testing laboratory, indicating the following strength properties and the ASTM method used to determine each: Compressive strength, tensile strength, bond strength, modulus of elasticity, and shear strength.
- E. Qualifications
 - 1. Adhesive manufacturer: Demonstrate at least five (5) years of experience in the manufacture of products of the type to be provided. Document manufacturer's program for training and technically supporting field personnel.
 - 2. Patching material manufacturer: Demonstrate at least five (5) years of experience in the manufacture of products of the type to be provided. Document manufacturer's program for training and technically supporting field personnel.

SECTION 03740 – MODIFICATION OR REPAIR OF EXISTING CONCRETE (continued)

1.06 QUALITY ASSURANCE

A. Qualifications

1. Applicator: Firm specializing in concrete repair approved by the materials manufacturer.
2. Manufacturer: The manufacturer of the products specified shall have not less than five (5) years of documented experience in the manufacture of such products and shall have an ongoing program to provide training and technical support for the Contractor's personnel.

1.07 SYSTEM DESCRIPTION

- A. Modify and repair concrete at locations shown on the Drawings and specified.
- B. The Engineer may, from time to time, direct the Contractor to make additional repairs to existing concrete. Make such repairs as specified or by other methods as may be directed by the Engineer. Payment for such repairs will be in compliance with the General Conditions of these Specifications.

1.08 DELIVERY, STORAGE, AND HANDLING

- A. Clearly and indelibly mark all containers with the manufacturer's name, manufacturer's product identification, manufacturer's instructions for mixing, and warnings for handling and toxicity.
- B. Deliver materials in sealed containers with labels legible and intact.
- C. Storage should be made in a suitable clean and dry location approved by the Engineer.
- D. Store all materials in full compliance with the manufacturer's storage instructions.
- E. Handle materials in a safe manner. Avoid breaking container seals.
- F. Components should not be mixed until necessary preparatory work is completed and application work will start immediately.

1.09 PROJECT/SITE REQUIREMENTS

A. Environmental Requirements

1. Comply fully with manufacturer's recommendations as to the environmental conditions under which the products of this Section may be placed.

PART 2 PRODUCTS

2.01 GENERAL

- A. The use of a manufacturer's name and model or catalog number is for the purpose of establishing the standard of quality and general configuration desired.

SECTION 03740 – MODIFICATION OR REPAIR OF EXISTING CONCRETE (continued)

- B. Similar materials shall be the end products of one (1) manufacturer in order to provide standardization for appearance.
- C. Materials shall comply with these Specifications and any federal, state, or local regulations.

2.02 ADHESIVES FOR BONDING PLASTIC CONCRETE TO HARDENED CONCRETE

A. Cement Slurry

- 1. Cement slurry shall be water and Portland cement, both as specified in Section 03300, Cast-in-Place Concrete mixed to a heavy paste. Cement slurry shall not contain fly ash.

B. Solvent-Free Polymer Adhesives

1. Epoxy Adhesives

- a. Epoxy adhesive shall be a two-component, solvent-free, asbestos-free, moisture-insensitive epoxy resin material conforming to the requirements of ASTM C881.
- b. Curing temperature requirements (Class) and viscosity (Grade) shall be determined by supplier and Contractor after project conditions have been established.
- c. Material type: Type V – for load bearing applications bonding freshly mixed concrete to hardened concrete.
- d. Epoxy adhesive bonding systems shall conform to the preceding requirements and shall be Sikadur series by Sika Corporation, Lyndhurst, New Jersey, or approved equal.

2.03 ADHESIVES FOR BONDING INSERTS INTO CONCRETE

- A. Doweling adhesive shall be a two-component vinyl ester blend system supplied in single cartridges separating the resin from the hardener, and capable of dispensing an accurately proportioned adhesive mixture.

- 1. Doweling adhesive shall be Hilti Hit HY-200 V3 Cartridge by Hilti Corporation, Tulsa, Oklahoma.

2.04 PATCHING MATERIALS

A. Repair Mortars

1. Cementitious Mortar

- a. Cementitious mortar shall be a polymer-modified, Portland cement, two-component, fast setting, easy tooling patching mortar, with an integral corrosion inhibitor.

SECTION 03740 – MODIFICATION OR REPAIR OF EXISTING CONCRETE (continued)

- b. Cementitious mortar shall conform to the preceding requirements and shall be Sika-Top series by Sika Corporation; Masterpatch series by Master Builders Technologies; or approved equal.

PART 3 EXECUTION

3.01 GENERAL

- A. Cut, repair, or otherwise modify existing concrete as indicated on the Drawings, as specified, and as may be required by Contractor's error. Work shall comply with the requirements of this Section and other requirements as noted on the Drawings.
- B. No existing concrete shall be shifted, cut, removed, or otherwise altered until authorization has been received from the Engineer.
- C. When removing materials, or when repairing concrete elements, take all necessary precautions and erect barriers, shoring, bracing, or other protective devices as required to prevent damage to areas beyond the limits of the work and to protect personnel.
- D. Locate penetrations drilled or cored into existing concrete to avoid existing reinforcement whenever possible. Where possible, identify reinforcement locations prior to drilling and adjust the locations of holes to avoid interference. Advise Engineer of any locations where reinforcement has been cut.
- E. Mechanically clean existing exposed reinforcement or concrete embedments to remove contaminants and rust before proceeding with any concrete modification or repair.
 - 1. Where existing reinforcement is shown to be salvaged for incorporation into new or repaired construction, carefully remove the existing concrete surrounding it, and cut, bend, or lap such bars as shown on the Drawings to provide not less than 1-inch of concrete cover between such reinforcement and the exposed surface of the concrete.
 - 2. If more than half the diameter of any reinforcement is exposed, chip out the concrete behind that reinforcement to a depth of not less than 1/2-inch in preparation for placing concrete repair materials around it.
- F. Where concrete is to be repaired in the vicinity of a control, expansion, or isolation joint, make repairs so as to preserve the line of and isolation across the joint.

3.02 REMOVING CONCRETE

- A. Remove designated concrete by line drilling at the limits and then chipping or jackhammering as appropriate within the areas where the concrete is to be removed. Exercise caution to ensure that surrounding equipment or concrete, and existing reinforcement to be left in place, is not damaged. Sawcutting at the limits of concrete removal will be permitted only where specifically indicated on the Drawings or approved by the Engineer.

SECTION 03740 – MODIFICATION OR REPAIR OF EXISTING CONCRETE (continued)

- B. At all concrete removals where joints between new and existing concrete will be exposed to view the finished work, the edge of the concrete removal shall be made using a 1-inch deep saw cut on the exposed surface of the existing concrete. Maintain this edge undamaged during removal of adjacent concrete.
- C. All saw-cut edges shall be straight and cuts shall intersect at a right angle.
- D. Where existing reinforcement is exposed by removal of concrete and would not normally be protected by new concrete placed against it, coat the exposed surface using epoxy repair mortar, with a thickness of 1/4-inch, should be applied over the entire cut surface of the existing concrete.
- E. Concrete to be left in place, which is damaged by the Contractor, shall be repaired to the satisfaction of the Engineer using approved means.

3.03 BONDING OR REPAIRING CONCRETE

- A. Where new concrete is to be placed against existing concrete, bonding adhesive shall be applied to the surface of the existing concrete. Install type called out on Drawings or by referring to schedule.
- B. Dry, finished surfaces of repaired concrete shall match the color and texture of the adjoining concrete to the greatest extent possible.
- C. Preparation of Concrete Surfaces
 - 1. Protect surfaces beyond the limits of bonding and repairs, against damage, abrasion, or spillage.
 - 2. Concrete surfaces to which bonding or repair materials will be applied shall be newly exposed parent concrete, free of loose and unsound materials. Prepare surfaces by mechanical abrasion unless prohibited by environmental limitations. Prepared surfaces shall be sound, with coarse aggregate exposed, and free of any deleterious materials such as laitance, curing compounds, dust, dirt, or oil. Irregular voids or surface stones need not be removed if they are sound and firmly embedded into the parent concrete. Materials resulting from surface preparation techniques shall be removed.
 - a. Mechanically abrade surfaces by sandblasting, scarifying, waterblasting, or other means approved by the Engineer. Roughen the existing surface to a minimum amplitude (distance between high and low points) of 1/4-inch.
 - 3. In areas where reinforcing steel bars are exposed, concrete shall be removed to a minimum of 1-inch around the bars. If reinforcing steel is cut through or the cross section area of steel bars are reduced by more than 25 percent (25%) of its original dimension, the Engineer shall be notified immediately.

SECTION 03740 – MODIFICATION OR REPAIR OF EXISTING CONCRETE (continued)

4. Concrete surfaces to be bonded or repaired shall be dry unless water-insensitive cementitious products are used.
 - a. Evaluate moisture content of concrete by determining if moisture will collect at bond lines between old concrete and adhesives or repair materials before the latter have cured. Test by taping a 4-foot by 4-foot (4' x 4') polyethylene sheet to the concrete surface. If moisture collects under the sheet before bonding or repair products would cure, allow the concrete additional drying time before placing them.
 5. Where plastic concrete is to be bonded to hardened concrete, surfaces shall have a moisture content not exceeding saturated surface dry condition.
 6. Surface temperature of the concrete shall be within the limits recommended by the manufacturer for the particular product to be used, but in no case shall the surface temperature be below 40° F.
 7. The area of concrete to be treated shall be cut to a minimum of 1/2-inch and a maximum depth that results in no damage to reinforcing steel. Existing concrete shall be chipped so that the minimum repair mortar thickness is 1/2-inch.
- D. Bonding and Repairing Procedures
1. Product Preparation
 - a. Condition components as recommended by the manufacturer prior to mixing.
 - b. Mix components in a clean container free of harmful residue or foreign particles.
 - c. Thoroughly blend components with a mechanical mixer to a uniform and homogeneous mixture. Mix small batches (up to 1 quart) using spatulas, knives, or similar implements.
 2. Application of Adhesives
 - a. Apply adhesive to concrete using equipment recommended by the manufacturer for the applications and products being used.
 - b. Place fresh plastic concrete within contact time of adhesive as recommended by the manufacturer. If epoxy adhesive cures to extent of losing its tack before plastic concrete is in contact with adhesive, remove or slightly abrade the first coat before placing any additional coat.
 - c. Consolidate freshly placed plastic concrete in accordance with ACI 301 and ensure full bonding to existing concrete. At the completion of finishing operations, cure concrete in accordance with the provisions of Section 03300, Cast-in-Place Concrete.

SECTION 03740 – MODIFICATION OR REPAIR OF EXISTING CONCRETE (continued)

3. Application of Repair Mortar

- a. Apply repair mortar to concrete surface by trowel or screed. Thickness shall be maintained within the limits recommended by the manufacturer.
- b. After initial mixing of mortar, extra water should not be added to increase mortar workability.
- c. Work mortar into place and consolidate thoroughly so that all contact surfaces are wet by the mortar, and entrapped air is reduced to the level recommended by the manufacturer.
- d. Finish mortar surface to texture, color, and smoothness required for the specific application. Repair mortar shall receive a smooth, steel trowel finish.
- e. Upon completion of finishing operations, protect and allow mortar to cure in accordance with manufacturer's recommendations.

4. Cleanup

- a. Immediately remove any adhesive or repair materials applied or spilled beyond the desired area using materials designated by the adhesive manufacturer. Avoid contamination of the work area.
- b. Repair mortar shall be cured according to the repair mortar manufacturer recommendations.

5. Field Testing

- a. The Engineer will evaluate the bonding of plastic concrete to hardened concrete after the plastic concrete has cured for not less than 28 days. First evaluation will be made by sounding methods.
- b. Detection of a hollow sound in any area shall be reason to suspect inadequate bonding. When requested by the Engineer, the Contractor shall core any such areas to determine the adequacy of bond. Length of cores shall be twice the core diameter or twice the thickness of the new concrete as requested by the Engineer.
- c. Cores shall be visually observed. If the bond is adequate, costs of coring shall be borne by the Owner. If the bond is inadequate, costs of coring and any repairs ordered by the Engineer shall be borne by the Contractor.

3.04 **BONDING INSERTS INTO EXISTING CONCRETE**

- A. Drill hole of diameter and depth recommended by the doweling adhesive manufacturer to develop the full yield strength for the dowel to be embedded. Clear dust and debris and place doweling adhesive in hole according to manufacturer's recommendations. Locate dowel in hole to provide the indicated embedment and projection. Insert the dowel slowly, tapping it into the full depth of

SECTION 03740 – MODIFICATION OR REPAIR OF EXISTING CONCRETE (continued)

the hole and turning it slightly to fill voids in adhesive. Do not disturb or load the dowel before adhesive cure time is complete.

B. Waterstops between existing and new concrete

1. Refer to Section 03250, Concrete Joints and Joint Accessories, paragraph 3.01B, for installation of grout tube injection waterstop system.

3.05 SCHEDULES

A. The following are specific concrete surface preparation and bonding "methods" to be used where indicated on the Drawings or specified, or where directed by the Engineer.

1. Method A – Cement slurry bond: Prepare the existing concrete surface at the connection as specified in paragraph 3.03C. Brush on to the connection surface a 1/16-inch layer of cement slurry mixed to the consistency of a heavy paste. Immediately place new plastic concrete or grout mixture against the slurry and existing concrete.
2. Method B – Adhesive bond: Prepare the existing concrete surface at the connection as specified in paragraph 3.03C. Apply epoxy adhesive to the connection surface unless another adhesive is specified on the Drawings. Place new plastic concrete while the adhesive remains tacky.
3. Method C – Embedment of dowels, bolts or threaded rods: Drill a hole of diameter and depth as required. Clean hole of loose particles and dust using compressed air. Fill hole with and butter the steel insert member to be inserted with epoxy paste so that when the steel insert is installed, the epoxy paste will fill the hole. Insert the steel member, tapping it into the full depth of the hole. Unless otherwise shown on the Drawings, deformed bars shall be drilled and set to a depth of at least 12 bar diameters and smooth bars shall be drilled and set to a depth of at least 15 bar diameters. The depth of the drilled holes shall not exceed the thickness of the member minus 3 inches. The Engineer will provide details regarding the size and spacing of the steel embeds where not noted on the Drawings.
4. Method D – Adhesive bond with embedded dowels: Combine Methods B and C.

END OF SECTION 03740

SECTION 03740 – MODIFICATION OR REPAIR OF EXISTING CONCRETE (continued)

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Appendix B
Bid 24-31, Construction -
Transfer Station Improvements Rebid
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SECTION 05120 STRUCTURAL STEEL

PART 1 GENERAL

1.01 SCOPE OF WORK

- A. Furnish all labor and materials required and install structural steel including bearing plates, columns, beams, and miscellaneous shapes and plates required to erect the structural framing as shown on the Drawings, and as specified herein.
- B. Furnish and install nuts and washers for anchor bolts. The Contractor is responsible for coordinating all pertinent trades in the installation of anchor bolts in concrete for structural steel framing, etc., using templates or other means as necessary. Additional requirements for installing anchor bolts are included in Division 3.
- C. Unless specified otherwise, all materials shall be 100% United States of America domestic products. Exceptions shall be made for specifically named products listed on the Plans and in the Specifications. The Contractor shall provide material certifications listing the country of origin and/or manufacture for all material, pipe, fittings, castings, products, concrete, reinforcement, and appurtenances.

1.02 RELATED SECTIONS

- A. Division 03 – Concrete

1.03 REFERENCE STANDARDS

- A. American Institute of Steel Construction (AISC), latest edition:
 - 1. AISC Steel Construction Manual
 - 2. AISC 303 Code of Standard Practice for Steel Buildings and Bridges
 - 3. AISC 360 Specification for Structural Steel Buildings
- B. American Society for Testing and Materials (ASTM), latest edition:
 - 1. ASTM A36 Standard Specification for Carbon Structural Steel
 - 2. ASTM A53 Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc Coated Welded and Seamless
 - 3. ASTM A123 Standard Specification for Zinc (Hot-Dip Galvanized) Coatings on Iron and Steel Products
 - 4. ASTM A153 Standard Specification for Zinc Coating (Hot-Dip) on Iron and Steel Hardware
 - 5. ASTM A307 Standard Specification for Carbon Steel Bolts, Studs, and Threaded Rod 60 000 PSI Tensile Strength

SECTION 05120 STRUCTURAL STEEL (continued)

6. ASTM A325 Standard Specification for Structural Bolts, Steel, Heat Treated, 120/105 ksi Minimum Tensile Strength (WITHDRAWN 2016) (Replaced by F3125)
 7. ASTM A490 Standard Specification for Structural Bolts, Alloy Steel, Heat Treated, 150 ksi Minimum Tensile Strength (WITHDRAWN 2016) (Replaced by F3125)
 8. ASTM A500 Standard Specification for Cold-Formed Welded and Seamless Carbon Steel Structural Tubing in Rounds and Shapes
 9. ASTM A501 Standard Specification for Hot-Formed Welded and Seamless Carbon Steel Structural Tubing
 10. ASTM A992 Standard Specification for Structural Steel Shapes
 11. ASTM F1554 Standard Specification for Anchor Bolts, Steel, 36, 55, and 105-ksi Yield Strength
 12. ASTM F3125 Standard Specification for High Strength Structural Bolts and Assemblies, Steel and Alloy Steel, Heat Treated, Inch Dimensions 120 ksi and 150 ksi Minimum Tensile Strength, and Metric Dimensions 830 MPa and 1040 MPa Minimum Tensile Strength
- C. American Welding Society (AWS), latest edition:
1. AWS A5.1 Specification for Carbon Steel Electrodes for Shielded Metal Arc Welding
 2. AWS D1.1 Structural Welding – Steel
- D. Research Council on Structural Connections (RCSC), latest edition:
1. Specification for Structural Joints using High Strength Bolts

1.04 **SYSTEM DESCRIPTION**

- A. Beam Connections not detailed on the Drawings shall be bolted framed beam connections as shown in Part 9 of the AISC Steel Construction Manual.
- B. Bolted shear connections shall be bearing-type connections unless otherwise shown.

1.05 **DESIGN REQUIREMENTS**

- A. Design Criteria for Stairs, Landings, and Elevated Platforms.
1. Live loads: 100 lb/ft² uniform
250 lb concentrated

SECTION 05120 STRUCTURAL STEEL (continued)

2. Allowable deflection: Span/360 live load only
 Span/240 dead plus live load
 1/4-inch maximum
3. Provide bracing against side sway in all directions. Coordinate with Drawings and equipment manufacturer to identify locations that cannot be obstructed for access or maintenance reasons.

1.06 SUBMITTALS

- A. See Section 01300, Submittals for submittal procedures.
- B. Submit erection drawings, detailed shop drawings, schedules and data for all structural steel. Approval will be for strength only and shall not relieve the Contractor of responsibility for ensuring proper fit of members, submittal of connections not detailed on the Drawings, or for supplying all material required by the Contract Documents. Mark numbers painted on the shop assembled pieces of steel shall be the same mark numbers used on the detailed shop and erection drawings.
- C. Submit certified mill test reports for the structural steel and bolting materials.
- D. Submit certifications that welders are qualified, in accordance with AWS D1.1, for the shop and field welding procedures to be used.
- E. Submit coating thicknesses for all members and hardware in accordance with the ASTM Standards.

1.07 QUALITY ASSURANCE

- A. Structural steel shall be in accordance with the AISC Specification for Structural Steel Buildings and the Code of Standard Practice for Steel Buildings and Bridges unless otherwise specified herein.
- B. Welding shall be in accordance with AWS D.1.1 unless otherwise specified herein or in the AISC Specifications.

1.08 DELIVERY, STORAGE, AND HANDLING

- A. Deliver materials promptly so as to cause no delay with other parts of the work.
- B. Store materials on skids and not on the ground. Pile and block materials so that they will not become bent or otherwise damaged.
- C. Handle materials with cranes or derricks as far as practicable. Do not dump steel off delivery or erection vehicles nor handle in any other manner likely to cause damage.

SECTION 05120 STRUCTURAL STEEL (continued)

1.09 PROJECT SITE CONDITIONS

- A. Coordinate the work of this Section with the work of other Sections. Verify at the site both the dimensions and work of other trades that adjoin items of work in this Section before commencement of items specified herein.
- B. Field measurements shall be taken at the site to verify or supplement indicated dimensions and to ensure proper coordination of all other construction items.

PART 2 PRODUCTS

2.01 MATERIALS

- A. Structural Shapes: ASTM A992
- B. Plates, unless otherwise noted: ASTM A572 Grade 50
- C. Rods and bars, unless otherwise noted: ASTM A36
- D. Structural tube: ASTM A500, Grade B or ASTM A501
- E. Structural pipe: ASTM A53, Type S, Grade B
- F. Welding electrodes: AWS A5.1 E70XX
- G. High strength steel bolts, nuts, and washers: ASTM F3125
- H. Anchor bolts: ASTM F1554, Grade 36
- I. Galvanizing: Zinc with 0.5 percent (0.5%) minimum, nickel added
- J. Galvanized surface primer: 95 percent (95%) zinc dust, organic vehicle primer

2.02 FABRICATION

- A. Match-mark materials for field assembly. Ream unmatched holes in shop assembly of field connections. Reject and replace with new pieces any piece weakened by reaming to a point where the strength of the joint is impaired.
- B. Welding of parts shall be done only where shown or specified and by welders and welding operators qualified for the procedures used.

2.03 FINISHES

- A. Galvanize members and their attachments exposed in whole or part to the weather. Galvanize other members as indicated on the Drawings. Galvanizing shall be done after fabrication and in accordance with ASTM A123. Hardware galvanizing shall be in accordance with ASTM A153. Thoroughly clean, pickle, flux, and immerse members in bath of molten zinc until their temperature becomes the same as the bath.

SECTION 05120 STRUCTURAL STEEL (continued)

PART 3 EXECUTION

3.01 INSTALLATION

- A. Furnish and install temporary bracing to provide stability during erection and to prevent distortion or damage to the framing due to wind, seismic, or erection forces. Remove temporary bracing when erection is complete.
- B. Use drift pins only to bring members into position and not to enlarge or distort holes.
- C. Make all steel-to-steel connections by high strength bolting except where field welding is shown or specified. Provide not less than two (2) 3/4-inch bolts per connection and use not less than 1/4-inch thick clip angles.
- D. Tighten bolted connections designated as bearing-type connections to the snug tight condition. Tighten all other bolted connections to full pretension by turn-of-nut or calibrated wrench tightening per the requirements of Section 8 of the Specification for Structural Joints Using High-Strength Bolts.
- E. Field welding shall be done only where shown or specified and only by welders qualified for the procedures used. No welding shall be done when surfaces are wet, exposed to rain or wind, or when welders are exposed to inclement conditions that will hamper good workmanship.
- F. Each bolting crew and welder shall be assigned an identification mark. This mark shall be made at each completed connection with a paint stick.
- G. After erection, prime paint abrasions, field welds, and unprimed surfaces using shop primer except surfaces designated to be unpainted or surfaces in contact with concrete.
- H. After erection, prime paint abrasions, and field welds on galvanized surfaces with galvanized surface primer.

3.02 FIELD TESTING

- A. Allow the Engineer free access to the work. Notify the Engineer in writing four (4) working days in advance of high strength bolting or field welding operations.
- B. High strength bolting will be inspected visually. All high strength bolts shall have the turned portion marked with reference to the steel being connected after the nut has been made snug and prior to final tightening. Retighten rejected bolts or remove and provide new bolts. In cases of disputed bolt installations, the bolts in question shall be checked using a calibrated wrench certified by an independent testing laboratory approved by the Engineer. The certification shall be at the Contractor's expense.
- C. Field welding will be inspected visually by AWS certified welding inspectors provided by the Owner. Comply with all requests of inspectors to correct deficiencies.

SECTION 05120 STRUCTURAL STEEL (continued)

- D. The fact that steel work has been accepted at the shop and mill will not prevent its final rejection at the site, before or after erection, if it is found to be defective.
- E. Remove rejected steel work from the site within ten (10) working days after notification of rejection.

END OF SECTION 05120

Appendix B
Bid 24-31, Construction -
Transfer Station Improvements Rebid
City Issued Bid

SECTION 09901 – SURFACE PREPARATION AND SHOP PRIME PAINTING

PART 1 GENERAL

1.01 SCOPE OF WORK

- A. Furnish all labor, materials, equipment, and incidentals required for the surface preparation and application of shop primers on ferrous metals, excluding stainless steels, as specified herein and as shown on the Drawings.

1.02 RELATED SECTIONS

- A. Section 09902 – Finish Painting.

1.03 SUBMITTALS

- A. Submit to the Engineer for review in accordance with Section 01300, Submittals complete shop drawings, manufacturer's specifications, and data on the proposed primers and detailed surface preparation, application procedures, and dry mil thickness.
- B. Submit to the Engineer for review in accordance with Section 01300, Submittals representative physical samples of the proposed primers.

1.04 REFERENCE SPECIFICATIONS

- A. Steel Structures Painting Council (SSPC)
 - 1. SSPC-SP-1 – Solvent Cleaning
 - 2. SSPC-SP-6 – Commercial Blast Cleaning
 - 3. SSPC-SP-7 – Brush Blast
 - 4. SSPC-SP-10 – Near-White Metal Blast Cleaning
 - 5. SSPC-SP-11 – Power Tool Cleaning to Bare Metal

PART 2 PRODUCTS

2.01 SHOP PRIME PAINTING SCHEDULE

- A. The following surfaces shall have the types of paint scheduled below applied at the dry film thickness in mils per coat noted. A coating system has been designated for the purpose of identifying type and standard. Equivalent coating systems for the other manufacturers will be considered. Adequate information shall be submitted to the Engineer to permit a determination of the paint system being equal to that specified.
 - 1. Ferrous metals subject to splashing
 - a. Tnemec: 1 Coat, 66HS/161HS-33GR Gray Epoxy Primer (3.0 – 5.0 mils DFT) or
 - b. Sherwin-Williams: 1 - 2 Coats, Dura-Plate 235 (4 - 5 mils DFT per coat)

SECTION 09901 – SURFACE PREPARATION AND SHOP PRIME PAINTING (continued)

2. Submerged Steel

- a. Tnemec: 1 Coat, 66HS/161HS-1255 Hi-Build Epoxoline Epoxy (3.0 – 5.0 mils DFT) or
- b. Sherwin-Williams: 2 Coats, Dura-Plate 235 (4 - 8 mils DFT per coat)

3. Structural Steel, loose steel lintels, and other ferrous metals (non-submerged)

- a. Tnemec: 1 Coat, 66HS/161HS-33GR Gray Epoxy Primer (3.0 – 5.0 mils DFT) or
- b. Sherwin-Williams: 1 - 2 Coats, Dura-Plate 235 (4 - 5 mils DFT per coat)

4. Repair of cut edges and damage to galvanized steel

- a. Tnemec: 1 Coat, 90-97 Tnemec Zinc (2.5 – 3.5 DFT)
- b. Sherwin-Williams: 1 Coat, Corothane I Galvapac (2 - 3 mils DFT per coat)

5. Masonry: See Section 09902, Finish Painting

6. Plastic Pipe: See Section 09902, Finish Painting

7. Insulated Pipe (non-metallic insulation and building insulation): See Section 09902, Finish Painting

B. Primers containing lead will not be allowed.

- C. Any surfaces that are not specifically named in the Schedule and not specifically excepted shall be prepared, primed, and painted in a manner and with a material that is consistent with these specifications. The Engineer will select which of the manufacturer's products, whether indicated or not, to be used on the unnamed surfaces. No extra payment shall be allowed for this painting.

2.02 COMPATIBILITY OF COATING SYSTEMS

- A. Shop priming shall be done with primers that are guaranteed by the manufacturer to be compatible with their corresponding primers and finish coats specified in Section 09902 for use in the field and which are recommended for use together.

2.03 NON-PRIMED SURFACES

- A. Gears, bearings surfaces, and other similar surfaces that are not to be painted shall be given a heavy shop coat of grease or other suitable rust-resistant coating. This coating shall be maintained as necessary to prevent corrosion during all periods of storage and erection and shall be satisfactory to the Engineer up to the time of the final acceptance test.

SECTION 09901 – SURFACE PREPARATION AND SHOP PRIME PAINTING (continued)

PART 3 EXECUTION

3.01 APPLICATION

A. SURFACE PREPARATION AND PRIMING:

1. Non-submerged components scheduled for priming, as defined above, shall be sandblasted clean in accordance with SSPC-SP-6 "Commercial" immediately prior to priming. Submerged components scheduled for priming, as defined above, shall be sandblasted clean in accordance with SSPC-SP-10 "Near White," immediately prior to priming.
2. Surfaces shall be dry and free of dust, oil, grease, dirt, rust, loose mill scale, and other foreign material before priming.
3. Shop prime in accordance with approved paint manufacturer's recommendations.
4. Surface preparation for field painting unprimed surfaces or for touch up shall be the same.
5. Plastic pipe surfaces shall be lightly sanded before painting.
6. Wood surfaces shall be dry and sanded to a smooth surface.
7. Bituminous-coated pipe shall not be used in exposed locations. Pipe to be exposed in the finished work shall be primed in accordance Section 09902. Any bituminous coated pipe which is inadvertently installed in exposed locations shall be sandblasted clean before priming and painting.
8. All primed or previously painted surfaces and nonferrous surfaces shall be cleaned prior to application of successive coats. All nonferrous metals shall be cleaned in accordance with SSPC-SP-1. Test galvanized steel for treatment or any passivation and handle as required.
9. Shop-coated surfaces shall be protected from damage and corrosion before and after installation. Damaged areas shall be repaired immediately upon detection. Abraded or corroded spots shall be cleaned according to SSPC-SP11 Power Tool to Bare Metal and touched up with the same materials as the shop coat. All shop coated surfaces which are determined to be faded or discolored, or which require more than minor touch-up, shall receive new surface preparation and be repainted. Cut edges of galvanized steel and exposed threads and cut ends of galvanized piping, electrical conduit, and metal pipe sleeves shall be solvent cleaned in accordance with SSPC-SP-1 and primed.
10. Galvanized steel and stainless-steel surfaces shall be cleaned in accordance with SSPC-SP-1. Such surfaces designated not to be painted shall be cleaned to this standard.
11. Aluminum embedded or in contact with concrete shall be painted with two coats of epoxy as scheduled in Section 09902.
12. Surface temperature and all other application conditions shall be in accordance with approved primer manufacturer's recommendations. Enclosures and auxiliary heat shall be utilized as necessary to achieve compliance.

SECTION 09901 – SURFACE PREPARATION AND SHOP PRIME PAINTING (continued)

3.02 FABRICATED AND MANUFACTURED EQUIPMENT

- A. Unless otherwise indicated, all fabricated and manufactured equipment shall be shop primed. Initial finish coats may be shop or site applied. All further coats shall be site-applied. In all cases, final coat shall be site-applied.
- B. Wherever equipment is required to be sandblasted, contractor shall protect all motors, drives, bearings, gears, nameplates, and any other parts not required to be painted, from sandblasting and from the entry of grit. Any equipment found to contain grit shall be disassembled, cleaned and reassembled.

END OF SECTION 09901

Appendix B
Bid 24-31, Construction
Transfer Station Improvements
City Issued Bid

Bid 25-31, Addendum 1



CITY OF
FAYETTEVILLE
ARKANSAS

Date: Friday, February 21, 2025

To: All Prospective Vendors

From: Amanda Beilfuss – 479.575.8220 – abeilfuss@fayetteville-ar.gov

RE: Bid 25-31, Construction – Transfer Station Improvements Rebid

This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Interested parties should indicate their receipt of same in the appropriate blank of the Bid.
BIDDERS SHALL ACKNOWLEDGE THIS ADDENDUM ON THE DESIGNATED LOCATION ON THE BID FORM.

1. A non-mandatory Pre-Bid meeting was held on Wednesday, February 12, 2025 at 3:00 PM on-site at the Fayetteville Transfer Station. The sign-in sheet of attendees is attached to this addendum for disclosure to all interested parties.
 - a. Attendees:
 - i. City of Fayetteville:
 1. Amanda Beilfuss, Procurement Director
 2. Andrew Cook, RTC Operations Manager
 3. Brandon Bekemeier, Asst. RTC Operations Manager
 4. Josh Durham, Hawkins-Weir Engineers
 5. Brett Peters, Hawkins-Weir Engineers
 - ii. Vendors:
 1. JL Bryson, Inc.
 2. Royal Ridge Construction
 3. Soto Scapes
2. Questions: The following questions were received and answered by the coordinating department(s):
 - a. Question: The newly enforced steel tariffs are affecting bid pricing. Can the City give guidance on how to proceed?
 - i. *Answer: With the fluctuation of steel prices in the current market, Contractor will need to provide documentation from steel provider of price changes, if prices are to change after contract award.*
 - b. Question: Can you provide more weld details for the wall? There are weld sizes, but no spacing.
 - i. *Answer: Welds shall be continuous and on both sides.*

- c. Question: Will the metals be galvanized or primed? Specs elude to galvanized, but plans elude to primed.
 - i. Answer: All metals are to be shop primed.
- d. Question: What is the thickness and height of the rubber detail on Plan Sheet #9?
 - i. Answer: The rubber shall be 30 durometer, 1/4-inch thick, 20-inches in height, and 8-feet in length.

Appendix B
Bid 24-31, Construction -
Transfer Station Improvements Rebid
City Issued Bid



CITY OF
FAYETTEVILLE
ARKANSAS

City of Fayetteville, Arkansas

Attendance Sheet

BID/RFP/RFQ #: 25-31

Description: Construction - Transfer Station Improvements Rebid

Function (circle one) : Bid Opening, Selection Committee Meeting, Pre-Bid Interview

Date: 02 / 12 / 2025

Time: 3:00pm

City staff e-mail includes "@fayetteville-ar.gov"

	Name	Company	Title	Phone	Email
1	Amanda Beilfuss	CoF	Procurement Direct.	575-8220	abeilfuss@
2	Ashton Adams	JL Bryson	DM	479-841-5917	@ashton@jlbrysoninc.com
3	Bryson Vandermyden	JL Bryson	PM	775-338-3465	Bryson@jlbrysoninc.com
4	Isaac Soto	Soto Scapes	PM	479-800-4721	info@sotoscapes.com
5	Jovanny Soto	Soto Scapes	PM	479-399-2611	Jovanny@sotoscapes.com
6	Matthew Stovall	Royal Ridge Const.	V/P	479-539-2624	mstovall@royalridge.com
7	Andrew Cook	CoF	Ops Mgr	479-601-5719	acook@
8	Brandon Bekermeier	CoF	Asst Ops Mgr	479-601-4717	bbekermeier@
9	Josh Durham	Hawkins-Weir		479-455-2206	Josh.Durham@hawkins-weir.com
10	Brett Peters	Hawkins-Weir		479-474-1227	brett.peters@hawkins-weir.com
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Bid 25-31, Addendum 2



CITY OF
FAYETTEVILLE
ARKANSAS

Date: Tuesday, February 25, 2025

To: All Prospective Vendors

From: Amanda Beilfuss – 479.575.8220 – abeilfuss@fayetteville-ar.gov

RE: Bid 25-31, Construction – Transfer Station Improvements Rebid

This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Interested parties should indicate their receipt of same in the appropriate blank of the Bid.
BIDDERS SHALL ACKNOWLEDGE THIS ADDENDUM ON THE DESIGNATED LOCATION ON THE BID FORM.

1. Questions: The following questions were received and answered by the coordinating department(s):
 - a. Question: Can the push walls be shop primed after it has been welded in place?
 - i. *Answer: Yes, the metal push walls may be primed after. Some touch priming of all field welds will be required throughout the project.*
 - b. Question: Regarding the Welded Plate Connection on Sheet # 8, will a full-length weld be required on top and bottom of the W6 to ½" plate connection?
 - i. *Answer: Yes, full-length continuous welds are required at these locations.*



CITY OF
FAYETTEVILLE
ARKANSAS

Bid 25-31 Addendum 3

JL Bryson Inc

Supplier Response

Event Information

Number: Bid 25-31 Addendum 3
Title: Construction - Transfer Station Improvements Rebid
Type: Invitation to Bid
Issue Date: 2/2/2025
Deadline: 2/26/2025 02:00 PM (CT)
Notes: The City of The City of Fayetteville is accepting sealed bids from properly licensed Contractors for improvements to Fayetteville's Recycling and Solid Waste Transfer Station. This project includes, but is not limited to, the removal and replacement of the metal push wall in the Transfer Station and the metal chute in the Waste Pit. Questions regarding this bid should be addressed to Amanda Beilfuss, Procurement Director, at abeilfuss@fayetteville-ar.gov.

Contact Information

Contact: Amanda Beilfuss - Procurement Director
Address: Purchasing
City Hall
Room 306
113 W. Mountain St.
Fayetteville, AR 72701
Email: abeilfuss@fayetteville-ar.gov

JL Bryson Inc Information

Contact: Ashton Adams
Address: 20121 E Hwy 412
Springdale, AR 72764
Phone: (479) 841-5917
Email: ashton@jlbrysoninc.com
Web Address: www.jlbrysoninc.com

By submitting your response, you certify that you are authorized to represent and bind your company.

Ashton Adams

Signature

ashton@jlbrysoninc.com

Email

Submitted at 2/26/2025 12:47:33 PM (CT)

Requested Attachments

Signature Forms for Bid 25-31

Bid Form Upload.pdf

Please attach your completed forms. These documents can be found in 'FILE #01 - Project Manual' in the Attachments tab. Please be sure to include ALL required information stated in the Project Manual, including any Bidder Qualification requirements.

Bid Bond for Bid 25-31

City of Fayetteville Push Wall Bid Bondpdf.pdf

Please attach a signed and completed copy of your bid bond. Bid bonds in the form of a cashier's check shall be delivered to City Hall, Purchasing Division before bid deadline and have a copy of the cashier's check uploaded with submittal.

Bid Attributes

1	Arkansas Secretary of State Filing Number: 80053651
2	Arkansas Contractor License Number: 0032810325
3	Check Yes or No: Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing. ☒ Yes, I agree ☐ No, I don't agree

4	Check Yes or No: Pursuant Arkansas Code Annotated §25-1-1002, the Contractor agrees and certifies that they do not currently boycott Energy, Fossil Fuel, Firearms, and Ammunition Industries during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-1002. If at any time during the contract the contractor decides to boycott Energy, Fossil Fuel, Firearms, and/or Ammunition Industries, the contractor must notify the contracted public entity in writing. ☒ Yes, I agree ☐ No, I don't agree
5	Addendum Acknowledgement: By selecting "I agree", you acknowledge that you have read and understand any addendums that have been issued for this bid. ☒ I agree

Bid Lines

1	General Conditions (include Bonds and Insurance)		
	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: \$23,216.00	Total: \$23,216.00
2	Mobilization (Not to exceed 5% of Total Bid, NOT including Bonds and Insurance)		
	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: \$6,239.00	Total: \$6,239.00
3	OSHA Trench Safety		
	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: \$3,627.00	Total: \$3,627.00
4	Demolish the Existing North Metal Push Wall		
	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: \$22,403.00	Total: \$22,403.00
5	Demolish the Existing South Metal Push Wall		
	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: \$22,403.00	Total: \$22,403.00
6	Demolish the Existing Metal Chute Located Along the Interior East Wall of the Waste Pit		
	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: \$18,776.00	Total: \$18,776.00
7	Demolish Existing Handrail		
	Quantity: <u> 25 </u> UOM: <u> LF </u>	Price: \$90.54	Total: \$2,263.50
8	Demolish an Existing Ladder		
	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: \$2,713.00	Total: \$2,713.00
9	Construct the north Metal Push Wall		
	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: \$157,018.00	Total: \$157,018.00
10	Construct the South Metal Push Wall		
	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: \$145,903.00	Total: \$145,903.00

1 1	Construct the Metal Chute Located Along the Interior East Wall of the Waste Pit	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: <u> \$81,307.00 </u>	Total: <u> \$81,307.00 </u>
1 2	Armor the Existing Elevated Concrete Beam Located at the North End of the Waste Pit, With Mild Steel Plate	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: <u> \$13,349.00 </u>	Total: <u> \$13,349.00 </u>
1 3	Armor the Existing Elevated Concrete Beam Located at the South End of the Waste Pit, With Mild Steel Plate	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: <u> \$13,349.00 </u>	Total: <u> \$13,349.00 </u>
1 4	Install Aluminum Handrail	Quantity: <u> 25 </u> UOM: <u> LF </u>	Price: <u> \$211.70 </u>	Total: <u> \$5,292.50 </u>
1 5	Install Aluminum Ladder	Quantity: <u> 14 </u> UOM: <u> VF </u>	Price: <u> \$565.43 </u>	Total: <u> \$7,916.02 </u>
1 6	Install Force Main and Emergency Pump Connection	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: <u> \$143,385.00 </u>	Total: <u> \$143,385.00 </u>
1 7	Remove and Replace 6" Gravel Paving	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: <u> \$13,850.00 </u>	Total: <u> \$13,850.00 </u>
1 8	Remove and Replace 8" Concrete Paving	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: <u> \$77,600.00 </u>	Total: <u> \$77,600.00 </u>
1 9	Site Restoration	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: <u> \$9,676.00 </u>	Total: <u> \$9,676.00 </u>
2 0	Waste Transfer Pit Electrical Improvements including Protective Concrete Wall	Quantity: <u> 1 </u> UOM: <u> LS </u>	Price: <u> \$69,414.00 </u>	Total: <u> \$69,414.00 </u>
2 1	DEDUCTIVE ALTERNATE A - The deletion of the 6" Force Main, including the pump connection, removal and replacement of the gravel paving, and associated site restoration (Bid Items 16, 17, and 19) <i>(Line excluded from response total)</i> Quantity: <u> 1 </u> UOM: <u> LS </u> Price: <u> \$166,911.00 </u> Total: <u> \$166,911.00 </u> Item Notes: <i>Total for this Deductive Alternate should be the combined total amount of Bid Items 16, 17, and 19.</i>			
2 2	DEDUCTIVE ALTERNATE B - The deletion of the removal and replacement of the concrete site paving (Bid Item 18). <i>(Line excluded from response total)</i> Quantity: <u> 1 </u> UOM: <u> LS </u> Price: <u> \$77,600.00 </u> Total: <u> \$77,600.00 </u> Item Notes: <i>Total for this Deductive Alternate should be the total amount of Bid Item 18.</i>			
2 3	DEDUCTIVE ALTERNATE C - The deletion of the Waste Transfer Pit Electrical improvements, including Protective Concrete Wall (Bid Item 20). <i>(Line excluded from response total)</i> Quantity: <u> 1 </u> UOM: <u> LS </u> Price: <u> \$69,414.00 </u> Total: <u> \$69,414.00 </u> Item Notes: <i>Total for this Deductive Alternate should be the total amount of Bid Item 20.</i>			

Response Total: \$839,700.02

BID BOND

CONTRACTOR:

(Name, legal status and address)

JL Bryson, Inc.

P.O. Box 1479

Huntsville, AR 72740

SURETY:

(Name, legal status and principal place of business)

U.S. Specialty Insurance Company

13403 Northwest Freeway

Houston, TX 77040-6094

OWNER:

(Name, legal status and address)

City of Fayetteville (AR)

113 West Mountain Street, Fayetteville, AR 72701

BOND AMOUNT: Five Percent (5%) of the Amount Bid _____

PROJECT:

(Name, location or address, and Project number, if any)

Solid Waste Transfer Station Improvements

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 26th day of February, 2025

Ron Bryson
(Witness)

Brian Felt
(Witness)

JL Bryson, Inc.

(Principal)

(Title)

U.S. Specialty Insurance Company

(Surety)

Christy Michelle Long
(Title) Christy Michelle Long, Attorney-in-Fact





**TOKIOMARINE
HCC**

**POWER OF ATTORNEY
AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY**

KNOW ALL MEN BY THESE PRESENTS: That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

Michael Halter, J. Alan Rogers, Miki J. Rogers, Brian A. Boyd, Kevin Bruick, Shana Meyer,
Matthew Perry, Landon G. Fisher, Christy Michelle Long

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed *****Unlimited***** Dollars

(***unlimited***). This Power of Attorney shall expire without further action on April 23rd, 2026. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 18th day of April 2022.

**AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY**

State of California

County of Los Angeles



By: _____

Daniel P. Aguilar, Vice President

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

On this 18th day of April 2022, before me, Sonia O. Carrejo, a notary public, personally appeared Daniel P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(seal)



I, Kio Lo, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this 26 day of February, 2025.

Corporate Seals

Bond No. _____

Agency No. 17061



Kio Lo, Assistant Secretary

DOCUMENT 00400-BID FORM

Contract Name: Fayetteville Transfer Station Improvements
Metal Push Wall and Chute Replacement

Bid Number: 25 - 31, Construction Rebid

BID TO:

Owner: The City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

BID FROM:

Bidder: JL Bry-son Inc.
20121 E Hwy 412
Springdale, AR 72764

ARTICLE 1 - INTENT

- 1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid price and within the Bid time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

ARTICLE 2 - TERMS AND CONDITIONS

- 2.01 Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 90 days after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within 15 days after the date of Owner's Notice of Award.

ARTICLE 3 - BIDDER'S REPRESENTATIONS

- 3.01 In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:

- A. Bidder has examined and carefully studied the Bid Documents, and the following Addenda, receipt of all which is hereby acknowledged:

<u>Number</u>	<u>Date</u>
Addenda 1	2/21
Addenda 2	2/25
Addenda 3	2/25

DOCUMENT 00400-BID FORM (continued)

- B. Bidder has visited the Site, City or Utilities and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
- C. Bidder is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Bidder acknowledges that such reports and drawings are not Contract Documents and may not be complete for Bidder's purposes. Bidder acknowledges that Owner and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bid Documents with respect to Underground Facilities at or contiguous to the Site.
- E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, or furnishing of sequences, and procedures of construction to be employed by Bidder and safety precautions and programs incident thereto.
- F. Bidder does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performing and furnishing of the Work in accordance with the times, price, and other terms and conditions of the Contract Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports, and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Bidder has given the Purchasing Division written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Contract Documents, and the written resolution thereof by the Purchasing Division is acceptable to Bidder.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.

DOCUMENT 00400-BID FORM (continued)

- K. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham bid; Bidder has not solicited or induced any person, firm, or a corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for himself any advantage over any other Bidder or over Owner.
- L. Bidder will perform the Work in compliance with all applicable trench safety standards set forth in Occupational Safety and Health Administration (OSHA) Part 1926 – Subpart P – Excavations.

ARTICLE 4 - BID PRICE

- 4.01 Bidders are required to provide pricing for all line items. Bidders shall also insert Deductive Bid Prices for all three (3) Deductive Alternatives in the electronic bid form.
- 4.02 The City intends to award this contract to the lowest qualified responsive responsible bidder based on the total base bid as long as the base bid amount falls within the amount of funds certified for the project plus 25%. Deductive Alternatives may be considered and selected by the City without invalidating the remainder of the Base Bid. The City reserves the right to select any, all, or none of the Deductive Alternatives. The Deductive Alternates, if selected by the City, will be taken in order starting with A, then B, and then C.
- 4.03 In the event no bid falls within the amount of funds certified for the project plus 25%, all bids shall be rejected and become confidential.
- 4.04 Bidder shall complete the Work in accordance with the Contract Documents for the price(s) indicated in the Bidder's electronic bid submittal. Bidders shall refer to the City's online bidding portal for unit price bid and deductive alternate input.

ARTICLE 5 - CONTRACT TIMES

- 5.01 Bidder agrees that the Work will be substantially completed and completed and ready for final payment within the number of calendar days indicated in the Agreement.
- 5.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified in the Agreement.

ARTICLE 6 - BID CONTENT

- 6.01 The following documents are attached to and made a condition of this Bid:
- A. Required Bid security in the form of a cashier's check from a financial institution located in the State of Arkansas or a Bid Bond and in the amount of 5% Dollars (\$_____)

DOCUMENT 00400-BID FORM (continued)

- B. A tabulation of Subcontractors and other persons and organizations required to be identified in this Bid.

ARTICLE 7 - COMMUNICATIONS

- 7.01 Communications concerning this Bid shall be addressed to the Bidder as follows:

Ashton Adams

Email **ashton@jlbrysoninc.com**

Phone No. **479-841-5917**

Fax No. _____

ARTICLE 8 - TERMINOLOGY

- 8.01 The terms used in this Bid which are defined in the GENERAL CONDITIONS or Instructions to Bidders will have the meanings assigned to them.

ARTICLE 9 - CONTRACTOR'S ASSURANCES AND EXECUTION/SIGNATURE

- 9.01 Contractor's Assurances.

As the authorized representative of the individual, incorporation, or corporation (hereinafter referred to as the company) bidding on or participating in the project, I certify that I have read and understand the requirements of the General and/or Supplemental Conditions and that the principles, agents and employees of the company will comply with these requirements including all relevant statutes and regulations issued pursuant thereto. I further certify as the authorized agent of the company that:

EQUAL OPPORTUNITY I will comply with all requirements of 41 CFR Chapter 60 and Executive Orders 11246 and 11375, including inclusion of all required equal opportunity clauses in each sub-contract awarded in excess of \$10,000 and I will furnish a similar statement from each proposed subcontractor, when appropriate. I will also comply with all Equal Employment Opportunity requirements as defined by Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972 regarding sex discrimination.

LABOR STANDARDS I will comply with the Labor Standards Provisions contained in the Contract Documents and furnish weekly payrolls and certifications as may be required by the City of Fayetteville to affirm compliance. I will also require that weekly payrolls be submitted to the City of Fayetteville for all subcontracts in excess of \$2,000.

OSHA REQUIREMENTS I will comply with the Department of Labor Safety and Health Regulations promulgated under Section 107 of the Contract Work Hours and Safety Standard Act (40 U.S.C. 327-333) in the performance of the contract.

DOCUMENT 00400-BID FORM (continued)

PROCUREMENT PROHIBITIONS As required by Executive Order 11738, Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, I certify that I will not procure goods and services from persons who have been convicted of violations of either law if the goods or services are to be produced by the facility that gave rise to the violation.

DEBARMENT AND SUSPENSION I certify that to the best of my knowledge and belief that the company that I represent and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine. I further certify that I will obtain a similar certification for each subcontract awarded in excess of \$25,000.

DOCUMENT 00400-BID FORM (continued)

9.02 Execution/Signatures for Contractor Assurances above, Bid and Bid Form:

SUBMITTED on 2/25/2025, 20

Arkansas State Contractor License No. 0032810325

If Bidder is:

An Individual

Name (type or printed): N/A

By: _____ (SEAL)
(Individual's Signature)

Doing business as: _____

Business address: _____

City, State, Zip: _____

Phone No: _____ Fax No. _____

Email Address: _____

A Partnership

Partnership Name: N/A (SEAL)

By: _____
(Signature of general partner-attach evidence of authority to sign)

Name (type or printed): _____

Business address: _____

City, State, Zip _____

Phone No: _____ Fax No. _____

Email Address: _____

DOCUMENT 00400-BID FORM (continued)

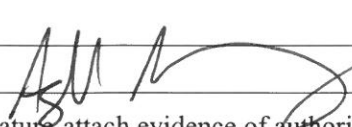
A Corporation or Corporate entity including Limited Liability Company (LLC)

Corporation Name: JL Bry-son Inc. (SEAL)

State of Incorporation: Arkansas

Type (General Business, Professional, Service, Limited Liability):

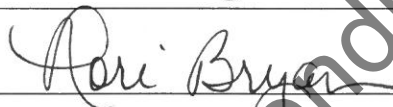
GC

By: 

(Signature-attach evidence of authority to sign)

Name (type or printed): Ashton Adams

Title: Division Manager

Attest: 

(Signature of Corporate Secretary)

Business address: 20121 E Hwy 412
Springdale, AR 72764

Phone No.: 479-439-9171 Fax No.: _____

Email Address: ashton@jlbrysoninc.com

Tax ID No.: 20-2437135

END OF DOCUMENT 00400

SECTION 00140 – BIDDER'S QUALIFICATION STATEMENT

Contract Name: Fayetteville Transfer Station Improvements
Metal Push Wall and Chute Replacement
Bid 25-31, Construction Rebid

Date: 2/25/2025, 20

SUBMITTED TO:

The City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

SUBMITTED BY:

Company JL Bry-son Inc.
Name Ashton Adams
Address 20121 E HWY 412, Springdale, AR 72764
Principal Office _____
Corporation, LLC, partnership, individual, joint
venture, other Corp.
Arkansas State General Contractor's License Number
0032810325
(Type or legibly print)

For a Bidder (Contractor) to be considered as Qualified, the Contractor must satisfy all insurance, financial, and bonding requirements of the City of Fayetteville.

The Contractor must also provide documentation with the bid to document:

The Contractor shall have executed work for municipalities with a minimum of three (3) projects equaling or exceeding two hundred thousand dollars (\$200,000) for installation of the product(s) bid. Acceptable documentation of these minimum installations must be submitted to the City of Fayetteville attached to this section.

EXPERIENCE STATEMENT (MANDATORY)

1. Bidder has been engaged as a General Contractor in construction for 37 years and has performed work of the nature and magnitude of this Contract for 32 years. Bidder has been in business under its present name for 20 years.

SECTION 00140 – BIDDER’S QUALIFICATION STATEMENT (continued)

2. Bidder now has the following bonded projects under contract: (On a separate sheet, list project name, owner, name of owner contact, engineer / architect, name of engineer/architect contact, amount of contract, surety, and estimated completion date.)
3. Bidder has completed the following (list minimum of 3) contracts consisting of work similar to that proposed by this Contract: (On a separate sheet, list project name, owner, name of owner contact, engineer / architect, name of engineer/architect contact, amount of contract, surety, and date of completion and percentage of the cost of the Work performed with Bidder’s own forces.)
4. Has Bidder ever failed to complete any project? If so, state when, where, and why.
5. Bidder normally performs the following work with his own forces:
Metals, equipment, pipe

6. Construction experience of key individuals in the organization is as follows (continued on attached sheets if needed):
Attached

7. In the event the Contract is awarded to Bidder, the required surety Bonds will be furnished by the following surety company and name and address of agent:
Attached

8. Bidder’s Workmen’s Compensation Experience Modifier Factor is:
0.85

SECTION 00140 – BIDDER’S QUALIFICATION STATEMENT (continued)

FINANCIAL STATEMENT (IF REQUESTED)

- A. If requested by the City of Fayetteville during the evaluation of bids the bidder shall provide to the City of Fayetteville the following additional information:

Bidder possesses adequate financial resources as indicated by the following:

1. Assets and Liabilities: Attach a financial statement, audited if available, including Bidder’s latest balance sheet and income statements showing the following items:
 - a. Current assets (cash, joint venture accounts, accounts receivable, notes receivable, accrued income, deposits, materials inventory, and prepaid expenses).
 - b. Net fixed assets.
 - c. Other assets.
 - d. Current liabilities (accounts payable, notes payable, accrued expenses, provision for income taxes, advances, accrued salaries, and accrued payroll taxes).
 - e. Other liabilities (capital, capital stock, authorized and outstanding shares par values, earned surplus, and retained earnings).
 - f. Name of firm preparing financial statement and date thereof:

If financial statement is not for identical organization named herein, explain relationship and financial responsibility of the organization furnished.

2. Current Judgments: The following judgements are outstanding against Bidder:

	<u>Judgment Creditors</u>	<u>Where Docketed and Date</u>	<u>Amount</u>
a.	N/A	N/A	\$ _____
b.	N/A	N/A	\$ _____

SECTION 00140 – BIDDER’S QUALIFICATION STATEMENT (continued)

Bidder hereby represents and warrants that all statements set forth herein are true and correct.

Date: 2/25/2025, 20__

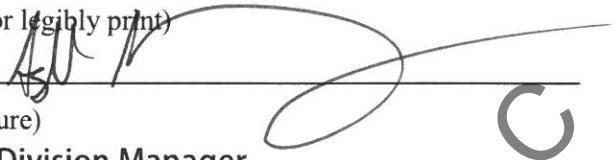
(OFFICIAL SEAL)

Name of Organization:

JL Bry-son Inc.

By Ashton Adams

(Type or legibly print)

By 

(Signature)

Title Division Manager

(Type or legibly print)

If Bidder is a partnership, the partnership name shall be signed, followed by the signature of at least one of the partners. If Bidder is a corporation or LLC, the corporate name shall be signed, followed by the signature of a duly-authorized officer and with the corporate seal affixed.

Contractor shall attach evidence of authority of signature. If Contractor is a corporation, corporate entity or LLC, Contractor shall attach Corporate Resolution authorizing Contractor’s signature and authority to sign.

END OF SECTION 00140



Office: 479.439.9171
PO Box 1479
Huntsville, AR 72740
20121 E Hwy 412
Springdale, AR 72764

Statement of Bidders Qualifications

- Name of Bidder: J L Bryson Inc
- Permanent main office address: 20121 E. Hwy 412 Springdale, Arkansas 72764
- When organized: Started August 1988, Incorporated March 2005
- Where Incorporated: Arkansas
- How many years in business: 37 years
- Type of work performed by our company: Industrial plant work, Water and wastewater plants, Pump stations, lift stations, suspended pipe (bridges).
- Have you failed to complete any work awarded to you? No
- Have you ever defaulted on a contract? No

Current Bonded Projects

MCRW Water Treatment Plant Expansion

Madison County Arkansas

Estimated Completion 10-2025

Estimated Contract amount \$9,000,000

Engineer: ESI, Tim Mayes

BWPS Misc Metals

Beaver Water District; Subcontracted to Crossland Heavy Contractors

Estimated Completion 10-2025

Estimated Contract amount \$1,700,000

Engineer: B&V

Rogers Sludge Dryer Misc Metals

Rogers WWTP; Subcontracted to Crossland Heavy Contractors

Estimated Completion 2-2026

Estimated Contract amount \$1,400,000

Engineer: B&V, Hawkins Wier

Glenpool WWTP Blower Pipe

Glenpool WWTP; Subcontracted to Crossland Heavy Contractors

Estimated Completion 12-2025

Estimated Contract amount \$950,000

Engineer: Garver



Office: 479.439.9171
PO Box 1479
Huntsville, AR 72740
20121 E Hwy 412
Springdale, AR 72764

Recent Projects

Alma Water Treatment Plant

City of Alma Arkansas
An Ozone Process Water Treatment Plant.
Completed 12-2010
Contract amount \$3,697,263.00
Contact. Mark Yardley 479-632-2254
Percent of work by JLB: 75%
Engineer: McClelland

Double Springs Road Lift Station

City of Fayetteville
Completed 2008
Contract Amount. \$1,697,881.00
Percent of work by JLB: 80%
Engineers: RJN

Community Water System

Membrane Process Water Treatment Plant
Greers Ferry, Arkansas
Contract Amount \$3,172,573.00
Percent of work by JLB: 70%
Engineer. Hanson McLaughlin Eng. 1-501-716-2850
Completed 2005

Huntsville Biofuel Plant

Huntsville, Arkansas
Contract Amount \$1,950,000.00
Percent of work by JLB: 70%
Completion Date. March 2015

Hwy 109 Bridge Crossing With 16" Waterline

Scranton, Arkansas
Contract Amount \$2,427,000.00
Percent of work by JLB: 100%
Completion Date. March 2015
Engineers: McGoodwin Williams and Yates. Chris Hall 479-443-3404



Office: 479.439.9171
PO Box 1479
Huntsville, AR 72740
20121 E Hwy 412
Springdale, AR 72764

City of Fayetteville, Noland WWTP

Installation of Ozone Treatment Equipment
Completed 2-2016
Contract amount \$923,082.93
Percent of work by JLB: 65%
Engineer: H2MHill

Alma Fluoridation Addition

City of Alma Arkansas
Installation of fluoride equipment
Completed 2-2016
Contract amount \$250,387.50
Percent of work by JLB: 95%
Contact: Mark Yardley
Engineer: McClelland

City of Huntsville, Huntsville WWTP

Installation of sludge dryer
Completed 4-2017
Contract amount \$542,425.00
Percent of work by JLB: 75%
Contact: Larry Garrett
Engineer: McClelland

Prairie Grove Water Treatment Plant Improvements

City of Prairie Grove
Complete rehabilitation of WTP
Completed 2-2018
Contract amount: \$2,157,503.00
Percent of work by JLB: 70%
Engineer: McClelland

Hot Springs Village WWTP Improvements

Installation of WWTP Equipment
Completed: 11-2018
Contract amount: \$704,300.00
Percent of work by JLB: 65%
Engineer: McClelland

Waldron Wastewater Treatment Plant Improvements

Installation of WWTP Equipment



Office: 479.439.9171
PO Box 1479
Huntsville, AR 72740
20121 E Hwy 412
Springdale, AR 72764

Completed: 9-2019
McClelland Engineers
Contract amount: \$225,000.00
Percent of work by JLB: 85%

Rogers Pollution Control

Rogers Water Utilities
Completed: 3/2020
Subcontractor to Crossland Heavy Contractors
Garver Engineering, Kipp Martin
Contract amount: \$864,250.00

Zinc Dam

City of Tulsa
Completed 6/1/2024
Subcontractor to Crossland Construction Company
CH2MHill
Contract amount: \$1,644,862.00

Hotchatown Offsite WWTP Improvements

Cherokee Nation
Completed 2-1-2024
Subcontractor to Crossland Heavy Contractors
Contract amount: \$1,061,946.00

Major Equipment

10 Ton Crane Truck
Deere 200LC Excavator
Cat Excavator
Cat 420 Backhoe
Case 580 Backhoe
Cat D5C Dozer
Man Lift
Boom Lift
10K Sky Track
Complete metal fabrication shop



Office: 479.439.9171
PO Box 1479
Huntsville, AR 72740
20121 E Hwy 412
Springdale, AR 72764

Personnel

President: Justin Bryan: 40 Years Experience

Lorin Bryan: 21 Years Experience

Ashton Adams: 19 Years Experience

Daniel Allen: 25 Years Experience

Bank Reference

*Arvest Bank
Matt Smith*

Bonding Agent

*Bancorp South Insurance Services, Inc.
Kevin Bruick*

Bonding Limit

Job Dependent. \$7,000,000-\$30,000,000.

DOCUMENT 00430 – LIST OF SUBCONTRACTORS

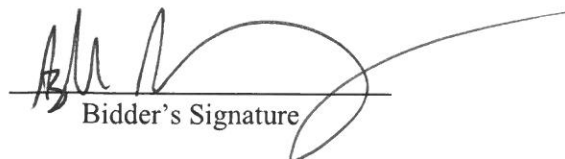
In compliance with the Instructions to Bidders and other Contract Documents, the undersigned submits the following names of Subcontractors to be used in performing the Work for:

FAYETTEVILLE TRANSFER STATION IMPROVEMENTS
METAL PUSH WALL AND CHUTE REPLACEMENT,
Bid 25-31, Construction Rebid.

Bidder certifies that all Subcontractors listed are eligible to perform the Work.

<u>Subcontractor's Work</u>	<u>Subcontractor's Name and Address</u>	<u>Expected Percentage of Value</u>
Clearing/Demolition		
SWPPP/Erosion Control		
Asphalt		
Concrete		
Landscaping		
Material Testing		
Other (designate)	Axis Electric 1020 S. School Ave. Fayetteville AR	5%

NOTE: This form must be submitted in accordance with the Instructions to Bidders.


Bidder's Signature

END OF DOCUMENT



THIS AGREEMENT is made this _____ day of _____, 2025, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE or CITY) and **JL Bry-son Inc** (Vendor or JL Bry-son).

CITY OF FAYETTEVILLE from time to time requires professional construction services in connection with construction projects. Therefore, CITY OF FAYETTEVILLE and **JL Bry-son**, in consideration of their mutual covenants, agree as follows:

Work performed by **JL Bry-son** shall be performed under valid, active, current license with the Arkansas Contractor's Licensing Board. **JL Bry-son** shall follow all federal, state, and local laws at all times.

1. Contracted parties and relationship:

- a. This agreement shall be binding between all parties. Fees shall be provided as identified in appendices.
 - i. **JL Bry-son's** Tax identification number (TIN) ending in 7135
 - ii. **JL Bry-son's** Arkansas Contractor License No. 0032810325
 - iii. **JL Bry-son's** Secretary of State Filing No. 800053651
- b. Parties agree to act on the basis of mutual trust, good faith, and fair dealing, and perform in a fiscally responsible and timely manner. Parties shall each endeavor to promote harmony and cooperation among all Project participants.

2. Entire Agreement and Exhibits: This Agreement sets forth the entire agreement and understanding between the parties on the subject matter of this Agreement. Neither party shall be bound by any conditions, definitions, representations or warranties with respect to the subject matter of this Agreement other than those as expressly provided herein.

- a. Appendices included under this agreement include the following:
 - i. **Appendix A:** Bid Tabulation
 - ii. **Appendix B:** Bid package identified as **Bid 25-31, Construction – Transfer Station Improvements Rebid** with the specifications and conditions typed thereon inclusive of all bidding documents, plans and drawings, and issued addenda.
 - iii. **Appendix C:** **JL Bry-son's** bid submittal
 - iv. **Appendix D:** **JL Bry-son's** Certificate of Insurance
 - v. **Appendix E:** **JL Bry-son's** 100% Performance and Payment Bonds
 1. **Appendix D and E** shall be submitted to the City within the timeframe identified in the bid documents or 10 (ten) calendar days.
- b. This agreement may be modified only by a duly executed written instrument signed by the CITY and **JL Bry-son**.
- c. **ORDER OF PRECEDENCE:** In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the documents shall govern in the following order: (a) Change Orders and written

amendments to this Agreement which are executed by all parties; (b) the Agreement; (c) JL Bry-son's Proposal (d) City's published bid and associated Addenda.

3. Notices: Any notice required under this Agreement shall be in writing, address to the appropriate party at the following addresses:

- a. City of Fayetteville: Attention: Mayor Molly A. Rawn, 113 W. Mountain, Fayetteville, AR 72701
- b. Vendor: JL Bry-son Inc, 20121 E. Hwy 412, Springdale, AR 72764

4. General Provisions:

- a. **ETHICS:** All parties shall perform with integrity. Each shall avoid conflicts of interest and promptly disclose to any other part any conflicts that may arise. All parties warrant that it has not and shall not pay or receive any contingent fees or gratuities to or from any other party, including agents, officer's employers, Subcontractors, Sub subcontractors, Suppliers, Volunteers, Elected Officials, or Others to secure preferential treatment.
- b. **Workmanship:** The Work shall be executed in accordance with the Contract Documents in a workmanlike manner. All materials used in the Work shall be furnished in sufficient quantities to facilitate the proper and expeditious execution of the Work and shall be new except as otherwise provided in the Contract Documents.
- c. **MATERIALS FURNISHED BY OWNER OR OTHERS:** If the Work includes installation of materials or equipment furnished by City or Others, it shall be the responsibility of the vendor to examine the items so provided and thereupon handle, store, and install the items, unless otherwise provided in the Contract Documents, with such skill and care as to provide a satisfactory and proper installation. Loss or damage due to acts or omissions of the vendor shall be the responsibility of vendor and may be deducted from any amounts due or to become due. Any defects discovered in such materials or equipment shall be reported at once to the City and the City's contracted third-party Design Professional. Following receipt of written notice from vendor of defects, City and Design Professional shall promptly inform the City what action, if any, vendor shall take with regard to the defects.
- d. **WORKSITE VISIT:** Vendor acknowledges that it has visited, or has had the opportunity to visit, the Worksite to visually inspect the general and local conditions which could affect the Work.
- e. Vendor shall perform all duties and responsibilities necessary to coordinate the various parts of the Work and to prepare its Work for the work of City or Others.
 - i. Cutting, patching, or altering the work of City or Others shall be done with the prior written approval of City and Design Professional. Such approval shall not be unreasonably withheld.
- f. **COMPLIANCE WITH LAWS:** Vendor shall comply with all the Law at its own cost. Vendor shall be liable to City for all loss, cost, or expense attributable to any acts or omissions by Vendor its employees, subcontractors, suppliers, and agents for failure to comply with Laws, including fines, penalties, or corrective measures.
- g. **COST OF CORRECTING DAMAGED OR DESTROYED WORK:** With regard to damage or loss attributable to the acts or omissions of City or Others and not to Vendor, City may either (a) promptly remedy the damage or loss and assume affected warranty responsibilities, (b) accept the damage or loss, or (c) issue a Change Order to remedy the damage or loss. If Vendor incurs costs or is delayed due to such loss or damage, Vendor may seek an equitable adjustment in the Cost of the Work, Date of Substantial Completion or Date of Final Completion. Any equitable adjustment shall be approved by all parties.

- h. Taxes and Permits: Vendor shall give public authorities all notices required by law and shall obtain and pay for all necessary permits, licenses, and renewals pertaining to the Work. Vendor shall provide to City copies of all notices, permits, licenses, and renewals required under this Agreement.
 - i. Vendor shall pay applicable taxes and permit fees associated with the entire project.
- i. DISCOUNTS: All discounts for prompt payment shall accrue to City. All trade discounts, rebates, and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work, or directly to the City after final payment.
- j. City may occupy or use completed or partially completed portions of the Work when (a) the portion of the Work is designated in a Certificate of Substantial Completion, (b) appropriate insurer(s) consent to the occupancy or use, and (c) public authorities authorize the occupancy or use. Vendor shall not unreasonably withhold consent to partial occupancy or use.
- k. EXTENT OF AGREEMENT: Except as expressly provided, this Agreement is for the exclusive benefit of all Parties, and not the benefit of any third party. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement and each and every provision is for the exclusive benefit of all Parties and not for the benefit of any third party.
- l. ASSIGNMENT: Except as to the assignment of proceeds, no Party shall assign their interest in this Agreement without the written consent of the other Party. The terms and conditions of this Agreement shall be binding upon all Parties, their partners, successors, assigns, and legal representatives. No Party shall assign the Agreement without written consent of the other.
- m. Where figures are given, they shall be preferred to scaled dimensions.
- n. The drawings and specifications are complementary. If Work is shown only on one but not on the other, Vendor shall perform the Work as though fully described on both. Vendor shall seek clarification from the City or the City's third-party Design Professional for any discrepancies.
- o. In case of conflicts between the drawings and specifications, the specifications shall govern unless otherwise stated in the bidding documents. In any case of omissions or errors in figures, drawings, or specifications, Vendor shall immediately submit the matter to City and Design Professional for clarification. The City's clarifications are final and binding, which may include third-party Design Professional content.
- p. DEBARMENT AND SUSPENSION: By execution of this agreement, Vendor certifies that to the best of its knowledge and belief that the Vendor and its principals:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - ii. Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
 - iv. (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

- v. Vendor understands that a false statement on certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine. I further certify that I will obtain a similar certification for each subcontract awarded in excess of \$50,000.
- vi. Certifications for subcontracts or sub subcontracts executed under this agreement shall include all language in this section.

5. Definitions:

- a. Unless otherwise specifically defined in this Agreement, any terms that have well-known technical or trade meanings shall be interpreted in accordance with their well-known meanings.
- b. "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.
- c. A "Change Order" is a written order signed by all Parties after execution of this Agreement, indicating changes in the scope of the Work, and Date of Substantial Completion or Date of Final Completion.
- d. "Contract Time" is the period between the Date of Notice to Proceed and the total time authorized to achieve Final Completion.
- e. "Cost of the Work" means the total costs and discounts charged to the City.
- f. The "Vendor" is the person or entity identified in this contract and includes Vendor's Representative.
- g. "Day" means a calendar day unless otherwise specified.
- h. "Defective Work" is any portion of the Work that that does not conform with the requirements of the Contract Documents.
- i. "Design Professional" means the licensed architect retained by the City and its subconsultants, to perform design services for the Project.
- j. "Final Completion" occurs on the date when Vendor's obligations under this Agreement are complete and accepted by City and final payment becomes due and payable. This date shall be confirmed by a Certificate of Final Completion signed by all Parties.
- k. "Hazardous Material" is any substance or material identified now or in the future as hazardous under the Law, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or cleanup.
- l. "Interim Directive" is a written order containing change to the Work directed by and in consultation with City and Design Professional after execution of this Agreement and before Substantial Completion. Interim Directives shall be consolidated and formalized in a change order to be signed by all parties.
- m. "Law" means federal, state, or local laws, ordinances, codes, rules, and regulations applicable to the Work with which Vendor must comply that are enacted as of the Agreement date.
- n. "Others" means City's other: (a) contractors/constructors, (b) suppliers, (c) subcontractors, sub subcontractors, or suppliers of (a) and (b); and others employed directly or indirectly by (a), (b), or (c) or any by any of them or for whose acts any of them may be liable.
- o. "Overhead" means (a) payroll costs, burden, and other compensation of Vendor's employees in Vendor's principal and branch offices for work associated with this project.
- p. "Owner" is the City of Fayetteville, Arkansas (City).

- q. The "Owner's Program" is an initial description of Owner's objectives, including budgetary and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, site requirements, and any requirements for phased occupancy.
- r. The "Parties" are collectively City and Vendor.
- s. The "Project," is the building, facility, or other improvements for which Vendor is to perform Work under this Agreement. It may also include construction by Owner or Others.
- t. The "Schedule of the Work" is the document prepared by Vendor that specifies the dates on which Vendor plans to begin and complete various parts of the Work, including dates on which information and approvals are required from City.
- u. "Subcontractor" is a person or entity retained by Vendor as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. The term Subcontractor does not include Design Professional or Others.
- v. "Substantial Completion" of the Work, or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that City may occupy or utilize the Work, or a designated portion, for the use for which it is intended, without unapproved disruption. This date shall be confirmed by a certificate of Substantial Completion signed by all Parties.
- w. A "Sub subcontractor" is a person or entity who has an agreement with a Subcontractor or another sub subcontractor or Supplier to perform a portion of the Subcontractor's Work or supply material or equipment.
- x. A "Supplier" is a person or entity retained by Vendor to provide material or equipment for the Work.
- y. "Terrorism" means a violent act, or an act that is dangerous to human life, property, or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States government as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.
- z. "Work" means the construction services necessary or incidental to fulfill Vendor's obligations for the Project in accordance with and reasonably inferable from the Contract Documents. The Work may refer to the whole Project or only a part of the Project if work is also being performed by Owner or Others.
- aa. "Worksite" means the area of the Project where the Work is to be performed.
- bb. "Bi-monthly basis" means every fourteen to sixteen calendar days.

6. Contract Document Review and Administration

- a. Before commencing the Work, Vendor shall examine and compare the drawings and specifications with information furnished by the City and Design Professional that are considered Contract Documents, relevant field measurements made by Vendor, and any visible conditions at the Worksite affecting the Work.
- b. Should Vendor discover any errors, omissions, or inconsistencies in the Contract Documents, Vendor shall promptly report them to the City and Design Professional. Following receipt of written notice from Vendor of defects, City shall promptly inform Vendor what action, if any, Vendor shall take with regard to the defect.
- c. Nothing in this section shall relieve Vendor of responsibility for its own errors, inconsistencies, or omissions.
- d. COST REPORTING: Vendor shall maintain complete, accurate, and current records that comply with generally accepted accounting principles and calculate the proper financial management under this

Agreement. Vendor shall maintain a complete set of all books and records prepared or used by Vendor with respect to the Project. City shall be afforded access to all of Vendor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to this Agreement. Vendor shall preserve all such records for a period of three years after the final payment or longer where required by Law.

7. Warranty

- a. Vendor warrants all materials and equipment furnished under the Construction Phase of this Agreement will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. At City or Design Professional request, Vendor shall furnish satisfactory evidence of the quality and type of materials and equipment furnished. Vendor further warrants all Work shall be free from material defects not intrinsic in the design or materials required in the Contract Documents. Vendor's warranty does **not include** remedies for defects or damages caused by normal wear and tear during normal usage beyond the warranty period, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by the City or others, or abuse. Vendor's warranty shall commence on the Date of Final Completion of the Project.
- b. To the extent products, equipment, systems, or materials incorporated in the Work are specified and purchased by the City, they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face of any such warranty. For such incorporated items, ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.
- c. Vendor shall obtain from its Subcontractors and Suppliers any special or extended warranties required by the Contract Documents. Vendor's liability for such warranties shall be limited to the one-year correction period, as further defined in this Agreement. After that period Vendor shall provide full and comprehensive assistance to the City in enforcing the obligations of Subcontractors or Suppliers for such extended warranties.
- d. Correction of Work:
 - i. If before Substantial Completion or within two-years after the date of Final Completion of the Work any Defective Work is found, City shall promptly notify Vendor in writing. Unless City provides written acceptance of the condition, Vendor shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible. If within the two-year correction period City discovers and does not promptly notify Vendor or give Vendor an opportunity to test or correct Defective Work as reasonably requested by Vendor, City waives Vendor's obligation to correct that Defective Work as well as City's right to claim a breach of the warranty with respect to that Defective Work.
 - ii. If Vendor fails to correct Defective Work within a reasonable time after receipt of written notice from City before final payment, City may correct it in accordance with Owner's right to carry out the Work. In such case, an appropriate Change Order shall be issued deducting the cost of correcting the Defective Work from payments then or thereafter due Vendor. If payments then or thereafter due Vendor are not sufficient to cover such amounts, Vendor shall pay the difference to City.
 - iii. Vendor's obligations and liability, if any, with respect to any Defective Work discovered after the two-year correction period shall be determined by the Law. If, after the two-year correction period but before the applicable limitation period has expired, City discovers any Work which City

considers Defective Work, City shall, unless the Defective Work requires emergency correction, promptly notify Vendor and allow Vendor an opportunity to correct the Work if Vendor elects to do so. If Vendor elects to correct the Work, it shall provide written notice of such intent within fourteen (14) Days of its receipt of notice from City and shall complete the correction of Work within a mutually agreed timeframe. If Vendor does not elect to correct the Work, City may have the Work corrected by itself or Others, and, if City intends to seek recovery of those costs from Vendor, City shall promptly provide Vendor with an accounting of the actual correction costs.

- iv. If Vendor's correction or removal of Defective Work causes damage to or destroys other completed or partially completed work or existing building, Vendor shall be responsible for the cost of correcting the destroyed or damaged property.
- v. The two-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of Vendor's other obligations under the Contract Documents.
- vi. Before final payment, at City option and with Vendor's agreement, City may elect to accept Defective Work rather than require its removal and correction. In such cases the contract shall be equitably adjusted for any diminution in the value, as determined by City, of the Project caused by such Defective Work via formal written change order.

8. Safety of Persons and Property

- a. SAFETY PROGRAMS: Vendor holds overall responsibility for safety programs. However, such obligation does not relieve Subcontractors of their safety responsibilities and to comply with the Law. Vendor shall prevent against injury, loss, or damage to persons or property by taking reasonable steps to protect: (a) its employees and other persons at the Worksite; (b) materials and equipment stored at onsite or offsite locations for use in performing the Work; and (c) property located at the Worksite and adjacent to work areas, whether or not the property is part of the Worksite.
- b. VENDOR'S SAFETY REPRESENTATIVE: Vendor shall designate an individual at the Worksite in its employ as its safety representative. Unless otherwise identified by Vendor in writing to City, Vendor's project superintendent shall serve as its safety representative. Vendor shall report promptly in writing all recordable accidents and injuries occurring at the Worksite. When Vendor is required to file an accident report with a public authority, Vendor shall furnish a copy of the report to City.
- c. Vendor shall provide City with copies of all notices required of Vendor by the Law. Vendor's safety program shall comply with the requirements of governmental and quasi-governmental authorities having jurisdiction.
 - i. Damage or loss not insured under property insurance that may arise from the Work, to the extent caused by negligent or intentionally wrongful acts or omissions of Vendor, or anyone for whose acts Vendor may be liable, shall be promptly remedied by Vendor.
- d. If City deems any part of the Work or Worksite unsafe, City, without assuming responsibility for Vendor's safety program, may require Vendor to stop performance of the Work, take corrective measures satisfactory to City. If Vendor does not adopt corrective measures, City may perform them and deduct their cost from the GMP. Vendor agrees to make no claim for damages, or an increase in the GMP, or for a change in the Dates of Substantial or Final Completion based on Vendor's compliance with City's reasonable request.

9. Subcontracts:

- a. BINDING OF SUBCONTRACTORS AND SUPPLIERS: Vendor agrees to bind every Subcontractor and Supplier and require every Subcontractor to so bind its subcontractors and significant supplier, to the Contract

Documents as they apply to the Subcontractor's or Supplier's applicable provisions to that portion of the Work.

- b. Vendor agrees not to subcontract Vendor at risk related services without prior written consent from the City.

10. Fees, Expenses, and Payments:

- a. **JL Bry-son**, at its own cost and expense, shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per **Bid 25-31** as stated in **JL Bry-son's** bid response, and in accordance with specifications attached hereto and made a part hereof under **Bid 25-31**, all included herein as if spelled out word for word.
- b. This turn-key project providing labor and materials shall be provided to the City for a not to exceed fee of **\$672,789.02** US Dollars.
- c. The City of Fayetteville shall pay **JL Bry-son** for completion of the project based on a percentage of work completed. At no point shall payment exceed the percentage of work completed, as determined by the City.
- d. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after approval of invoice. The City of Fayetteville reserves the right to request receipts for materials purchased for the City of Fayetteville from suppliers, subcontractors, or other sources. The City of Fayetteville does not agree to any interest or penalty for "untimely" payments.
- e. The City reserves the right to withhold five percent (5%) retainage from all payments until project is completed in full.
- f. Not to exceed pricing shall include but not be limited to:
 - i. Labor wages directly employed by Vendor in performing of the Work.
 - ii. Salaries of Vendor's employees when stationed at the field office, in whatever capacity employed, employees engaged on the road expediting the production or transportation of material and equipment, and employees from the principal or branch office as mutually agreed by the Parties in writing.
 - iii. Cost of all employee benefits and taxes, including but not limited to, workers' compensation, unemployment compensation, social security, health, welfare, retirement, and other fringe benefits as required by law, labor agreements, or paid under Vendor's standard personnel policy, insofar as such costs are paid to employees of Vendor who are included in the Cost of the Work.
 - iv. Transportation, travel, hotel, and moving expenses of Vendor's personnel incurred in connection with the Work.
 - v. Cost of all materials, supplies, and equipment incorporated in the Work, including costs of inspection and testing if not provided by City, transportation, storage, and handling.
 - vi. Payments made by Vendor to Subcontractors for work performed under this Agreement.
 - vii. Cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers that are used or consumed in the performance of the Work, less salvage value or residual value; and cost less salvage value on such items used, but not consumed that remain the property of Vendor.
 - viii. Rental charges of all necessary machinery and equipment, exclusive of hand tools owned by

workers, used at the Worksite, whether rented from Vendor or others, including installation, repair, and replacement, dismantling, removal, maintenance, transportation, and delivery costs at competitive market rates.

- ix. Cost of the premiums for all insurance and surety, performance or payment bonds which Vendor is required to procure or deems necessary and approved by City.
 - x. Sales, use, gross receipts, or other taxes, tariffs, or duties related to the Work for which Vendor is liable.
 - xi. Permits, taxes, fees, licenses, tests, royalties.
 - xii. Losses, expenses, or damages to the extent not compensated by insurance or otherwise, and the cost of corrective work during the Construction Phase and for the warranty period.
 - xiii. Costs associated with establishing, equipping, operating, maintaining, mobilizing and demobilizing the field office and site.
 - xiv. Water, power, and fuel costs necessary for the Work.
 - xv. Cost of removal of all nonhazardous substances, debris, and waste materials.
 - xvi. Costs incurred due to an emergency affecting the safety of persons or property.
 - xvii. Costs directly incurred in the performance of the Work or in connection with the Project, and not included in Vendor's Fee, which are reasonably inferable from the Contract Documents.
- g. **STORED MATERIALS AND EQUIPMENT:** Unless otherwise provided in the contract documents, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and suitably stored onsite or offsite including applicable insurance, storage, and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for stored materials and equipment stored offsite shall be conditioned on a submission by Vendor of bills of sale and proof of required insurance, or such other documentation satisfactory to City to establish the proper valuation of the stored materials and equipment, City's title to such materials and equipment, and to otherwise protect City's interests therein, including transportation to the Worksite. Materials and equipment stored offsite shall be in a bonded and insured secure facility.
- h. **FINAL PAYMENT:** Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, **JL Bry-son** shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by **JL Bry-son** to be set forth therein.
- i. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against **JL Bry-son** or sureties under this Agreement.

11. Project Bonding - Performance and payment bonding: After execution of this contract by all parties, **JL Bry-son** shall provide 100% **separate** performance and payment bonds (inclusive of any approved contingency) from a bonding company, licensed to do business in the state of Arkansas. Bonds shall be provided within ten (10) calendar days after this contract has been executed by all parties.

- a. All bonds shall be listed with the U.S. Treasury Department listing of approved surety's (T-List) and shall be rated A+ minimum by A. M. Best.

12. Time:

- a. SUBSTANTIAL and FINAL COMPLETION: Date of Substantial Completion and the Date of Final Completion shall be established in the contract documents as a hard not-to-exceed date. If such dates are not established upon the execution of this Agreement, a Date of Substantial Completion and Date of Final Completion of the Work shall be established via Change Order.
- b. Time is of the essence with regard to the obligations of the Contract Documents.
- c. Unless instructed by City in writing, Vendor shall not knowingly commence the Work before the effective date of Vendor's required insurance and bonds and formal written and signed Purchase Order issued by the City of Fayetteville Purchasing Division.
- d. Schedule of Work: Before submitting its first application for payment, Vendor shall submit to City and, if directed, Design Professional a Schedule of the Work showing the dates on which Vendor plans to begin and complete various parts of the Work, including dates on which information and approvals are required from City. Except as otherwise directed by City, Vendor shall comply with the approved Schedule of the Work or Vendor.
 - i. City may determine the sequence in which the Work shall be performed, provided it does not unreasonably interfere with the approved project schedule. City may require Vendor to make reasonable changes in the sequence at any time during the performance of the Work in order to facilitate the performance of work by City or Others. If Vendor consequently incurs costs or is delayed, the Dates of Substantial or Final Completion, or both, Vendor may seek equitable adjustment.
- e. NOTICE OF DELAY CLAIMS: If Vendor requests an equitable extension of the Contract Time or an equitable adjustment contract as a result of a delay described, Vendor shall give City written notice of the claim. If Vendor causes delay in the completion of the Work, City shall be entitled to recover its additional costs.

13. Substantial Completion:

- a. The Work shall be Substantially Completed within 60 calendar days after the date when the Contract Times commence to run as provided in the GENERAL CONDITIONS.
- b. Vendor shall notify City and, if directed, Design Professional when it considers Substantial Completion of the Work or a designated portion to have been achieved. City, with the assistance of its Design Professional, shall promptly conduct an inspection to determine whether the Work or designated portion can be occupied or used for its intended use by City without excessive interference in completing any remaining unfinished Work. If City determines the Work or designated portion has not reached Substantial Completion, City, with the assistance of its Design Professional, shall promptly compile a list of items to be completed or corrected so City may occupy or use the Work or designated portion for its intended use. Vendor shall promptly and accurately complete all items on the list.
- c. When Substantial Completion of the Work or a designated portion is achieved, Vendor shall prepare a Certificate of Substantial Completion establishing the date of Substantial Completion and the respective responsibilities of each Party for interim items such as security, maintenance, utilities, insurance, and damage to the Work, and fixing the time for completion of all items on the list accompanying the Certificate. The Certificate of Substantial Completion shall be submitted by Vendor to City and, if directed, to Design Professional for written acceptance of responsibilities assigned in the Certificate of Substantial Completion.
- d. Unless otherwise provided in the Certificate of Substantial Completion, warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or a designated portion.

- e. Upon City's written acceptance of the Certificate of Substantial Completion, City shall pay to Vendor the remaining retainage held by City for the Work described in the Certificate of Substantial Completion less a sum equal to one hundred and fifty percent (150%) of the estimated cost of completing or correcting remaining items on that part of the Work, as agreed to by the Parties as necessary to achieve Final Completion, including all close outs. Uncompleted items shall be completed by Vendor in a mutually agreed upon timeframe.

14. Final Completion:

- a. The Work shall be completed and ready for final payment in accordance with the GENERAL CONDITIONS within 75 calendar days after the date when the Contract Times commence to run.
- b. Upon notification from Vendor that the Work is complete and ready for final inspection and acceptance, City, with the assistance of its Design Professional shall promptly conduct an inspection to determine if the Work has been completed and is acceptable under the Contract Documents.
- c. When the Work is complete, Vendor shall prepare for City's written acceptance a final application for payment stating that to the best of Vendor's knowledge, and based on City's inspections, the Work has reached Final Completion in accordance with the Contract Documents.
- d. Final payment shall be made to Vendor within thirty (30) Days after Vendor has submitted an application for final payment, pending the application has been approved by the City, including submissions required, and a Certificate of Final Completion has been executed by all Parties.
- e. Final payment shall be due on Vendor's submission of the following to the City:
 - i. an affidavit declaring any indebtedness connected with the Work, to have been paid, satisfied, or to be paid with the proceeds of final payment, so as not to encumber City property;
 - ii. as-built drawings, manuals, copies of warranties, and all other close-out documents required by the Contract Documents;
 - iii. release of any liens, conditioned on final payment being received;
 - iv. consent of any surety; and
 - v. any outstanding known and unreported accidents or injuries experienced by Vendor or its Subcontractors at the Worksite.
- f. If, after Substantial Completion of the Work, the Final Completion of a portion of the Work is materially delayed through no fault of Vendor. If approved by City, they shall pay the balance due for any portion of the Work fully completed and accepted. If the remaining contract balance for Work not fully completed and accepted is less than the retained amount before payment, Vendor shall submit to City and, if directed, Design Professional the written consent of any surety to payment of the balance due for portions of the Work that are fully completed and accepted. Such payment shall not constitute a waiver of claims, but otherwise shall be governed by this section.
- g. ACCEPTANCE OF FINAL PAYMENT: Unless Vendor provides written identification of unsettled claims with an application for final payment, its acceptance of final payment constitutes a waiver of such claims.
- h. **JL Bry-son** shall ensure that the City of Fayetteville receives lien waivers from all material suppliers, subcontractors and sub-subcontractors and **before** work begins on the project. The contractor shall give written notice to the material suppliers, subcontractors and sub-subcontractors providing work on the project that states the following:
 - i. *'According to Arkansas law, it is understood that no liens can be filed against public property if valid and enforceable payment and performance bond is in place. Regarding this Project and Agreement, the valid and enforceable bonds are with (name of surety).'*

- ii. **JL Bry-son** shall have each subcontractor, sub-subcontractor and material supplier execute a written receipt evidencing acknowledgment of this statement prior to commencement of the work of the subcontractor or material supplier.

- 15. **Liquidated Damages:** CONTRACTOR accepts the provisions as to liquidated damages in the event of failure to complete the Work within the total completion time. Liquidated damages in the sum of \$1,000.00 USD for each consecutive calendar day thereafter will be assessed.
- 16. **Notices:** Any notice required to be given under this Agreement to either party to the other shall be sufficient if addressed and mailed, certified mail, postage paid, delivery, fax or e-mail (receipt confirmed), or overnight courier.
- 17. **Jurisdiction:** Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.
- 18. **Venue:** Venue for all legal disputes shall be Washington County, Arkansas.
- 19. **Freedom of Information Act:** City of Fayetteville contracts and documents prepared while performing contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the VENDOR shall do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.
- 20. **Changes in Scope or Price:** Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost or fees.
- 21. **Insurance:**
 - a. Before starting the Work and as a condition precedent to payment, Vendor shall procure and maintain in force Workers' Compensation Insurance, Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance ("CGL"). The CGL policy shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, contractual liability, pollution coverage, and broad form property damage. Vendor shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer.
 - b. Employers' Liability, Business Automobile Liability, and CGL coverages required may be provided by a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella liability policies.
 - c. Vendor shall maintain in effect all insurance coverage required with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located. If Vendor fails to obtain or maintain any insurance coverage required under this Agreement, City may purchase such coverage and charge the expense to Vendor or terminate this Agreement.
 - d. To the extent commercially available to Vendor from its current insurance company, insurance policies required shall contain a provision that the insurance company or its designee shall give City written notice transmitted in paper and electronic format: (a) 30 Days before coverage is nonrenewed by the insurance company and (b) within 10 Business Days after cancelation of coverage by the insurance company. Before commencing the Work and upon renewal or replacement of the insurance policies, Vendor shall furnish City with certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance policy required is not to be immediately replaced

without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, Vendor shall give City prompt written notice upon actual or constructive knowledge of such condition.

e. Certificates of Insurance shall list the City as Additional Insured Parties.

f. PROPERTY INSURANCE:

- i. At no time shall any policy be covered by self-insurance or in a self-insured format. All policies shall be covered by an approved commercial insurance professional properly licensed to do business in Arkansas.
- ii. Unless otherwise directed in writing by City, before starting the Work, **JL Bry-son** shall obtain and maintain a Builder's Risk Policy upon the entire Project for the full cost of replacement at the time of loss, including existing structures. This insurance shall also (a) name Vendor, Subcontractors, Sub subcontractors, and Design Professional as named insureds; (b) be written in such form to cover all risks of physical loss except those specifically excluded by the policy; and (c) insure at least against and **not** exclude:
 1. the perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft (except aircraft, including helicopter, operated by or on behalf of Vendor) and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, wind damage, testing if applicable, collapse, however caused;
 2. damage resulting from defective design, workmanship, or material;
 3. coverage extension for damage to existing buildings, plant, or other structures at the Worksite, when the Project is contained within or attached to such existing buildings, plant or structures. Coverage shall be to the extent loss or damage arises out of Constructor's activities or operations at the Project.
 4. equipment breakdown, including mechanical breakdown, electrical injury to electrical devices, explosion of steam equipment, and damage to steam equipment caused by a condition within the equipment;
 5. testing coverage for running newly installed machinery and equipment at or beyond the specified limits of their capacity to determine whether they are fit for their intended use; and
 6. physical loss resulting from Terrorism.
- iii. The Party that is the primary cause of a Builder's Risk Policy claim shall be responsible for any deductible amounts or coinsurance payments. If no Party is the primary cause of a claim, then the Party obtaining and maintaining the Builder's Risk Policy shall be responsible for the deductible amounts or coinsurance payments. This policy shall provide for a waiver of subrogation. This insurance shall remain in effect until final payment has been made or until no person or entity other than City has an insurable interest in the property to be covered by this insurance, whichever is sooner. Partial occupancy or use of the Work shall not commence until City has secured the consent of the insurance company or companies providing the coverage required in this subsection. Before commencing the Work, City shall provide a copy of the property policy or policies obtained.
- iv. If City elects to purchase the property insurance required by this Agreement, including all of the coverages and deductibles for the same durations specified, City shall give written notice to Vendor before the Work is commenced and provide a copy of the property policy or policies obtained in compliance with this agreement. City may then provide insurance to protect its interests and the interests of the Constructor, Subcontractors, Suppliers, and Subsubcontractors.

The cost of this insurance shall be paid by City in a Change Order. If City gives written notice of its intent to purchase property insurance required by this Agreement and fails to purchase or maintain such insurance, City shall be responsible for costs reasonably attributed to such failure.

- v. The Parties each waive all rights against each other and their respective employees, agents, contractors, subcontractors, suppliers, sub subcontractors, and design professionals for damages caused by risks covered by the property insurance, except such rights as they may have to the proceeds of the insurance.
 - 1. To the extent of the limits of Vendor's Commercial General Liability Insurance, Vendor shall indemnify and hold harmless City against any and all liability, claims, demands, damages, losses, and expenses, including attorneys' fees, in connection with or arising out of any damage or alleged damage to any of City's existing adjacent property, including personal property, that may arise from the performance of the Work, to the extent caused by the negligent or intentionally wrongful acts or omissions of Vendor, Subcontractor, Supplier, Sub subcontractor, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.
- g. RISK OF LOSS: Except to the extent a loss is covered by applicable insurance, risk of loss from damage to the Work shall be upon the Party obtaining and maintaining the Builder's Risk until the Date of Final Completion.
- h. ADDITIONAL GENERAL LIABILITY COVERAGE: City shall require Vendor to purchase and maintain additional liability coverage. Vendor shall provide:
 - i. Additional Insured. City shall be named as an additional insured on Vendor's Commercial General Liability (CGL) specified, for on-going operations and completed operations, excess/umbrella liability, commercial automobile liability, and any required pollution liability, but only with respect to liability for bodily injury, property damage, or personal and advertising injury to the extent caused by the negligent acts or omissions of Vendor, or those acting on Vendor's behalf, in the performance of Vendor's work for Owner at the Worksite. The insurance of the Vendor and its Subcontractors (both primary and excess) shall be primary to any insurance available to the Additional Insureds. Any insurance available to the Additional Insureds shall be excess and non-contributory.
 - ii. OCP. Vendor shall provide an Owners' and Contractors' Protective Liability Insurance ("OCP") policy with limits equal to the limits on CGL specified, or limits as otherwise required by Owner.
- i. Any documented additional cost in the form of a surcharge associated with procuring the additional liability coverage in accordance with this subsection shall be paid by VENDOR. Before commencing the Work, Vendor shall provide either a copy of the OCP policy, or a certificate and endorsement evidencing that City has been named as an additional insured, as applicable.
 - i. ROYALTIES, PATENTS, AND COPYRIGHTS: Vendor shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods, or systems selected by Vendor and incorporated in the Work. Vendor shall defend, indemnify, and hold City harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection.
- j. PROFESSIONAL LIABILITY INSURANCE: To the extent Vendor is required to procure design services, Vendor shall require its design professionals to obtain a commercial professional liability insurance for claims arising from the negligent performance of professional services under this Agreement, with a company reasonably satisfactory to City, including coverage for all professional liability caused by any consultants to Vendor's design professional, written for not less than one million US dollars (\$1,000,000) per claim and in the aggregate. Vendor's design professional shall pay the deductible. The Professional

Liability Insurance shall contain a retroactive date providing prior acts coverage sufficient to cover all Services performed by the Constructor's design professional for this Project. Coverage shall be continued in effect for the entire warranty period.

22. Professional Responsibility: JL Bry-son will exercise reasonable skill, care, and diligence in the performance of services and will carry out its responsibilities in accordance with customarily accepted professional practices. CITY OF FAYETTEVILLE will promptly report to JL Bry-son any defects or suspected defects in services of which CITY OF FAYETTEVILLE becomes aware, so JL Bry-son can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of JL Bry-son.

23. Responsibility of the City of Fayetteville

- a. CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of JL Bry-son:
 - i. Provide full information as to the requirements for the Project.
 - ii. Assist JL Bry-son by placing at JL Bry-son's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
 - iii. Assist JL Bry-son in obtaining access to property reasonably necessary for JL Bry-son to perform its services.
 - iv. Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by JL Bry-son and render in writing decisions pertaining thereto.
 - v. Review all documents and provide written comments to JL Bry-son in a timely manner.
 - vi. The City of Fayetteville Sustainability Director is the project representatives with respect to the services to be performed under this Agreement. The Sustainability Director Representative shall have complete authority to transmit instructions, receive information, interpret and define policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

24. Cost Opinions and Projections: Cost opinions and projections prepared by the JL Bry-son relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, cost estimating, and operating results are based on JL Bry-son experience, qualifications, and judgment as a JL Bry-son professional.

25. Period of Service: This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.

- a. The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. JL Bry-son shall proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed.

26. Termination:

- a. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:
 - i. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

- ii. An opportunity for consultation with the terminating party prior to termination.
- b. This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that **JL Bry-son** is given:
 - i. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.
- c. If termination for default is affected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but
 - i. No amount shall be allowed for anticipated profit on unperformed services or other work,
 - ii. Any payment due to **JL Bry-son** at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of **JL Bry-son's** default.
- d. If termination for default is affected by **JL Bry-son**, or if termination for convenience is affected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to **JL Bry-son** for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by **JL Bry-son** relating to commitments which had become firm prior to the termination.
- e. Upon receipt of a termination action under Paragraphs above, **JL Bry-son** shall:
 - i. Promptly discontinue all affected work (unless the notice directs otherwise),
 - ii. Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by **JL Bry-son** in performing this Agreement, whether completed or in process.
- f. Upon termination under sections above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- g. If, after termination for failure of **JL Bry-son** to fulfill contractual obligations, it is determined that **JL Bry-son** had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in this agreement.

27. Delays

- a. In the event the services of **JL Bry-son** are suspended or delayed by CITY OF FAYETTEVILLE, or by other events beyond **JL Bry-son's** reasonable control, **JL Bry-son** shall be entitled to additional compensation and time for reasonable documented costs incurred by **JL Bry-son** in temporarily closing down or delaying the Project.
- b. In the event the services are suspended or delayed by **JL Bry-son**, CITY shall be entitled to compensation and time for reasonable costs incurred in temporarily closing down or delaying the Project.

28. Rights and Benefits: **JL Bry-son's** services shall be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

29. Dispute Resolution

- a. Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and **JL Bry-son** which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or

omissions of CITY OF FAYETTEVILLE or **JL Bry-son** in the performance of this Agreement, and disputes concerning payment.

- b. Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given as described in this agreement, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in this agreement have been complied with.
- c. Notice of Dispute
 - i. For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice.
 - ii. For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give **JL Bry-son** written Notice at the address listed in this agreement within thirty (30) calendar days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.
 - iii. Negotiation: Within seven (7) calendar days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and **JL Bry-son** shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of **JL Bry-son**, and the Mayor of CITY OF FAYETTEVILLE or his or her designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 calendar days of the written request to resolve the dispute.

30. Sufficient Funds: The CITY represents to have sufficient funds or the means of obtaining funds to remit payment to **JL Bry-son** for services rendered by **JL Bry-son**. All parties agree if funding should become insufficient to complete the project, VENDOR shall be notified in a timely manner.

31. Indemnification: The CITY requires the **JL Bry-son** to indemnify, defend and hold harmless the CITY OF FAYETTEVILLE for any loss caused by negligence and from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the **JL Bry-son**, or their employees, agents, Subcontractors, sub consultant and Suppliers of the **JL Bry-son**.

32. Publications: Recognizing the importance of professional services on the part of **JL Bry-son's** employees and the importance of **JL Bry-son's** public relations, **JL Bry-son** may prepare publications, such as technical papers, articles for periodicals, promotional materials, and press releases, in electronic or other format, pertaining to **JL Bry-son's** services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to **JL Bry-son**, CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. Approved materials may be used in a variety of situations and do not require additional review or approval for each use. The cost of **JL Bry-son's** activities pertaining to any such publication shall be for **JL Bry-son's** account.

33. Ownership of Documents:

- a. All documents provided by CITY OF FAYETTEVILLE including original drawings, CAD drawings, estimates, field notes, and project data are and remain the property of CITY OF FAYETTEVILLE. **JL Bry-son** may retain reproduced copies of drawings and copies of other documents.

- b. Engineering and architectural documents, computer models, drawings, specifications and other hard copy or electronic media prepared by **JL Bry-son** as part of the Services shall become the property of CITY OF FAYETTEVILLE when **JL Bry-son** has been compensated for all Services rendered, provided, however, that Vendor shall have the unrestricted right to their use. **JL Bry-son** shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of **JL Bry-son**.
- c. Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. **JL Bry-son** makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

34. Additional Responsibilities of JL Bry-son:

- a. Review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder by CITY shall not in any way relieve **JL Bry-son** of responsibility for the technical adequacy of the work. Review, approval or acceptance of, or payment for any of the services by CITY shall not be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- b. **JL Bry-son** shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by **JL Bry-son's** negligent performance, except beyond the **JL Bry-son's** normal standard of care, of any of the services furnished under this Agreement, and except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.
- c. **JL Bry-son's** obligations under this clause are in addition to Vendor's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against **JL Bry-son** for faulty materials, equipment, or work.

35. Audit and Access to Records:

- a. **JL Bry-son** shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement.
- b. **JL Bry-son** shall also maintain the financial information and data used by **JL Bry-son** in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. **JL Bry-son** will provide proper facilities for such access and inspection.
- c. Records shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.
- d. This right of access clause (with respect to financial records) applies to:
 - i. Negotiated prime agreements

- ii. Negotiated change orders or agreement amendments affecting the price of any formally advertised, competitively awarded, fixed price agreement
- iii. Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier sub agreement or purchase order awarded after effective price competition, except:
 - 1. With respect to record pertaining directly to sub agreement performance, excluding any financial records of **JL Bry-son**;
 - 2. If there is any indication that fraud, collusion, gross abuse or corrupt practices may be involved;
 - 3. If the sub agreement is terminated for default or for convenience.

36. Covenant Against Contingent Fees: **JL Bry-son** warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by **JL Bry-son** for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

37. Gratuities:

- a. If CITY OF FAYETTEVILLE finds after a notice and hearing that **JL Bry-son** or any of **JL Bry-son** agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE or related third party contractor associated with this project, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to **JL Bry-son** terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.
- b. The CITY may pursue the same remedies against **JL Bry-son** as it could pursue in the event of a breach of the Agreement by **JL Bry-son**. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount, as determined by CITY, which shall be not less than three nor more than ten times the costs **JL Bry-son** incurs in providing any such gratuities to any such officer or employee.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and JL BRY-SON LLC, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

JL BRY-SON LLC

By: _____
Molly A. Rawn, Mayor

By:  _____
Ashton Adams, Division Manager

ATTEST:

By: _____
Kara Paxton, City Clerk - Treasurer

Date Signed: _____

Date Signed: 2-28-25



MEETING OF MARCH 11, 2025

TO: Mayor Rawn and City Council
THRU: Keith Macedo, Interim Chief of Staff
FROM: Peter Nierengarten, Environmental Director
SUBJECT: **HAWKINS-WEIR ENGINEERS, INC. (AMENDMENT NO. 2):**

RECOMMENDATION:

Approval of contract amendment #2 in the amount of \$65,900 with Hawkins-Weir Engineers Inc. for additional design and construction services associated with the Fayetteville Recycling and Trash Collections Division – solid waste transfer station metal push wall replacement project

BACKGROUND:

The City of Fayetteville operates a solid waste transfer station and recycling processing facility located at 1560 S. Happy Hollow Rd. The facilities are used to receive and process solid waste and recyclables that are collected from residents and businesses in Fayetteville. Solid Waste is deposited from residential, commercial and roll-off trucks to the transfer station floor where it is pushed and packed into open top transport trucks for hauling to the WM Landfill in Tontitown, AR.

Normal wear and tear on the RTC facilities over the past several years has necessitated several improvements. In November 2021, the City Council approved a contract with Hawkins-Weir Engineers Inc. for design and bidding services for Recycling & Trash Facility Improvements.

DISCUSSION:

Hawkins-Weir has completed the design, bidding and construction management for the first phase of Recycling & Trash Facility improvements to the transfer station floor.

This contract amendment is for additional design and construction management services associated with the transfer station metal push wall replacement project. The current transfer station metal push walls are deteriorated due to daily wear and tear over the past 30 years and are in need of replacement. Improvements will replace the existing transfer station side walls with new ½” steel walls and rear chute with ¼” steel. Additional work includes added support beams, concrete armoring, new access ladder, electrical relocation and pit approach concrete replacement.

BUDGET/STAFF IMPACT:

Under Amendment No. 2, the maximum not-to-exceed amount authorized for these services is \$65,900. Funding for this work will come from the Recycling and Trash Collections Capital Improvement Fund.

ATTACHMENTS: SRF (#3) , Amendment No. 2 (#4)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2025-297

HAWKINS-WEIR ENGINEERS, INC. (AMENDMENT NO. 2):

A RESOLUTION TO APPROVE AMENDMENT NO. 2 TO THE ENGINEERING SERVICES CONTRACT WITH HAWKINS-WEIR ENGINEERS, INC. IN AN AMOUNT NOT TO EXCEED \$65,900.00 FOR ADDITIONAL DESIGN AND CONSTRUCTION SERVICES ASSOCIATED WITH THE FAYETTEVILLE RECYCLING AND TRASH COLLECTIONS DIVISION

WHEREAS, on November 16, 2021, the City Council passed Resolution 282-21 approving a professional engineering services agreement with Hawkins-Weir Engineers, Inc. for design and bidding services for Recycling and Trash Facility improvements; and

WHEREAS, on October 4, 2022, the City Council passed Resolution 220-22 approving Amendment No. 1 to the professional engineering services contract with Hawkins-Weir Engineers, Inc. for construction management services for the transfer station floor slab demolition, removal and replacement; and

WHEREAS, the design, bidding and construction management for the first phase of Recycling & Trash Facility improvements to the transfer station floor have been completed; and

WHEREAS, Amendment No. 2 will replace the existing transfer station side walls with new ½” steel walls and rear chute with ¼” steel, added support beams, concrete armoring, new access ladder, electrical relocation and pit approach concrete replacement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Rawn to sign Amendment No. 2 to the engineering services contract with Hawkins-Weir Engineers, Inc. in an amount not to exceed \$65,900.00 for additional design and construction services associated with the Fayetteville Recycling and Trash Collections Division.

City of Fayetteville Staff Review Form

2025-297

Item ID

3/18/2025

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Peter Nierengarten

2/25/2025

RECYCLING/TRASH COLLECTION (750)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of contract amendment #2 in the amount of \$65,900 with Hawkins-Weir Engineers Inc. for additional design and construction services associated with the Fayetteville Recycling and Trash Collections Division – solid waste transfer station metal push wall replacement project

Budget Impact:

5500.750.5080-5816.00

Improvements Solid Waste

Account Number

Fund

18016.1

RTC Master Plan Expansion

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 665,683.00

Expenses (Actual+Encum)

\$ -

Available Budget

\$ 665,683.00

Does item have a direct cost? Yes

Item Cost

\$ 65,900.00

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 599,783.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution # 282-21; 220-22

Change Order Number:

2

Approval Date:

Original Contract Number:

Comments:

AMENDMENT NO. 2
TO THE
AGREEMENT For PROFESSIONAL ENGINEERING SERVICES
BETWEEN
CITY OF FAYETTEVILLE, ARKANSAS
AND
HAWKINS-WEIR ENGINEERS, INC.

In accordance with the AGREEMENT For PROFESSIONAL ENGINEERING SERVICES for the **Fayetteville Transfer Station Improvements (HW Project No. 2021061)**, dated November 16, 2021, between the City of Fayetteville, Arkansas (hereinafter called **Owner**) and Hawkins-Weir Engineers, Inc. (hereinafter called **Engineer**), Owner hereby authorizes Engineer to proceed with engineering services as modified by this Amendment No. 2.

SECTION 1 – SCOPE OF SERVICES

1.1 Amendment No. 2 is for additional design services associated with the Fayetteville Transfer Station Improvements – Metal Push Wall Replacement project (Task E) and construction management services (Task F) for the Fayetteville Transfer Station Improvements – Metal Push Wall Replacement associated with Owner’s Project No. 24-47). Tasks E and F services are detailed in the Engineer’s attached Scope of Services dated January 27, 2025.

SECTION 2 – TIME OF SERVICE

2.1 The scope of services as defined above is based on addressing Task E prior to the receipt of bids on the Owner’s project 24-47 in early 2025 and then completing the Task F services within a 60-calendar day construction Contract Time in 2025 for the Owner’s Project No. 24-47. Engineer will proceed with providing the services set forth herein immediately upon execution of this Authorization by all parties.

SECTION 3 – COMPENSATION

3.1 Owner shall compensate Engineer for providing the services set forth herein in accordance with the terms of the Agreement. Total payment for Scope of Services described herein shall not exceed Sixty-Five Thousand Nine Hundred and 00/100 Dollars (\$65,900.00) without written approval of Owner. These additional services adjust the Agreement's not to exceed fee to **\$241,060.00** and increase the not to exceed reimbursable expenses to \$54,080.00.

Attachments: Scope of Services dated January 27, 2025
Fee Proposal Summary dated January 27, 2025
2025 Standard Hourly Billing Rate Structure

AUTHORIZATION BY:

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Honorable Molly Rawn, Mayor

Date: _____

ACCEPTED BY:

HAWKINS-WEIR ENGINEERS, INC.

By: Brett D. Peters
Brett D. Peters, P.E.
President and CEO

Date: 01/29/2025



Appendix A
Scope of Services – Amendment No. 2
Fayetteville Transfer Station Improvements
City of Fayetteville, Arkansas
HW Project No. 2021061
January 27, 2025



Hawkins-Weir Engineers, Inc. (HW) proposes to provide the following engineering design services for the Fayetteville Transfer Station Improvements project:

E. Additional Design Services – Metal Push Wall Replacement

1. Waste Transfer Pit Driveway Replacement
2. Emergency Dewatering Pump Force Main
3. Waste Transfer Pit Pump electrical Improvements
4. Waste Transfer Pit Pumping Improvements
5. Development of Deductive Alternatives and Re-Bidding Services

F. Construction Management – Metal Push Wall Replacement

1. Conduct a Pre-Construction Conference with the Owner and Contractor
 - a. Prepare Meeting Summary
2. Provide periodic observation during construction
3. Prepare, review , and coordinate the dissemination of construction documentation including material submittals, testing results, field orders, and change orders as directed by the Owner
4. Review the Contractor's constructed quantities and prepare monthly pay requests for the Owner's approval
5. Conduct a final inspection with the Contractor and Owner, and prepare a punch list of deficient construction items for the Contract to address
6. Prepare record drawings of the completed project and provide one (1) reproducible hard copy and one (1) electronic copy for the Owner's archives



Appendix B
Amendment No. 2 Fee Proposal Summary
Fayetteville Transfer Station Improvements
City of Fayetteville, Arkansas
January 27, 2025



Fayetteville Transfer Station Improvements										
E. Additional Design Services - Metal Push Wall Replacement ⁽¹⁾	Engr VII	Engr VI	Engr IV	Inspector II	GPS Survey	Survey Tech	CAD III	BIM II	Doc Proc	Total Hours
Task										
1. Waste Transfer Pit Driveway Replacement	4		4		4	4	8		4	28
2. Emergency Dewatering Pump Force Main		4					8		4	16
3. Waste Transfer Pit Pump Electrical Improvements	4		4				4		4	16
4. Waste Transfer Pit Pumping Improvements	4	4					4		4	16
5. Development of Deductive Alternatives and Re-Bidding Services	8	8					6		8	30
TOTAL HOURS =	20	16	8	0	4	4	30	0	24	106
SUBTOTAL COST =										\$17,500

(1) Approximately \$18,500 was previously paid under the NTE fee amount on Task E as part of the original Agreement and Amendment No. 1

Fayetteville Transfer Station Improvements										
F. Construction Management - Metal Push Wall Replacement	Engr VII	Engr VI	Engr IV	Inspector II	GPS Survey	Survey Tech	CAD III	BIM II	Doc Proc	Total Hours
Task										
1. Conduct a Pre-Construction Conference with the Owner and Contractor	4	4		2						10
a. Prepare Meeting Summary		2							2	4
2. Provide periodic observation during construction	8	24		200 ⁽²⁾						236
3. Prepare, review, and coordinate the dissemination of construction documentation including material submittals, testing results, field orders, and change orders as directed by the Owner	4	16					8		2	30
4. Review the Contractor's constructed quantities and prepare monthly pay requests for the Owner's approval		4							2	6
5. Conduct a final inspection with the Contractor and Owner, and prepare a punch list of deficient construction items for the Contractor to address	4	4		2					2	12
6. Prepare record drawings of the completed project and provide one (1) reproducible hard copy and one (1) electronic copy for the Owner's archives		2					8			10
TOTAL HOURS =	20	56	0	204	0	0	16	0	8	308
SUBTOTAL COST =										\$41,400

(2) Based on a 60-calendar day Contract Time. Periodic construction observation is based on 4-hours per day (Monday through Friday) during the construction of the Metal Push Walls

Fayetteville Transfer Station Improvements		
G. Reimbursable Expenses		
Item	Description	Total
1. Reproduction & Printing	Plans and Specifications	\$1,000
2. Welding Inspection Services	GTS, Inc.	\$6,000
Total Estimated Reimbursable Expenses =		\$7,000

ENGINEERING SERVICES SUMMARY		Fayetteville Transfer Station Improvements
E.	Additional Desing Services - Metal Push Wall Replacement	\$17,500
F.	Construction Management - Metal Push Wall Replacement	\$41,400
G.	Reimbursable Expenses	\$7,000
Total Engineering Fee - Not to Exceed =		\$65,900

Appendix C



Hawkins-Weir Engineers, Inc. Hourly Rate Schedule: 2025

Description	Billing Rate/Hour
Engineer VII	\$275
Engineer VI	\$250
Engineer V	\$225
Engineer IV	\$200
Engineer III	\$175
Engineer II	\$150
Engineer I	\$125
Environmental Specialist II	\$130
Environmental Specialist I	\$110
Designer II	\$135
Designer I	\$100
Civil Eng Assistant II	\$90
Civil Eng. Assistant I	\$80
CAD/BIM Modeler II	\$135
CAD/BIM Modeler I	\$100
CAD/GIS Technician III	\$120
CAD/GIS Technician II	\$95
CAD/GIS Technician I	\$75
Construction Manager II	\$140
Construction Manager I	\$125
Construction Observer IV	\$135
Construction Observer III	\$115
Construction Observer II	\$95
Construction Observer I	\$85
Surveyor	\$175
GPS Survey	\$200
Survey Technician	\$50
Business Manager	\$100
Graphic Designer	\$100
Document Processor	\$75
Reimbursable Expenses	
Mileage	\$0.77/mile
Printing	@ Cost
Travel	@ Cost
Expert Witness	Rate x 2.0
Other Direct Costs	@ Cost

Notes:

1. Hourly rates may be equitably adjusted
2. Adjustment to rate schedule will not change contract lump sum or NTE amounts
3. If a conflict exists, hourly rates & reimbursable expenses will be invoiced per terms of Agreement.



MEETING OF MARCH 11, 2025

TO: Mayor Rawn and City Council
THRU: Keith Macedo, Interim Chief of Staff
FROM: Tim Nyander, Utilities Director
SUBJECT: **I-49 AND MLK EASEMENT CONDEMNATIONS (UTILITY RELOCATIONS):**

RECOMMENDATION:

Staff recommends City Council approval of a Resolution authorizing the City Attorney to seek condemnation and orders of possession for the remaining easements necessary for the I-49/MLK Utility Relocations Project.

BACKGROUND:

ARDOT has requested utility relocations to prepare for the widening of Martin Luther King, Jr. Blvd. (Highway-62) from S. Leflar Way to S. Sang Ave. including reconstruction of the interstate overpass and creation of a new overpass at 15th Street. The relocation agreement between the City and ARDOT consists of the following milestones:

9/5/2023	Original Utility Relocation Agreement	(Res. 190-23)
1/2/2024	Change Order #1&2 for 15th Street Bid Award	(Res. 9-24)
5/7/2024	Change Order #3 for MLK Final Design	(Res. 129-24)
12/4/2024	Change Order #4 for MLK Bidding	(Res. 294-24)

Change Order #4 established the reimbursement percentage for the project at 72.54%. Final costs will be finalized once all project expenses are complete and reconciled. The remaining utility relocation work was publicly bid on February 25th and a construction contract is forthcoming at a future council meeting.

DISCUSSION:

In order to meet the City's obligations for start/finish construction dates all easements for this project must be acquired or court ordered possessory rights obtained by May 2025 so that the City's contractor can begin work. This corridor consists of 34 necessary easements. To-date 10 of these easements have been fully acquired and recorded. In order to give the City Attorney's office adequate time to make these filings, approval by the City Council at the March 18th meeting is necessary.

Even if a condemnation must be filed on a particular property, we prefer reaching fair settlements with every landowner and the city will continue negotiating with property owners to obtain easements without having to go to trial.

BUDGET/STAFF IMPACT:

The payment for land acquisition will be made from the Water & Sewer Relocations project. The agenda item staff review form indicates \$886,916.08 the cost of this request. It should be noted that this is an estimate,

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

based on the appraised value of the properties, and that the final cost is subject to negotiation with the property owners or court order. The appraised value will be deposited into the Registry of the Circuit Court as just compensation when the condemnation complaint is filed for the property so the city will be able take immediate possession of the easements.

ATTACHMENTS: Updated SRF (#3) , Updated MLK Easement Tracts for Condemnation (4), Intial SRF (#5), Initial MLK Easement Tracts for Condemnation (#6)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2025-302

I-49 AND MLK EASEMENT CONDEMNATIONS (UTILITY RELOCATIONS):

A RESOLUTION TO AUTHORIZE THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY INDIVIDUALS NEEDED FOR THE I-49/MLK UTILITY RELOCATIONS PROJECT

WHEREAS, the City of Fayetteville has been unable to negotiate the acquisition of easements on 24 properties needed to complete the I-49/MLK Utility Relocations Project; and

WHEREAS, the City of Fayetteville needs to gain possession of these needed properties promptly to begin work on this public improvement and to not delay construction of the project.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the I-49/MLK Utility Relocations Project and owned by Manav Investor of N.W. Arkansas, Inc., that is needed for a water/sewer easement and temporary construction and grading easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$3,600.00.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the I-49/MLK Utility Relocations Project and owned by Lowe's Home Center Inc., that is needed for a water/sewer easement and temporary construction and grading easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$117,700.00.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the I-49/MLK Utility Relocations Project and owned by the Mathias Shopping Centers, Inc., that is needed for a water/sewer easement and temporary construction and grading easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$54,300.00.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the I-49/MLK Utility Relocations Project and owned by Metropolitan Bank, that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$1,400.00.

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the I-49/MLK Utility Relocations Project and owned by the Superior Bank, that is needed for a water/sewer easement and temporary construction and grading easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$105,600.00.

Section 6: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway I-49/MLK Utility Relocations Project and owned by Liberty Bank of Arkansas, that is needed for a water/sewer easement and temporary construction and grading easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$104,416.08.

Section 7: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway I-49/MLK Utility Relocations Project and owned by Cooper Realty Investments, Inc., Burger Investments, LLC and IWS Shelby, LLC, that is needed for a water/sewer easement and temporary construction and grading easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$47,400.00.

Section 8: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway I-49/MLK Utility Relocations Project and owned by Wal-Mart Real Estate Business Trust, that is needed for a water/sewer easement and temporary construction and grading easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$254,000.00.

Section 9: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway I-49/MLK Utility Relocations Project and owned by Inreit Fayetteville, LLC., that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$43,000.00.

Section 10: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway I-49/MLK Utility Relocations Project and owned by Vasiliki Investments, LLC., that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$3,400.00.

Section 11: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway I-49/MLK Utility Relocations Project and owned by Gregory S. Long and Lesa Long, that is needed for a water/sewer easement and temporary construction and grading easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$3,700.00.

Section 12: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway I-

49/MLK Utility Relocations Project and owned by Hultquist Investments, LLC, that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$10,100.00.

Section 13: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway I-49/MLK Utility Relocations Project and owned by Bird Cold Storage Company, that is needed for a water/sewer easement and temporary construction and grading easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$15,700.00.

Section 14: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway I-49/MLK Utility Relocations Project and owned by RPC Land Holdings, LLC, that is needed for a water/sewer easement and temporary construction and grading easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$39,600.00.

Section 15: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway I-49/MLK Utility Relocations Project and owned by Halbert Properties, LLC, that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$9,000.00.

Section 16: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway I-49/MLK Utility Relocations Project and owned by University Square, LLC, that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$21,000.00.

Section 17: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway I-49/MLK Utility Relocations Project and owned by Western Park, LLC, that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$4,000.00.

Section 18: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway I-49/MLK Utility Relocations Project and owned by LLEJ Shiloh, LLC, that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$2,000.00.

Section 19: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway I-49/MLK Utility Relocations Project and owned by Tract 2 Holdings, LLC, that is needed for a water/sewer easement and temporary construction and grading easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$47,000.00.

City of Fayetteville Staff Review Form

2025-302

Item ID

3/18/2025

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Tim Nyander

2/27/2025

WATER SEWER (720)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends City Council approval of a Resolution authorizing the City Attorney to seek condemnation and orders of possession for the remaining easements necessary for the I-49/MLK Utility Relocations Project.

Budget Impact:

5400.720.5600-5810.00

Water & Sewer

Account Number

Fund

11011.2301

Water & Sewer Relocations - I-49 & MLK
Interchange

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 9,781,598.00

Expenses (Actual+Encum)

\$ 8,814,071.29

Available Budget

\$ 967,526.71

Does item have a direct cost? Yes

Item Cost

\$ 886,916.08

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 80,610.63

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Tract No.	Owner	Appraised Value of PUE*	Appraised Value of TCE**	Damages	Total Value of Easements
Unnumbered	Manav Investor of N.W. Arkansas, Inc.	\$2,000.00	\$1,600.00		\$3,600.00
10	Lowe's Home Center Inc.	\$90,000.00	\$26,000.00	\$1,700.00	\$117,700.00
12	Mathias Shopping Centers, Inc.	\$48,000.00	\$5,800.00	\$500.00	\$54,300.00
13	Metropolitan Bank	\$1,400.00			\$1,400.00
14	Superior Bank	\$101,000.00	\$1,800.00	\$2,800.00	\$105,600.00
15	Liberty Bank of Arkansas	\$94,366.08	\$7,550.00	\$2,500.00	\$104,416.08
16	Cooper Realty Investments, Inc.; Burger Investments, LLC; and IWS Shelby, LLC	\$38,000.00	\$9,400.00		\$47,400.00
17	Wal-Mart Real Estate Business Trust	\$226,000.00	\$28,000.00		\$254,000.00
19	Inreit Fayetteville, LLC	\$25,000.00		\$18,000.00	\$43,000.00
20	Vasiliki Investments, LLC	\$3,000.00		\$400.00	\$3,400.00
24	Gregory S. Long	\$1,000.00	\$2,700.00		\$3,700.00
25	Hultquist Investments, LLC	\$9,000.00		\$1,100.00	\$10,100.00
26	Bird Cold Storage Company	\$12,000.00	\$3,200.00	\$500.00	\$15,700.00
28	RPC Land Holdings, LLC	\$31,000.00	\$8,600.00		\$39,600.00
32	Halbert Properties, LLC	\$7,000.00		\$2,000.00	\$9,000.00
35	University Square, LLC	\$21,000.00			\$21,000.00
36	Western Park, LLC	\$4,000.00			\$4,000.00
39	LLEJ Shiloh, LLC	\$2,000.00			\$2,000.00
45	Tract 2 Holdings, LLC	\$40,000.00	\$7,000.00		\$47,000.00
		\$755,766.08	\$101,650.00	\$29,500.00	\$886,916.08

*PUE = Permanent Utility Easement

**TCE = Temporary Construction Easement

Parcel No. 765-14676-000

Manav Investor of N.W. Arkansas, Inc.



December 3, 2024

Mr. Raj Gandhi
Manav Investor of N.W. Arkansas, Inc.
1219 S Thompson Street
Springdale, AR 72764

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14676-000
MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Gandhi:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$2,000.00 for the rights associated with the permanent easement (2,030 square feet) and \$1,600.00 for the rights associated with the temporary construction and grading easement (1,344 square feet), for a total of **\$3,600.00**. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of 0.28 acres of commercial land serving as an entrance and signage parcel to the greater Super 8 hotel use including the larger parcel to the south under the same ownership. The city is relocating water and sewer easements along this corridor. See mapping for specific locations.

12/2/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Manav Investor of NW	Property Owner
AR	Property Owner
765-14676-000	Parcel #
Fayetteville	City
AR	State
31,296	SqFt Hotel GBA
Before the Acquisition	
12,197	SqFt - Land
Proposed Water and Sewer Easement	
2,030	SqFt - Land (Acquisition Area)
After the Acquisition	
10,167	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
2,030	SqFt - Land (Residual)
Temporary Construction Easements	
1,344	SqFt - Land
C-2: Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 130,000	Land Value Before the Acquisition
\$ 128,000	Land Value After the Acquisition
\$ 2,000	Market Value of the Acquisition
\$ 1,600	TCE
\$ -	Damages

Due to floodway and floodplain, the acquisition area is effectively unbuildable and only useful as driveways, green space or signage.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the hotel and driveway improvements do not appear to be permanently damaged by the new easements.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Manav Investor of N.W. Arkansas, Inc., an Arkansas corporation**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2012-00002030)

Part of a tract of land recorded in Liber 1406, page 906, located in the SE 1/4 of the NE 1/4 and a part of a tract of land recorded at Liber 1311, page 229, located in the NE 1/4 of the NE 1/4, all in Section 19, T-16-N, R-30-W, Washington County, Arkansas, described as:

Commencing at the NE corner of said SE 1/4 of the NE 1/4; thence N 89°32'00" W, 476.40 feet along the North line of said SE 1/4 of the NE 1/4 to an existing iron pin at the NE corner of the aforementioned tract of land recorded at Liber 1406, page 906, for the point of beginning, said point being also the NW corner of a tract of land recorded at Liber 1153, page 585; thence S 00°50'37" W, 238.30 feet, along the common line of the above mentioned tracts to a found iron pin; thence N 89°32'00" W, 282.00 feet to a chiseled "X" on the East line of a private street; thence N 00°50'37" E, 115.00 feet along said East line of the private street to a found iron pin; thence N 32°22'28" E, 145.24 feet to an existing bole set in concrete on the North line of said SE 1/4 of the NE 1/4, being also the SW corner of the aforementioned tract of land recorded at Liber 1311, page 229; thence N 01°23'53" E, 94.81 feet along the west line of said tract to a found iron pin; thence N 89°53'4" E, 150.42 feet to a found iron pin; thence S 00°06'11" E, 96.30 feet along the east line of said tract to an existing chiseled "X" at the SE corner thereof; thence S 89°32'00" E, 53.14 feet to the point of beginning, containing 1.77 acres, more or less, being subject to any and all easements and rights-of-way of record.

The above-described property now being more accurately described on a plat of survey dated December 14, 2011, designated as job number 11218, by Survey 1, Inc., Gene Buescher, PLS #1181, as follows:

A part of the SE 1/4 of the NE 1/4 and a part of the NE 1/4 of the NE 1/4, Section 19, T-16-N, R-30-W, Washington County, Arkansas, being more particularly described as follows:

Commencing at the NE corner of the said SE 1/4 of the NE 1/4, thence N 87°31'45" W, 476.40 feet to a set iron pin and the point of beginning; thence S 02°50'52" W, 238.30 feet; thence N 87°27'47" W, 281.83 feet to a chiseled "X" on the East line of a private concrete street; thence N 02°49'37" E, 114.53 feet to a found iron pin; thence N 34°15'53" E, 145.25 feet to a found iron pin; thence N 03°28'05" E, 94.79 feet to a found iron pin; thence S 88°05'51" E, 150.42 feet to a found iron pin; thence S 01°54'02" W, 96.28 feet to a chiseled "X" in the concrete; thence S 87°31'05" E, 53.13 feet to the point of beginning, containing 1.77 acres, more or less, and subject to any and all easements of record or fact.

Together with and Subject to the rights granted in an Access Agreement, by and between Payless Shoesource, Inc., Supertel Hospitality, Inc., Retail Buildings, Inc., and Robert B. Westphal and Betty J. Westphal, filed for record March 21, 1995 in land document #95-13732 and in land document #95- 13741, and also filed for record March 29, 1995 in land document #95-15184.

Together with and subject to the rights granted in a Reciprocal Access Easement Agreement, by and between Supertel Hospitality, Inc., and Payless Shoesource, Inc., dated March 16, 1995 and filed for record March 21, 1995 in land document #95-13750.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Southeast corner of said Northeast Quarter of the Northeast Quarter; thence along the South line of said Quarter-Quarter N86°55'08"W 525.37'; thence N01°59'12"E 73.65' to the Point of Beginning; thence N54°40'50"W 18.23'; thence N89°05'36"W 115.74' to the East line of an existing 20' City of Fayetteville water and sewer easement (filed for record as Document #2022-00018409); thence along said East easement line N03°27'56"E 16.08'; thence S88°05'19"E 130.54'; thence S01°59'12"W 24.09' to the Point of Beginning, containing 2,030 square feet or 0.05 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 10.00' wide easement lying parallel and adjacent to the South line of the above-described permanent easement, containing 1,344 square feet or 0.03 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

MANAV INVESTOR OF N.W. ARKANSAS, INC.

BY: _____
Raj Gandhi, President

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

)
) ss.
)

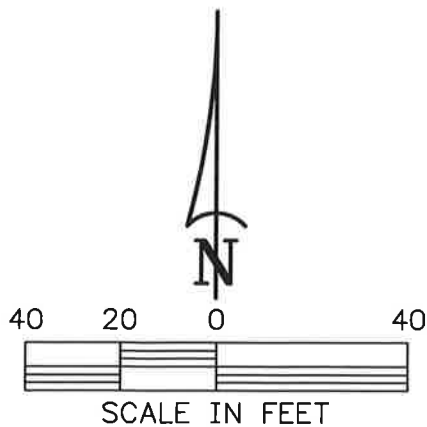
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Raj Gandhi** to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **President** of **Manav Investor of NW Arkansas Incorporated**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

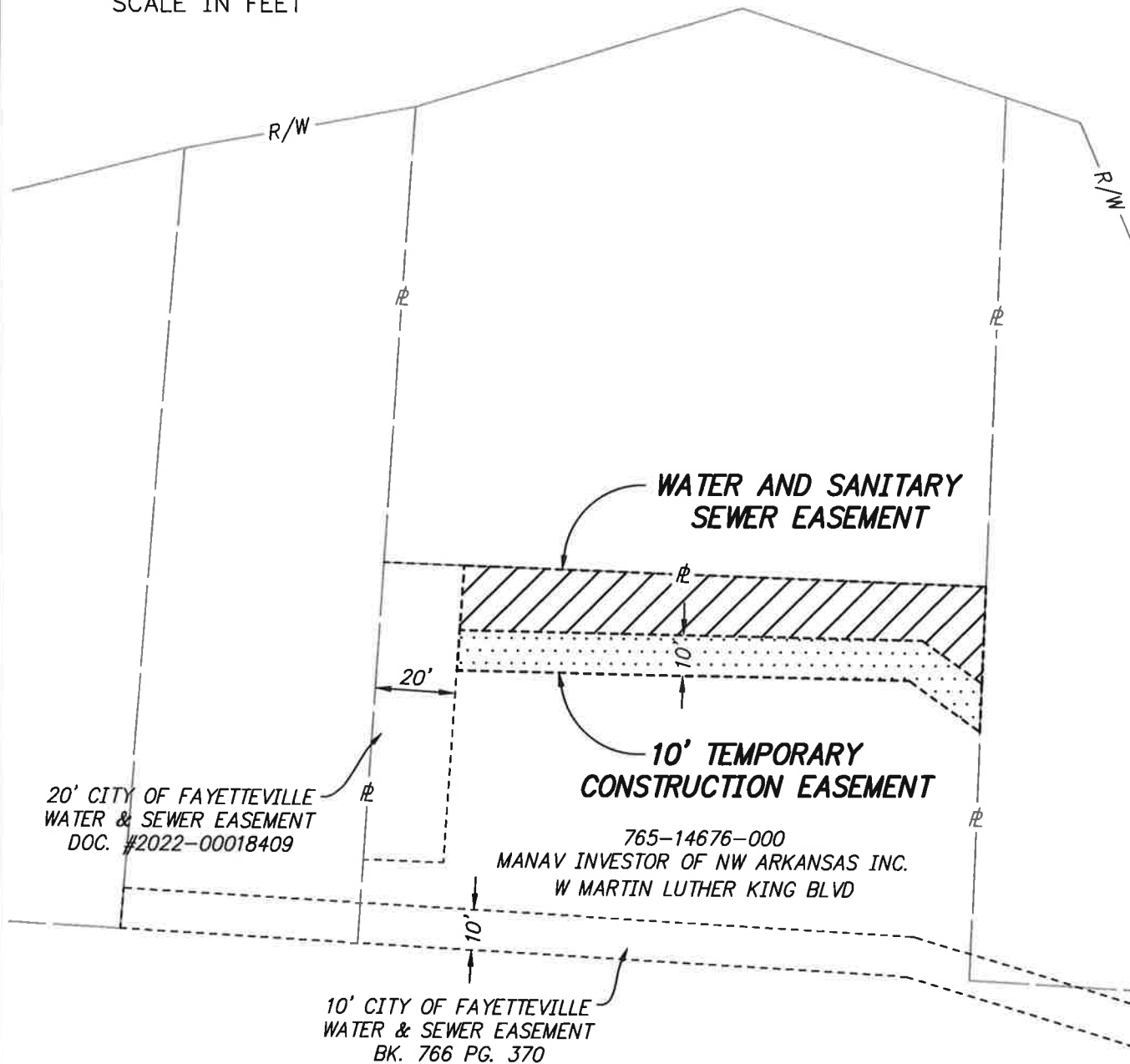
MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\KG EDITS\MANAV INVESTOR OF NW ARKANSAS INC.DWG, 8/19/2024 4:48 PM, ANDREW MCCOLLUM, LAYOUT



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



HW **HAWKINS WEIR**
ENGINEERS, INC.

Van Buren (479) 474-1227 | Fort Smith (479) 242-4685 | Fayetteville (479) 455-2206 | Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
MANAV INVESTOR OF NW ARKANSAS INC.
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 08/16/2024

SCALE: 1"=40'

JOB NO. 2022129

Tract No. 10

Lowe's Home Center, Inc.



December 13, 2024

Mr. Mark Nuckolls
Lowe's Home Center Inc.
P.O. Box 1000- Mail Code 2ETA
Mooresville, NC 28115

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-22966-000
3231 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Nuckolls:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$90,000.00 for the rights associated with the permanent easement (15,164 square feet), \$26,000.00 for the rights associated with the temporary construction and grading easement (9,106 square feet), and \$1,700.00 for damages, for a total of **\$117,700.00**. Damages include the loss of professionally landscaped tree and bushes. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 135,268 SqFt big box store on 13.30 acres of commercial land. The city is relocating water and sewer easements along this corridor.

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

12/12/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Lowe's Home Centers	Property Owner
Inc #432	
765-22966-000	
Fayetteville	
AR	State
135,268	SqFt - Gross Building Area
566,280	SqFt - Land
15,164	SqFt - Land (Acquisition Area)
551,116	SqFt - Land (Remainder)
15,164	SqFt - Land (Residual)
9,106	SqFt - Land
D: Commercial Planned Zoning District	Zoning
CONCLUSIONS	
\$ 13,170,000	Land Value Before the Acquisition
\$ 13,080,000	Land Value After the Acquisition
\$ 90,000	Market Value of the Acquisition
\$ 26,000	TCE
\$ 1,700	Damages

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: Damages include the loss of professionally landscaped trees and bushes.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Lowe's Home Center Inc., a North Carolina Corporation**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2003-42899)

LOT 1:

Part of the Northwest and the Southwest Quarters of Section 19, Township 16 North, Range 30 West of the 5th P.M., City of Fayetteville, Washington County, Arkansas, described as follows:

Commencing at the Southeast corner of said Northwest Quarter, thence North 88°08'58" West 42.94 feet along the South line of said Northwest Quarter to its intersection with the West right of way line of Finger Road; thence North 1°49'53" East, 169.01 feet along said West right of way; thence North 88°57'24" West, 163.24 feet; thence South 68°53'07" West, 173.40 feet; thence North 88°05'33" West, 265.19 feet to the point of beginning; thence South 1°51'27" West 338.10 feet; thence South 90°00'00" West 802.44 feet; thence North 1°02'35" East 656.56 feet to a point on the South right of way of US Highway 62; thence North 74°35'55" East 790.68 feet along said South right of way, thence South 1°02'36" West 527.72 feet; thence North 88°57'31" East, 48.78 feet to the point of beginning. Contains 13.619 acres of land, more or less.

PERMANENT EASEMENT DESCRIPTION:

Part of Lot 1, Cobb & Westphal Concurrent Plat, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northwest corner of said Lot 1; thence along the West line of said Lot S02°13'26"W 35.52' to the Southern right-of-way of Martin Luther King Jr. Boulevard (Per ARDOT Job 040846) and the Point of Beginning; thence continuing along said Southern right-of-way the following two courses: N76°05'05"E 12.57'; thence N48°36'37"E 30.79' to the Southern line of an existing utility easement (filed for record as Document #2002-00104765); thence along said Southern easement line N75°53'32"E 42.90' to the West line of an existing 20' utility easement (filed for record as Document #023A-00000058); thence along said West easement line S02°21'55"W 15.64'; thence S75°53'32"W 12.84'; thence S48°41'43"W 52.77'; thence S75°58'29"W 25.95'; thence N02°13'26"E 26.06' to the Point of Beginning, containing 1,946 square feet or 0.05 acres more or less.

ALSO

Part of Lot 1, Cobb & Westphal Concurrent Plat, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Lot 1; thence along the East line of said Lot S02°20'26"W 103.95' to the Point of Beginning; thence continuing along said East line S02°20'26"W 25.00'; thence N87°44'39"W 314.74'; thence S75°53'32"W 366.27' to the East line of an existing 20' utility easement (filed for record as Document #023A-00000058); thence along said East easement line N02°21'55"E 15.64' to the Southern line of an existing utility easement (filed for record as Document #2002-00104765); thence along said Southern easement line N75°53'32"E 399.60'; thence S87°44'14"E 282.76' to the Point of Beginning, containing 13,218 square feet or 0.30 acres more or less.

Containing a net total of 15,164 square feet or 0.35 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

Part of Lot 1, Cobb & Westphal Concurrent Plat, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Lot 1; thence along the East line of said Lot S02°20'26"W 128.95' to the Point of Beginning; thence continuing along said East line S02°20'26"W 10.00'; thence N87°44'39"W 313.29'; thence S75°53'32"W 252.96'; thence S13°23'37"E 25.87'; thence S76°20'41"W 53.77'; thence N13°23'37"W 25.44'; thence S75°53'32"W 61.06' to the East line of an existing 20' utility easement (filed for record as Document #023A-00000058); thence along said East easement line N02°21'55"E 10.43'; thence N75°53'32"E 366.27'; thence S87°44'39"E 314.74' to the Point of Beginning, containing 8,190 square feet or 0.19 acres more or less.

ALSO

A 10.00' wide easement over part of Lot 1, Cobb & Westphal Concurrent Plat, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Northwest corner of said Lot 1; thence along the West line of said Lot S02°13'26"W 66.79' to the Point of Beginning; thence N75°58'29"E 28.62'; thence N48°41'43"E 52.78'; thence N75°53'32"E 10.15' to the West line of an existing 20' utility easement (filed for record as Document #023A-00000058) and the Point of Termination, containing 916 square feet or 0.02 acres more or less.

Containing a net total of 9,106 square feet or 0.21 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

LOWE'S HOME CENTER INC., A North Carolina corporation

BY: _____

[Please print or type Name and Title]

ATTEST:

[Please print or type Name and Title]

ACKNOWLEDGMENT

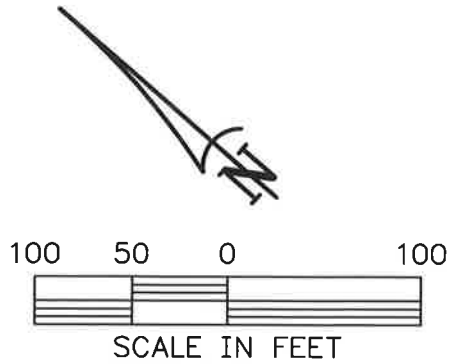
STATE OF _____)
COUNTY OF _____) ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the _____ and _____, respectively, of **Lowe's Home Center Inc. a North Carolina corporation**, and are 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 instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)

R/W
UTILITY EASEMENT
DOC. #2002-00104765

WATER AND SANITARY
SEWER EASEMENT

765-22966-000
LOWE'S HOME CENTERS INC #432
3231 W MARTIN LUTHER KING BLVD

TEMPORARY
CONSTRUCTION EASEMENT

20' UTILITY EASEMENT
DOC. #023A-00000058

TEMPORARY
CONSTRUCTION EASEMENT
WATER AND SANITARY
SEWER EASEMENT

HW **HAWKINS WEIR**
ENGINEERS, INC.

Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"

UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 10 - LOWE'S HOME CENTER INCORPORATED #432
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 08/16/2024

SCALE: 1"=100'

JOB NO. 2022129

Tract No. 12

Mathias Shopping Centers, Inc.



November 22, 2024

Mr. Arthur Thurman
Mathias Shopping Centers, Inc.
PO Box 6485
Springdale, AR 72766

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14764-000
3052 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Thurman:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$48,000.00 for the rights associated with the permanent easement (7,850 square feet), \$5,800.00 for the rights associated with the temporary construction and grading easement (1,923 square feet), and \$500.00 for damages, for a total of **\$54,300.00**. Damages include the loss of one professionally landscaped tree. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of 23,140 SqFt in three detached buildings on 3.32 acres of commercial land. The three buildings consist of a +/-7,920 SqFt service garage, a +/-11,220 SqFt professional office, and a +/-4,000 SqFt retail building. The city is relocating water and sewer easements along this corridor.

11/8/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Mathias Shopping Centers, Inc.	Property Owner
765-14764-000	Parcel #
Fayetteville	City
AR	State
23,140	SqFt - Gross Building Area
144,619	SqFt - Land
7,850	SqFt - Land (Acquisition Area)
136,769	SqFt - Land (Remainder)
7,850	SqFt - Land (Residual)
1,923	SqFt - Land
C-2: Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 3,524,000	Value Before the Acquisition
\$ 3,476,000	Value After the Acquisition
\$ 48,000	Market Value of the Acquisition
\$ 5,800	TCE
\$ 500	Damages

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: Damages include the loss of one professionally landscaped tree.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Mathias Shopping Centers, Inc., an Arkansas corporation**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2013-00039657)

A part of the SE 1/4 of the NW 1/4 of Section 19, Township 16 North, Range 30 West, Fayetteville, Washington County, Arkansas, being more particularly described as follows: Commencing at the NE corner of said 40 acre tract, said point being an existing railroad spike, thence S 02°16'39" W 142.01 feet (deed= South 142.50 feet) along the East line of said 40 acre tract; thence N 87°01'19" W 221.51 feet (deed= West 219.70 feet) to an existing iron rebar for the true point of beginning; thence N 88°06'54" W 386.34 feet (deed= S 89°12'56" W 287.80 feet) along the South line of Stapleton's Subdivision to the City of Fayetteville, Arkansas, to a set 1/2" iron rebar thence S 02°16'56" W 428.47 feet (deed= S 00°47'04" E 424.79 feet) to an existing iron rebar on the North right-of-way line of U.S. Highway #62 (West Sixth Street); thence N 76°09'08" E 402.30 feet (deed= N 73°37'48" E 390.78 feet) along said right-of-way line to an existing iron rebar; thence leaving said right-of-way line, N 02°15'30" E 319.38 feet (deed=N 01°15'20" E 320 feet) to the point of beginning, containing 3.32 acres, more or less.

Subject to recorded instruments, covenants, rights of way, and easements, if any.

Subject to all prior mineral reservations and oil and gas leases, if any.

PERMANENT EASEMENT DESCRIPTION:

Part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 235.80'; thence N87°33'59"W 231.50' to the Point of Beginning; thence S02°20'28"W 159.83'; thence N08°28'39"W 168.87' to the Southeast line of an existing utility and access easement (filed for record as Document #2016-00017161); thence along said Southeast easement line N68°32'02"E 30.79'; thence S08°28'39"E 18.80' to the Point of Beginning, containing 2,815 square feet or 0.06 acres more or less.

ALSO

Part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 440.18'; thence N87°33'59"W 231.17' to the Northern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence N02°20'28"E 244.74' to the North line of an existing utility and access easement (filed for record as Document #2016-00017161) and the Point of Beginning; thence along said North easement line S68°32'02"W 56.67'; thence N40°13'37"E 16.31'; thence N07°46'00"W 21.35'; thence N39°10'44"E 44.17'; thence N76°11'07"E 19.76'; thence S02°20'28"W 51.94' to the Point of Beginning, containing 2,120 square feet or 0.05 acres more or less.

ALSO

Part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 440.18'; thence N87°33'59"W 231.17' to the Northern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence N02°20'28"E 244.74' to the North line of an existing utility and access easement (filed for record as Document #2016-00017161); thence along said North easement line S68°32'02"W 69.15' to the Point of Beginning; thence continuing along said North easement line S68°32'02"W 52.94'; thence leaving said North easement line N89°16'05"W 26.60'; thence S31°57'02"W 16.86' to said North easement line; thence along said North easement line S68°32'02"W 32.76'; thence continuing along said North easement line West 17.45' to the East line of said easement; thence along said East easement line N00°47'05"W 13.92'; thence leaving said East easement line N79°04'42"E 29.82'; thence N31°57'02"E 31.67'; thence S89°16'05"E 86.88' to the Point of Beginning, containing 2,223 square feet or 0.05 acres more or less.

ALSO

A 20.00' wide easement over part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 440.18'; thence N87°33'59"W 231.17' to the Northern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence along said Northern right-of-way S74°00'50"W 83.02'; thence continuing along said Northern right-of-way S76°05'05"W 67.34'; thence N22°43'50"W 7.64' to the North line of an existing utility easement (filed for record as Document #2016-00017161) and the Point of Beginning; thence N22°43'50"W 34.61' to the Point of Termination, containing 692 square feet or 0.02 acres more or less.

Containing a net total of 7,850 square feet or 0.18 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 10.00' wide easement over part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 440.18'; thence N87°33'59"W 231.17' to the Northern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence N02°20'28"E 17.91' to the Point of Beginning; thence N08°28'39"W 193.88' to the South line of an existing utility and access easement (filed for record as Document #2016-00017161) and the Point of Termination, containing 1,923 square feet 0.04 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities,

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

MATHIAS SHOPPING CENTERS, INC., an Arkansas corporation

BY: Arthur Thurman, President

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

SS.

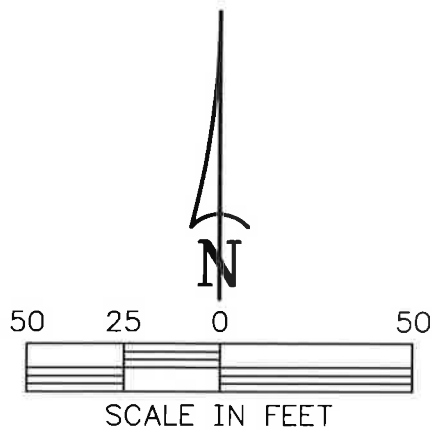
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Arthur Thurman**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **President of Mathias Shopping Centers, Inc.**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\KG EDITS\TRACT 12.DWG, 8/19/2024 7:56 AM, ANDREW MCCOLLUM, LAYOUT1



**WATER AND SANITARY
SEWER EASEMENT**

UTILITY & ACCESS EASEMENT
DOC. #2016-00017161

**TEMPORARY
CONSTRUCTION EASEMENT**

**WATER AND SANITARY
SEWER EASEMENT**

765-14764-000
MATHIAS SHOPPING CENTERS, INC.
3052 W MARTIN LUTHER KING BLVD

**WATER AND SANITARY
SEWER EASEMENT**

UTILITY EASEMENT
DOC. #2016-00017161

**ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)**

HW HAWKINS WEIR
ENGINEERS, INC.

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(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

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EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 12 - MATHIAS SHOPPING CENTERS, INC.
FOR: CITY OF FAYETTEVILLE, ARKANSAS

8/16/2024

SCALE: 1"=50'

JOB NO. 2022129

Tract No. 13

Metropolitan Bank



November 22, 2024

Mr. Matt Lukas
Metropolitan Bank
PO Box 8010
Little Rock, AR 72203

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-22967-001
3111 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Lukas:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$1,400.00** for the rights associated with the permanent easement (185 square feet). This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 3,442 SqFt bank on 1.36 acres of commercial land. The acquisition consists of:

Permanent Easements (WSE of 185 SqFt).

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

10/28/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Metropolitan Bank	Property Owner
765-22967-001	Parcel #
Fayetteville	City
AR	State
3,442	SqFt - Gross Building Area
59,242	SqFt - Land
185	SqFt - Land
59,057	SqFt - Total Land (Remainder)
185	SqFt - Land (Residual)
CPZD: Commercial Planned Zoning District	Zoning
CONCLUSIONS	
\$ 1,775,500	Value Before the Acquisition
\$ 1,774,100	Value After the Acquisition
\$ 1,400	
\$ 1,400	Market Value of the Acquisition

After the acquisition, the property rights in the relocated 185 SqFt water and sewer easement will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Metropolitan Bank**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2005-32443)

LOT 2-B OF THE LOT SPLIT FOR COBB AND WESTPHAL, AS SHOWN UNDER LAND DOCUMENT NUMBER 2005-00014956 AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PART OF THE SE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS:

COMMENCING AT AN ALUMINUM CAP FOUND FOR THE SE CORNER OF THE SE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 19, T-16-N, R-30-W; THENCE NORTH 86 DEGREES, 55 MINUTES, 53 SECONDS WEST 43.03 FEET; THENCE NORTH 03 DEGREES, 06 MINUTES, 28 SECONDS EAST 558.05 FEET; THENCE NORTH 87 DEGREES, 10 MINUTES, 12 SECONDS WEST 290.31 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING A FOUND IRON PIN; THENCE SOUTH 02 DEGREES, 48 MINUTES, 54 SECONDS WEST 20.00 FEET TO A SET COTTON SPINDLE; THENCE NORTH 88 DEGREES, 14 MINUTES, 35 SECONDS WEST 75.94 FEET TO A SET COTTON SPINDLE; THENCE SOUTH 71 DEGREES, 55 MINUTES, 16 SECONDS WEST 171.01 FEET TO A SET COTTON SPINDLE; THENCE NORTH 87 DEGREES 46 MINUTES, 50 SECONDS WEST 116.34 FEET TO A SET COTTON SPINDLE; THENCE NORTH 02 DEGREES, 18 MINUTES, 39 SECONDS EAST 155.25 FEET TO A FOUND IRON PIN ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 62; THENCE ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 62, NORTH 75 DEGREES, 51 MINUTES, 05 SECONDS EAST 369.46 FEET TO A FOUND IRON PIN; THENCE LEAVING THE SAID RIGHT-OF-WAY LINE OF U.S. HIGHWAY 62, SOUTH 02 DEGREES, 48 MINUTES, 54 SECONDS WEST 179.43 FEET TO THE TRUE POINT OF BEGINNING.

PERMANENT EASEMENT DESCRIPTION:

Part of Lot 2B, Cobb & Westphal Lot Split, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northwest corner of said Lot 2B; thence along the West line of said Lot S02°20'26"W 136.53'; thence S87°45'41"E 37.87' to the East line of an existing access & utility easement (filed for record as Document #2003-00042901) and the Point of Beginning; thence along said East easement line N02°18'08"E 20.44'; thence S34°14'48"E 17.55'; thence S63°43'39"E 15.53' to the North line of said existing access & utility easement; thence along said North line N87°45'41"W 24.64' to the Point of Beginning, containing 185 square feet or 0.004 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct pipelines and/or make repairs to lines within the above-described easement at any time in the future and agrees to pay for or repair any damages as a result of such future construction and/or repairs as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

METROPOLITAN BANK

BY: _____

[Please print or type Name and Title]

ATTEST:

[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF _____

}
} ss.
}

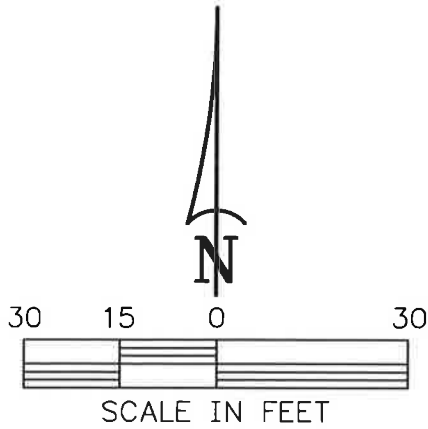
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the _____ and _____, respectively, of **Metropolitan Bank**, and are 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 instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

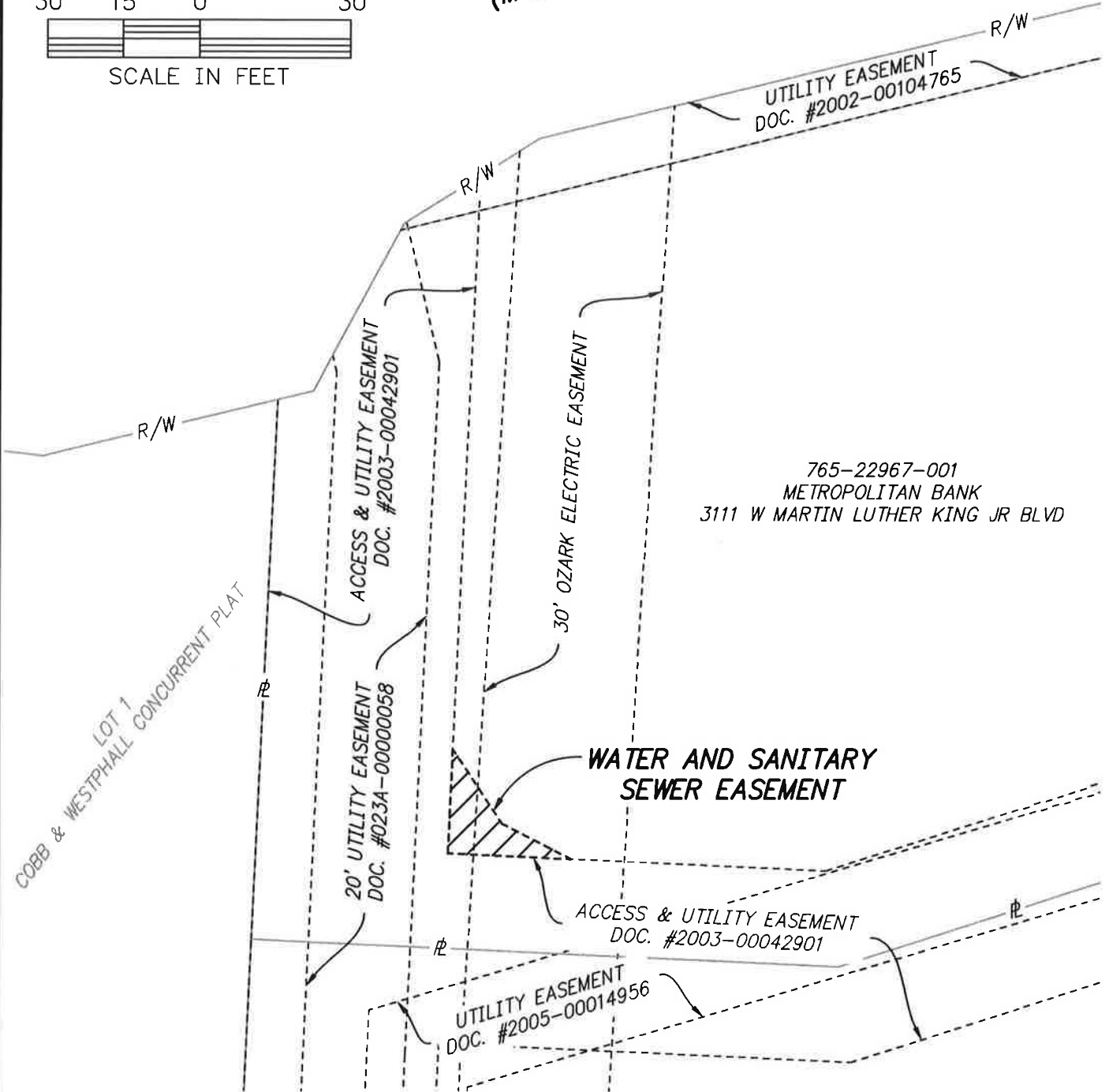
MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\NEW FOLDER\TRACT 13.DWG, 7/8/2024 12:45 PM, ANDREW MCCOLLUM, LAYOUT1



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



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EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 13 - METROPOLITAN BANK
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 07/12/2024

SCALE: 1"=30'

JOB NO. 2022129

Tract No. 14

Superior Bank



October 28, 2024

Superior Bank
c/o Arvest Bank #310
1183 Joyce Blvd., Suite 2
Fayetteville, AR 72703

RE: Highway 112 Widening Project
Parcel No. 765-14805-001
3045 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

To Whom It May Concern:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to the Martin Luther King Boulevard and I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$101,000.00 for the rights associated with the permanent easement (12,848 square feet), \$1,800.00 for the rights associated with the temporary construction and grading easement (600 square feet), and \$2,800.00 for damages, including the loss of trees and shrubs, for a total of \$105,600.00. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. For engineering questions or concerns, please contact Corey Granderson, Utilities Engineer at (cgranderson@fayetteville-ar.gov) or myself at (tnyander@fayetteville-ar.gov).

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 2,901 SqFt bank on 1.46 acres of commercial land. The acquisition consists of:

Permanent Easements (WSE of 12,848 SqFt).

Temporary Construction Easement
(TCE of 600 SqFt).

10/25/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Superior Bank	Property Owner
765-14805-001	Parcel #
Fayetteville	City
AR	State
2,901	SqFt - Gross Building Area
	Before the Acquisition
63,598	SqFt - Land
	Proposed Water and Sewer Easement
12,848	SqFt - Land
	After the Acquisition
50,750	SqFt - Total Land (Remainder)
	Residual Rights in the WSE area
12,848	SqFt - Land (Residual)
	Temporary Construction Easements
600	SqFt - Land
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 2,012,000	Value Before the Acquisition
\$ 1,910,000	Value After the Acquisition
\$ 102,000	
\$ 102,000	Market Value of the Acquisition
\$ 1,800	Temporary Construction Easement
\$ 2,800	Damages

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the relocated 12,848 SqFt water and sewer easement will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement.

While the WSE document restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: Damages include the loss of professionally landscaped trees at the southern border of the site and shrubs at the front of the building.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Superior Bank**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2002-00117188)

PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH LIES NORTH 559.92 FEET AND WEST 14.75 FEET FROM THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID 40 ACRE TRACT AND RUNNING THENCE NORTH 89 DEGREES 28' 38" WEST 290.33 FEET, THENCE NORTH 00 DEGREES 31' 22" EAST 179.38 FEET, THENCE NORTH 73 DEGREES 46' 57" EAST 253.75 FEET, THENCE SOUTH 53 DEGREES 53' 10" EAST 58.20 FEET, THENCE SOUTH 00 DEGREES 31' 22" WEST 218.59 FEET TO THE POINT OF BEGINNING, CONTAINING 63,616.25 SQ. FT. OR 1.46 ACRES, MORE OR LESS.

PERMANENT EASEMENT DESCRIPTION:

Part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Southeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter N02°26'01"E 559.52'; thence N87°20'34"W 66.24' to the West right-of-way of South Finger Road (Per ARDOT Job 040846) and the Point of Beginning; thence N87°10'12"W 30.16'; thence N02°52'34"E 132.94'; thence N53°14'36"W 7.88'; thence N87°19'19"W 223.91'; thence N02°48'58"E 21.88' to the South line of an existing utility easement (filed for record as Document #023A-00000024); thence along said South easement line N76°06'21"E 177.72'; thence S18°13'48"E 8.70'; thence S53°14'36"E 78.84'; thence S87°19'19"E 20.94' to said West right-of-way of South Finger Road; thence along said West right-of-way S03°28'56"W 134.49'; thence continuing along said West right-of-way S02°36'19"E 23.06' to the Point of Beginning, containing 15,383 square feet or 0.35 acres more or less.

LESS AND EXCEPT

Part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Southeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter N02°26'01"E 559.52'; thence N87°20'34"W 66.24' to the West right-of-way of South Finger Road (Per ARDOT Job 04086); thence N87°10'12"W 30.16'; thence N02°52'34"E 132.94'; thence N53°14'36"W 7.88'; thence N87°19'19"W 38.49'; thence N02°40'41"E 20.00' to the Point of Beginning; thence N87°19'19"W 156.63'; thence N76°06'14"E 113.49'; thence S53°14'36"E 57.78' to the Point of Beginning, containing 2,535 square feet or 0.06 acres more or less.

Containing a net total of 12,848 square feet or 0.29 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 20.00'x30.00' easement over part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Southeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter N02°26'01"E 559.52'; thence N87°20'34"W 66.24' to the West right-of-way of South Finger Road (Per ARDOT Job 040846); thence N87°10'12"W 30.16'; thence N02°52'34"E 132.94'; thence N53°14'36"W 7.88'; thence N87°19'19"W 193.91' to the Point of Beginning; thence S02°48'58"W 20.00'; thence N87°19'19"W 30.00'; thence N02°48'58"E 20.00'; thence S87°19'19"E 30.00' to the Point of Beginning, containing 600 square feet or 0.01 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

SUPERIOR BANK

BY: _____

[Please print or type Name and Title]

ATTEST:

[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
)
)

ss.

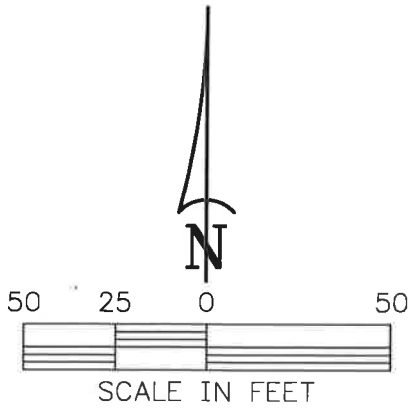
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the _____ and _____, respectively, of **Superior Bank**, and are 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 instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

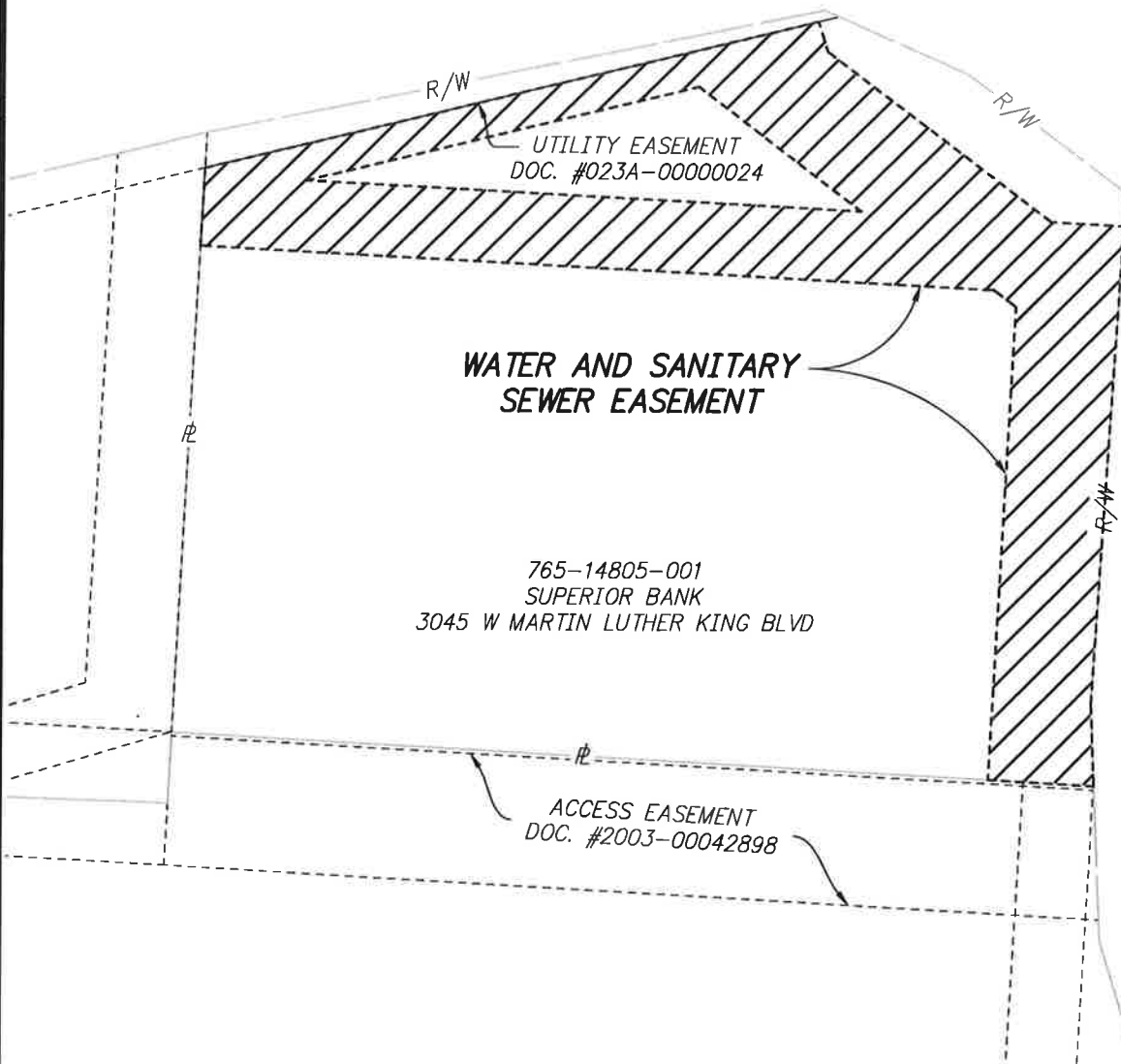
MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\NEW FOLDER\TRACT 14.DWG, 7/8/2024 12:53 PM, ANDREW MCCOLLUM, LAYOUT1



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



HW HAWKINS & WEIR
ENGINEERS, INC.

Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 14 - SUPERIOR BANK
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 07/12/2024

SCALE: 1"=50'

JOB NO. 2022129

Tract No. 15

Liberty Bank of Arkansas



February 19, 2025

Liberty Bank of Arkansas
c/o Emily McCord
PO Box 1028
Cabot, AR 72023

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14767-000
3010 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Ms. McCord:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$94,366.08 for the rights associated with the permanent easement (12,192 square feet), \$7,550.00 for the rights associated with the temporary construction and grading easement (2,732 square feet), and \$2,500.00 for damages, for a total of **\$104,416.08**. Damages include the loss of professionally landscaped trees and shrubs and temporary loss of parking. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the

documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 4,750 SqFt bank on 1.65 acres of commercial land. The city is relocating water and sewer easements along this corridor.

10/28/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Liberty Bank of Arkansas	Property Owner
765-14767-000	Parcel #
Fayetteville	City
AR	State
4,750	SqFt - Gross Building Area
71,874	SqFt - Land
11,622	SqFt - Land (acquisition area)
60,252	SqFt - Land (Remainder)
11,622	SqFt - Land (Residual)
905	SqFt - Land
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 2,213,000	Value Before the Acquisition
\$ 2,123,000	Value After the Acquisition
\$ 90,000	
\$ 90,000	Market Value of the Acquisition
\$ 2,500	TCE
\$ 900	Temporary Damages
\$ 1,600	Damages

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE document restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: Damages include the loss of professionally landscaped trees and shrubs and temporary loss of parking.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Liberty Bank of Arkansas**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2005-00021116)

A part of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) of Section Nineteen (19), Township Sixteen (16) North, Range Thirty (30) West, being more particularly described as follows: Commencing at the northeast corner of said 40 acre tract, said point being an existing railroad spike in One-Mile Road; thence south along the east line of said 40 acre tract 49.50 feet to the true point of beginning, said point being in One-Mile Road and from which a 1/2" iron rebar set on the west right-of-way line of said road (as presently located) bears south 71 degrees 47 minutes 21 seconds west 19.12 feet, said set reference iron also being the southeast corner of lot numbered eight (8) in block numbered one (1) of Stapleton's Subdivision Number One (1) to the City of Fayetteville, Arkansas; thence south along the east line of said 40 acre tract 334.52 feet to a point on the north right-of-way line of U.S. Highway #62 (West 6th Street), said point being in One-Mile Road and from which a 1/2" iron rebar set on the west right-of-way line of said road (as presently located) bears south 73 degrees 51 minutes 41 seconds west 20.82 feet; thence leaving the east line of said 40 acre tract and running along the north right-of-way line of said Highway #62 the following bearings and distances: south 73 degrees 51 minutes 41 seconds west 41.10 feet to a set 1/2" iron rebar, south 27 degrees 47 minutes 53 seconds west 14.01 feet to a set 1/2" iron rebar, south 73 degrees 51 minutes 41 seconds west 182.58 feet to a set 1/2" iron rebar; thence leaving the north right-of-way line of said Highway #62 north 00 degrees 04 minutes 47 seconds east 336.40 feet to a set 1/2" iron rebar at the southwest corner of lot numbered eight (8) in block numbered one (1) of Stapleton's Subdivision, Number One (1) to the City of Fayetteville, Arkansas; thence north 71 degrees 47 minutes 21 seconds east 232.58 feet to the point of beginning, in Washington County, Arkansas, containing 1.72 acres, more or less. Subject to the right-of-way of One-Mile Road along the entire east boundary and any other easements and/or rights of way whether or not of record.

PERMANENT EASEMENT DESCRIPTION:

A variable width easement over part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 110.58'; thence N87°33'59"W 60.78' to the West line of an existing City of Fayetteville Water & Sewer Easement (filed in Book 92 Page 58194) and the Point of Beginning; thence N88°47'16"W 17.22'; thence S74°04'12"W 119.73'; thence S51°15'57"W 53.08'; thence N02°20'28"E 58.52'; thence N74°04'12"E 179.94' to said West easement line; thence along said West easement line S02°16'51"W 42.19' to the Point of Beginning, containing 6,778 square feet or 0.16 acres more or less.

ALSO

Part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 367.77'; thence N87°33'59"W 60.10' to the West right-of-way of South One Mile Road (Per ARDOT Job 040846) and the Point of Beginning; thence along said West right-of-way S32°36'36"W 13.31' to the North line of an existing City of Fayetteville water and sewer easement (filed for record in Book 861 Pages 103 & 838); thence along said North easement line S75°22'54"W 165.52'; thence N08°28'39"W 32.78'; thence N02°20'28"E 159.83'; thence S08°28'39"E 171.46'; thence N75°23'21"E 145.31' to the West line of an existing City of Fayetteville water and sewer easement (filed for record in Book 92 Page 58194); thence along said West easement line S02°16'51"W 6.20' to the Point of Beginning, containing 5,414 square feet or 0.13 acres more or less.

Containing a net total of 12,192 square feet or 0.28 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 20.00' wide easement over part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 367.77'; thence N87°33'59"W 60.10' to the West right-of-way of South One Mile Road (Per ARDOT Job 040846); thence N02°16'51"E 6.20' to the North line of the above described permanent easement; thence along said North line S75°23'21"W 135.25' to the Point of Beginning; thence N08°28'39"W 41.20' to the Point of Termination, containing 824 square feet or 0.02 acres more or less.

ALSO

A 10.00' wide easement over part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 115.58'; thence N87°33'59"W 60.77' to the West line of an existing City of Fayetteville Water & Sewer Easement (filed in Book 92 Page 58194) and the Point of Beginning; thence N88°47'16"W 16.37'; thence S74°04'12"W 117.96'; thence S51°15'57"W 56.43' to the Point of Termination, containing 1,908 square feet or 0.04 acres more or less.

Containing a net total of 2,732 square feet or 0.06 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2025.

LIBERTY BANK OF ARKANSAS

BY: _____

[Please print or type Name and Title]

ATTEST:

[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss.

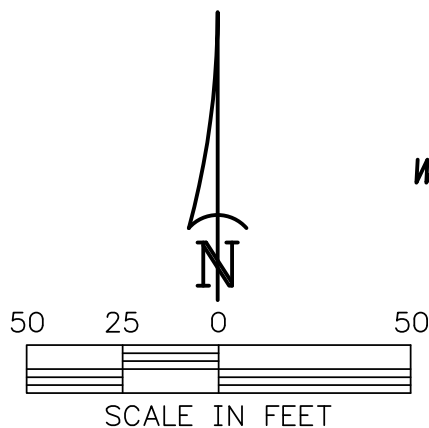
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the _____ and _____, respectively, of **Liberty Bank of Arkansas**, and are 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 instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\TRACT 15.DWG, 2/20/2025 7:25 AM, ANDREW MCCOLLUM, LAYOUT1



**WATER AND SANITARY
SEWER EASEMENT**

25' INGRESS & EGRESS EASEMENT
DOC. #2005-00050529

**10' TEMPORARY
CONSTRUCTION EASEMENT**

765-14767-000
LIBERTY BANK OF ARKANSAS
3010 W MARTIN LUTHER KING BLVD

CITY OF FAYETTEVILLE
WATER & SEWER EASEMENT
BK. 92 PG. 58194

**WATER AND SANITARY
SEWER EASEMENT**

**20' TEMPORARY
CONSTRUCTION EASEMENT**

CITY OF FAYETTEVILLE
WATER & SEWER EASEMENT
BK. 861 PG. 103 &
BK. 861 PG. 838

**ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)**

SOUTH ONE MILE ROAD



Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 15 - LIBERTY BANK OF ARKANSAS
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 02/20/2025

SCALE: 1"=50'

JOB NO. 2022129

Tract No. 16

Cooper Realty Investments, Inc.



November 22, 2024

Mr. Jim Keith
Cooper Realty Investments, Inc.,
Burger Investments, LLC, and
IWS Shelby, LLC
903 N 47th Street
Rogers, AR 72756

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-22967-000
3049 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Keith:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$38,000.00 for the rights associated with the permanent easement (6,017 square feet) and \$9,400.00 for the rights associated with the temporary construction and grading easement (5,202 square feet), for a total of **\$47,400.00**. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 52,620 SqFt shopping center on 5.84 acres of commercial land. The city is relocating water and sewer easements along this corridor.

10/28/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Cooper Realty Investments, Inc.	Property Owner
765-22967-000	Parcel #
Fayetteville	City
AR	State
52,620	SqFt - Gross Building Area
254,390	SqFt - Land
6,017	SqFt - Land (Acquisition)
248,373	SqFt - Land (Remainder)
6,017	SqFt - Land (Residual)
5,202	SqFt - Land
CPZD: Commercial Planned Zoning District	Zoning
CONCLUSIONS	
\$ 6,498,000	Value Before the Acquisition
\$ 6,460,000	Value After the Acquisition
\$ 38,000	
\$ 38,000	Market Value of the Acquisition
\$ 9,400	TCE

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Cooper Realty Investments, Inc., an Arkansas corporation; Burger Investments, LLC, an Arkansas limited liability company; and IWS Shelby, LLC, a Mississippi limited liability company,** hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation,** hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2016-23356)

Lot 2-A, Cobb & Westphal Commercial Subdivision, to the City of Fayetteville, Washington County, Arkansas, being a, Lot Split of Lot 2 as shown in Document No.2005-32442 and also being described as a. part of the SE 1/4 of the NW 1/4 of Section 19, Township 16 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas and being described as follows: Commencing at an aluminum cap found for the SE corner of the SE 1/4 of the NW 1/4 of Section 19, Township 16 North, Range 30 West; thence N 86°55'53" W 43.03 feet and N 03°06'28" E 169.01 feet to the true point of beginning; said point being a found iron pin on the West right of way line of Finger Road; thence N 87°41'11" W 163.23 feet to a found iron pin; thence S70°10'27" W 173.27 feet to a found iron pin; thence N 86°49'46" W 265.22 feet to a found iron pin; thence N87°40'39" W 48.71 feet to a found PK nail set in the asphalt of an existing fire lane to Lowe's Home Improvement Center; thence N 02°18'39" E 372.42 feet to a set cotton spindle; thence S 87°46'50"E 116.34 feet to a set cotton spindle; thence N 71°55'16"E 171.01 feet to a set cotton spindle; thence S88°14'35" E 75.94 feet to a set cotton spindle; thence N 02°48'54" E 20.00 feet to a found iron pin; thence S87°10'12"E 290.31 feet to a set Mag Nail drilled into the concrete of an existing drive located in an access easement as shown. under Land Document Number.2003 42898, said mag nail being on the West right of way line of Finger Road; thence along the West right of way line of finger Road, S 03°06'28" W 389.04 feet to the true point of beginning, containing 5.886 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

A 25.00' wide easement over part of Lot 2A, Cobb & Westphal Lot Split, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Northeast corner of said Lot 2A; thence along the East line of said Lot S03°05'45"W 12.50'; thence N87°10'12"W 50.00' to the West line of an existing 20' utility easement (filed for record as Document #2005-00014956) and the Point of Beginning; thence continuing N87°10'12"W 240.25' to the East line of an existing access and utility easement (filed for record as Document #2003-00042901) and the Point of Termination, containing 6,017 square feet or 0.14 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

Part of Lot 2A, Cobb & Westphal Lot Split, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Lot 2A; thence along the East line of said Lot S03°05'45"W 12.50'; thence N87°10'12"W 50.00' to the West line of an existing 20' utility easement (filed for record as Document #2005-00014956); thence along said West easement line S03°05'45"W 12.50' to the Point of Beginning; thence continuing along said West easement line S03°05'45"W 50.00'; thence N87°10'12"W 70.00'; thence N03°05'45"E 40.00'; thence N87°10'12"W 170.14' to the East line of an existing access and utility easement (filed for record as Document #2003-00042901); thence along said East easement line N02°45'53"E 10.00' to the South line of the above described permanent easement; thence along said South line S87°10'12"E 240.19' to the Point of Termination, containing 5,202 square feet or 0.12 acres more less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

COOPER REALTY INVESTMENTS, INC., an Arkansas corporation

BY: Michael Kent Burger, President

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Michael Kent Burger**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **President of Cooper Realty Investments, Inc., an Arkansas corporation**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

BURGER INVESTMENTS, LLC, an Arkansas limited liability company

BY: _____
Michael Kent Burger, Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS)
 }
COUNTY OF WASHINGTON) ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Michael Kent Burger**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **Manager of Burger Investments, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

IWS SHELBY, LLC, a Mississippi limited liability company

BY: _____
William A. Leatherman, Jr., Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss.

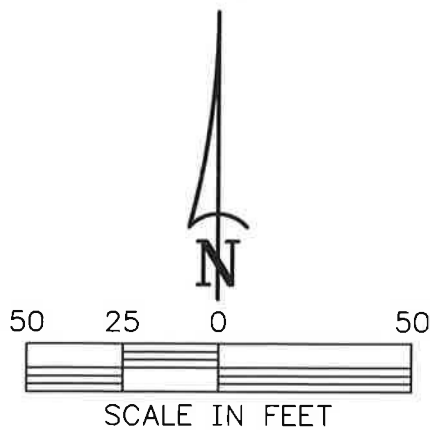
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **William A. Leatherman, Jr.**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **Manager** of **IWS Shelby, LLC, a Mississippi limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\KG EDITS\TRACT 16.DWG, 8/19/2024 9:11 AM, ANDREW MCCOLLUM, LAYOUT1



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)

R/W

R/W

SOUTH FINGER ROAD

ACCESS EASEMENT
DOC. #2003-00042898

25' WATER AND SANITARY
SEWER EASEMENT
TEMPORARY
CONSTRUCTION EASEMENT

765-22967-000
COOPER REALTY INVESTMENTS INC.
3049 W MARTIN LUTHER KING BLVD

20' UTILITY EASEMENT
DOC. #2005-00014956

UTILITY EASEMENT
BK. 92 PG. 51295

R/W

HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 16 - COOPER REALTY INVESTMENTS INC.
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 08/16/2024

SCALE: 1"=50'

JOB NO. 2022129

Tract No. 17

Wal-Mart Real Estate Business Trust



January 31, 2025

Wal-Mart Real Estate Business Trust
c/o Amy Corritori
c/o Wal-Mart Property Tax Dept 4516
PO Box 8050, Attn: 0555
Bentonville, AR 72712

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14654-000
2875 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Notification Letter)

Dear Ms. Corritori:

As previously indicated, the City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

Because this utility relocation project is being done as part of the ARDOT roadway widening, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

The City of Fayetteville previously offered you \$226,000.00 for the rights associated with the permanent easement (32,564 square feet) and \$28,000.00 for the rights associated with the temporary construction and grading easement (11,626 square feet), for a total of **\$254,000.00**. This offer was based on an appraisal of your property and a summary sheet was provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement previously provided should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 was provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosure

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 254,783 SqFt bank on 26.49 acres of commercial land. The city is relocating water and sewer easements along this corridor.

10/28/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Wal-Mart Real Estate Business Trust	Property Owner
765-14654-000	Parcel #
Fayetteville	City
AR	State
254,783	SqFt - Gross Building Area
1,153,904	Before the Acquisition SqFt - Land
32,564	Proposed Water and Sewer Easement SqFt - Land
1,121,340	After the Acquisition SqFt - Land (Remainder)
32,564	Remaining Rights (non-permanent surface use) SqFt - Land (Residual)
11,626	Temporary Construction Easements SqFt - Land
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 32,018,000	Value Before the Acquisition
\$ 31,792,000	Value After the Acquisition
\$ 226,000	Market Value of the Acquisition
\$ 28,000	TCE

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Wal-Mart Real Estate Business Trust**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2008-00030449)

TRACT 1

A tract of land in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 19, Township 16 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, and being more particularly described as follows: Beginning at a point that is South 02 degrees 29 minutes 55 seconds West 476.17 feet from the Northwest corner of said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and on the Southerly right-of-way Of U. S. Highway 62; thence along said southerly right-of-way North 75 degrees 31 minutes 50 seconds East 19.32 feet; thence North 69 degrees 22 minutes 00 seconds East 50.66 feet; thence North 73 degrees 46 minutes 48 seconds East 201.61 feet; thence North 71 degrees 56 minutes 01 seconds East 170.68 feet; thence North 71 degrees 05 minutes 12 seconds East 590.56 feet; thence South 60 degrees 07 minutes 05 seconds East 13.29 feet; thence leaving said southerly right-of-way South 03 degrees 07 minutes 30 seconds East 1087.49 feet; thence North 87 degrees 40 minutes 23 seconds West 119.01 feet; thence South 01 degrees 04 minutes 00 seconds West 139.39 feet; thence South 83 degrees 14 minutes 25 seconds West 831.23 feet; thence North 02 degrees 29 minutes 55 seconds East 400.00 feet; thence South 83 degrees 14 minutes .25 seconds West 150.00 feet to the West line of said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence North 02 degrees 29 minutes 55 seconds East along said West line 620.15 feet to the point of beginning and containing 1,093,383.08 square feet or 25.1006 acres, more or less.

AND BEING a portion of the same property conveyed to Wal-Mart Stores, Inc., a Delaware corporation from Commonwealth-Ghosen Theatre Corporation by Warranty Deed dated March 29, 1993 and recorded April 30, 1993 in Instrument No. 93-22836.

TRACT 2:

A tract of land in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 19, Township 16 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, and being more particularly described as follows: Beginning at a point that is South 02 degrees 29 minutes 55 seconds West 1096.32 feet from the Northwest corner of the said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence North 83 degrees 14 minutes 25 seconds East 150.00 feet; thence South 02 degrees 29 minutes 55 seconds West 400.00 feet; thence South 83 degrees 14 minutes 25 seconds West 150.00 feet; thence North 02 degrees 29 minutes 58 seconds East 171.34 feet to the Southwest corner of the said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence North 02 degrees 29 minutes 55 seconds East along the West line of the said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, 228.66 feet to the point of beginning, and containing 59,218.38 square feet or 1.3595 acres, more or less; and, A tract of land in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 19, Township 16 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, being described as follows: Beginning at a point that is South 02 degrees 29 minutes 55 seconds West 171.34 feet from the Northwest corner of said NW $\frac{1}{4}$ of the SE $\frac{1}{4}$; thence North 83 degrees 14 minutes 25 seconds East for 833.68 feet; thence South 02 degrees 38 minutes 22 seconds West along the Westerly boundary of Finger Park (Book 1073, Page 133) for 118.68 feet; thence South 83 degrees 14 minutes 25 seconds West for 833.39 feet; thence North 02 degrees 29 minutes 55 seconds East for 118.63 feet to the point of beginning, and containing 97,597.43 square feet or 2.2405 acres, more or less; subject to all easements for roads, drains and utilities of record.

AND BEING a portion of the same property conveyed to Wal-Mart Stores, Inc., a corporation from Robert B. Leflar and Charles J.F. Leflar by Warranty Deed dated April 29, 1993 and recorded April 30, 1993 in Instrument No. 93-22840.

LESS AND EXCEPT that portion of property conveyed to City of Fayetteville, a municipal corporation from Wal-Mart Stores, Inc., an Arkansas corporation by Warranty Deed dated November 10, 2004 and recorded November 17, 2004 in Instrument No. 2004-00047288.
Tax Parcel No. 765-14654-000

PERMANENT EASEMENT DESCRIPTION:

Part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter of the Northeast Quarter; thence along the West line of said Quarter-Quarter S02°26'01"W 516.55'; thence S87°37'23"E 54.37' to the East line of an existing 15' water line easement (filed for record as Document #95016618) and the Point of Beginning; thence S87°37'23"E 96.55'; thence N72°16'26"E 467.76'; thence S87°15'13"E 249.61'; thence N69°44'59"E 112.64'; thence N25°17'41"E 54.45'; thence N59°31'00"E 10.10' to the West right-of-way of West Farmers Drive; thence along said West right-of-way S02°24'15"E 13.60' to the intersection of said West right-of-way with the Northwest line of an existing 15' City of Fayetteville sewer easement (filed for record in Book 93 Page 61512); thence along said Northwest easement line S25°17'41"W 74.22'; thence S69°44'59"W 109.38'; thence N87°15'13"W 250.19'; thence S72°16'26"W 432.14'; thence S02°41'06"W 265.96'; thence N87°17'51"W 106.79' to the East right-of-way of South Finger Road (Per ARDOT Job 040846); thence along said East right-of-way N02°08'40"E 19.00'; thence continuing along said East right-of-way N42°13'36"W 8.46'; thence S87°16'05"E 87.98'; thence N02°41'33"E 228.76'; thence N87°16'05"W 109.41' to the East line of an existing 15' water line easement (filed for record as Document #95016618); thence along said East easement line N02°29'55"E 24.22' to the Point of Beginning, containing 32,564 square feet or 0.75 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 10.00' wide easement lying parallel and adjacent to the South and East line of the above-described permanent easement, containing 11,626 square feet or 0.27 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

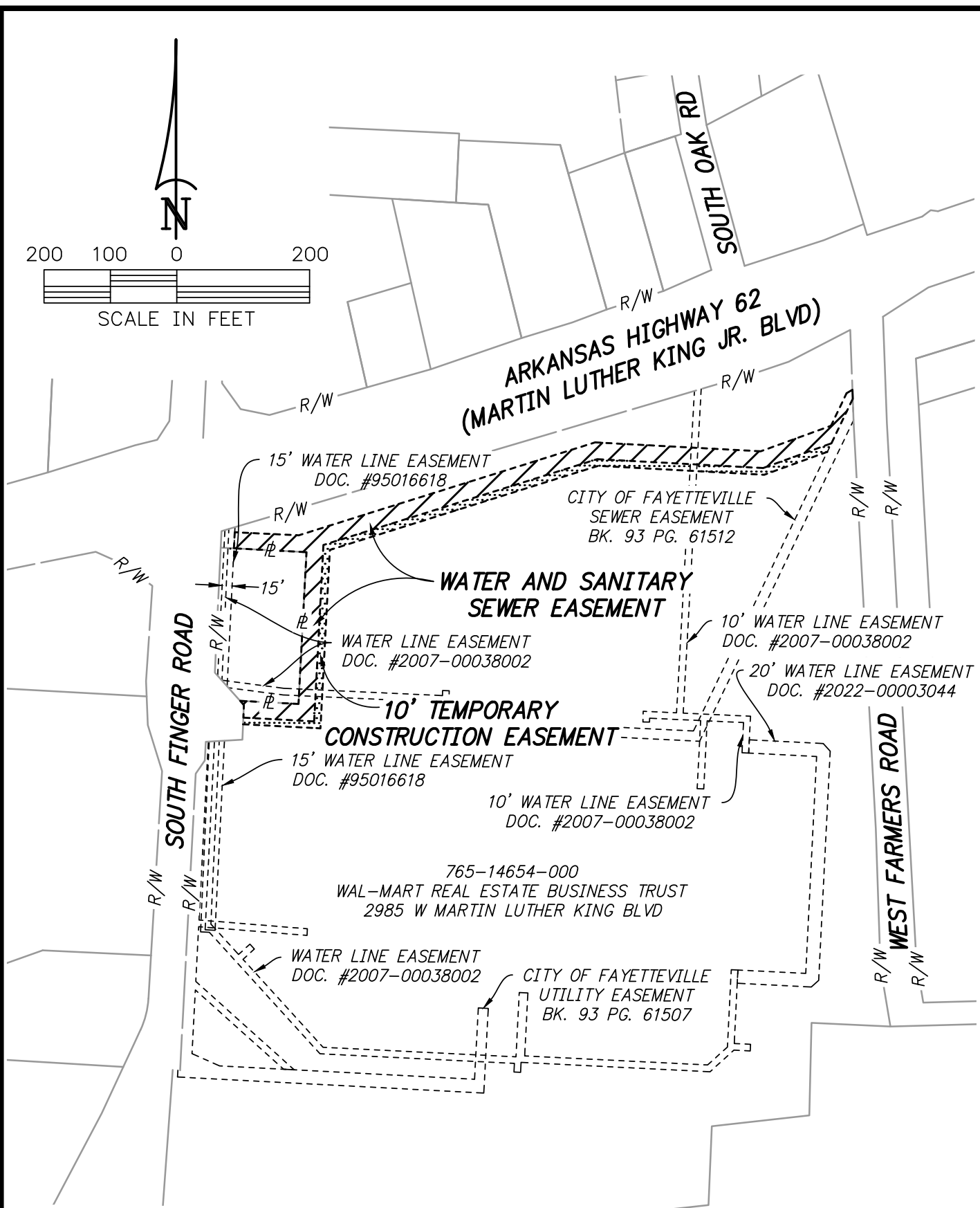
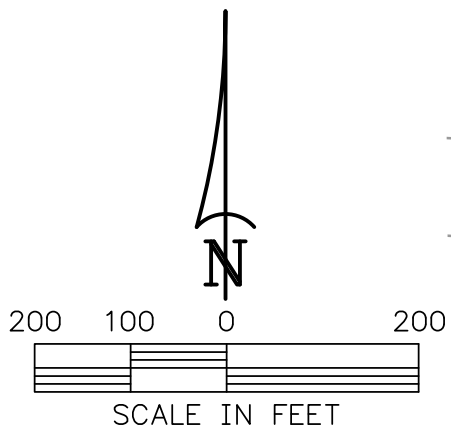
The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

Notary Public



Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 17 - WAL-MART REAL ESTATE BUSINESS TRUST
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 08/16/2024

SCALE: 1"=200'

JOB NO. 2022129

Tract No. 19

Inreit Fayetteville, LLC



December 16, 2024

Mr. Dave Perkins
Inreit Fayetteville, LLC
PO Box 2108
Fargo, ND 58107

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14709-000, 765-14709-001, 765-14703-000
2964 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Perkins:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

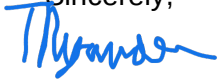
In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$25,000.00 for the rights associated with the permanent easement (3,533 square feet), and \$18,000.00 for damages, for a total of **\$43,000.00**. Damages include the loss of professionally landscaped trees and shrubs, monument sign, and temporary loss of parking. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 13,448 SqFt retail pharmacy on 1.85 acres of commercial land. The city is relocating water and sewer easements along this corridor.

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

12/12/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Inreit Fayetteville, LLC	Property Owner
765-14709-000, 765-14709-001, 765-14703-000	Parcel #
Fayetteville	City
AR	State
13,448	SqFt - Gross Building Area
80,586	SqFt - Land
3,533	SqFt - Land (Acquisition Area)
77,053	SqFt - Land (Remainder)
3,533	SqFt - Land (Residual)
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 2,200,000	Value Before the Acquisition
\$ 2,175,000	Value After the Acquisition
\$ 25,000	Market Value of the Acquisition
\$ 1,000	Temporary Damages
\$ 17,000	Damages

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: Damages include the loss of professionally landscaped trees and shrubs, monument sign, and temporary loss of parking.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Inreit Fayetteville, LLC, a North Dakota limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2009-00022543)

Part of the SW 1/4 of the NE 1/4 of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows: Beginning at a found iron pin on the East side of One Mile Road as shown on Plat Records 2004-24333 and DR3-153, that is S 02°15'33" W 1312.88 feet from the aluminum monument marking the North Quarter corner of said Section 19; thence S 86°17'35" E 120.52 feet to a found iron pin; thence S 87°05'00" E 146.60 feet to a 2 inch metal fence post; thence S 13°02'49" E 129.40 feet; thence S 73° 06' 12" W 100 feet; thence S 13° 02' 49" E 150.00 feet to the North right-of-way of U.S. Highway Number 62; thence along said North right-of-way the following Two courses: thence S 73°06'12" W 241.76 feet to an "X" scribed in concrete; thence N 61°32'09" W 13.01 feet to a found iron pin on the East right-of-way of One Mile Road; thence along said East right-of-way N 02°20'29" E 268.28 feet to a found iron pin; thence leaving said East right-of-way N 87°45'10" W 6.87 feet; thence N 02°20'29" E 112.34 feet to the point of beginning, containing 1.97 acres, more or less.

Less and except that portion of the above described property which was previously deeded to the city of Fayetteville, Arkansas on a warranty deed filed December 14, 2007 as Document No. 2007-00045757, and being more particularly described as follows:

Part of the SW 1/4 of the NE 1/4 of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Beginning at a found iron pin on the East side of One Mile Road as shown on Plat Records 2004-24333 and DR3-153, that is S 02°15'33" W, 1312.88 feet from the aluminum monument marking the North Quarter corner on said Section 19; thence along the North line of Plat Record 2006-18071 as recorded in the official records for Washington County, Arkansas, S 86°17'35" E, 7.33 feet to a point on the proposed East right-of-way line of One Mile Road that is 25 feet Easterly of the existing centerline of said road; thence leaving the North line of said Plat Record 2006-18071 and continuing along said proposed East right-of-way line S 02°00'27" W, 338.81 feet; thence 47.30 feet along a curve to the left said curve having a radius of 25.00 feet and a long chord of S 52°11'38" E, 40.55 feet to a point on the proposed North right-of-way line of US Highway 62 that is 55 feet Northerly from the centerline of said Highway; thence along said proposed North right-of-way line N 73°36' 18" E, 212.33 feet to the Easterly line of said Plat Record 2006-18071; thence leaving the proposed North right-of-way line of US Highway 62 and continuing along said Easterly line S 13°02'49" E, 12.83 feet to the existing North right-of-way line of US Highway 62 as shown on said Plat Record 2006-18071; thence leaving the Easterly line of said Plat Record 2006-18071 and continuing along said existing North right-of-way line S 73 06'12" W, 241.76 feet; thence N 61°32'09" W, 13.01 feet to the existing East right-of-way line of One Mile Road as shown on said Plat Record 2006-18071; thence along said existing East right-of-way line N 02°20'29" E, 268.28 feet; thence leaving the existing East right-of-way line of One Mile Road and continuing along the Westerly line of said Plat Record 2006-18071 N 87°45'10" W, 6.87 feet; thence N 02°20'29" E, 112.34 feet to the point of beginning, containing 0.12 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

Part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter of the Northeast Quarter; thence along the North line of said Quarter-Quarter S86°48'31"E 266.81'; thence S13°06'57"E 129.97'; thence S73°06'54"W 99.86'; thence S13°03'44"E 108.25' to the Point of Beginning; thence continuing S13°03'44"E 7.01' to the North line of an existing City of Fayetteville water and sewer easement (filed for record in Book 861 Page 100); thence along said North easement line S73°19'54"W 182.84' to the East right-of-way of South One Mile Road (Per ARDOT Job 040846); thence along said East right-of-way the following three (3) courses: N78°56'28"W 11.31';

thence N35°51'40"W 48.00'; thence N00°39'20"W 11.60'; thence N89°46'57"E 30.58'; thence S57°01'19"E 60.47'; thence N73°19'54"E 137.38' to the Point of Beginning, containing 3,533 square feet or 0.08 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct pipelines and/or make repairs to lines within the above-described easement at any time in the future and agrees to pay for or repair any damages as a result of such future construction and/or repairs as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2025.

INREIT FAYETTEVILLE, LLC, a North Dakota limited liability company

By its sole member: Sterling Properties, LLLP, a North Dakota limited liability limited partnership

By its general partner: Sterling Real Estate Trust

BY: _____
Luke B. Swenson, Chief Investment Officer

ACKNOWLEDGMENT

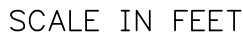
STATE OF _____)
COUNTY OF _____) ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Luke B. Swenson**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **Chief Investment Officer of Sterling Real Estate Trust, the general partner of Sterling Properties, LLLP, a North Dakota limited liability limited partnership, the sole member of Inreit Fayetteville, LLC, a North Dakota limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said limited liability company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

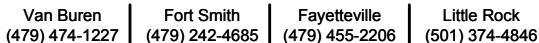
WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



JOB NO. 2022129

Tract No. 20

Vasiliki Investments, LLC



November 22, 2024

Mr. Chris Drosopoulos
Vasiliki Investments, LLC
2607 Towson Avenue
Fort Smith, AR 72901

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14710-000
2920 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Drosopoulos:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$3,000.00 for the rights associated with the permanent easement (517 square feet) and \$400.00 for damages, for a total of **\$3,400.00**. Damages include temporary loss of parking. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 2,800 SqFt professional office on 0.29 acres of commercial land. The city is relocating water and sewer easements along this corridor.

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

10/31/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Vasiliki Investments, LLC	Property Owner
765-14710-000	Parcel #
Fayetteville	City
AR	State
2,800	SqFt - Gross Building Area
Before the Acquisition	
12.632	SqFt - Land
Proposed Water and Sewer Easement	
517	SqFt - Land (Acquisition Area)
After the Acquisition	
12.115	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
517	SqFt - Land (Residual)
2-2: Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 291,000	Value Before the Acquisition
\$ 288,000	Value After the Acquisition
\$ 3,000	Market Value of the Acquisition
\$ 400	Temporary Damages

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: Temporary loss of parking.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Vasiliki Investments, LLC, an Arkansas Limited Liability Company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2014-00012400)

A part of the SW1/4 of the NE1/4 of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, and being more particularly described as follows: Commencing at the Northwest corner of the above SW1/4 of the NE1/4 from which a found railroad spike bears S80°55'03"W, a distance of 11.35 feet; thence S86°19'39"E, a distance of 120.52 feet; thence S87°07'04"E, a distance of 146.60 feet to a point from which a found 1" open pipe bears S87°19'05"E, a distance of 10.08 feet; thence S13°04'53"E, a distance of 129.40 feet to the True Point of Beginning being a found 5/8" rebar w/cap (PS 931); thence S13°04'53"E, a distance of 150.00 feet to a set 5/8" rebar w/cap (PS 1496) on the Northerly right-of-way line of U.S. Highway 62; thence S73°04'08"W, along the above said Northerly right-of-way line, a distance of 100.00 feet to a set 5/8" rebar w/cap (PS 1496); thence N13°04'53"W, leaving the above said Northerly right-of-way line, a distance of 150.00 feet to a set 5/8" rebar w/cap (PS 1496); thence N73°04'08"E, a distance of 100 feet to the Point of Beginning and containing 14,966 square feet or 0.34 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

Part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter of the Northeast Quarter; thence along the North line of said Quarter-Quarter S86°48'31"E 266.81'; thence S13°06'57"E 129.97'; thence S73°06'54"W 99.86'; thence S13°03'44"E 108.25' to the Point of Beginning; thence N73°19'54"E 0.67'; thence S15°22'58"E 2.21'; thence N75°44'48"E 2.95'; thence N14°44'34"W 2.34'; thence N73°19'54"E 71.24' to the West line of an existing 25' utility easement (filed for record in Book 1077 Page 530); thence along said West easement line S13°06'57"E 7.01' to the intersection of the North line of an existing City of Fayetteville water and sewer easement (filed for record in Book 1031 Page 536); thence along said North easement line S73°19'54"W 74.89'; thence N13°03'44"W 7.01' to the Point of Beginning, containing 517 square feet or 0.01 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct pipelines and/or make repairs to lines within the above-described easement at any time in the future and agrees to pay for or repair any damages as a result of such future construction and/or repairs as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

VASILIKI INVESTMENTS, LLC, an Arkansas limited liability company

BY: Vasso Drosopoulos, Member

BY: Effie Drosopoulos, Member

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF WASHINGTON) SS.

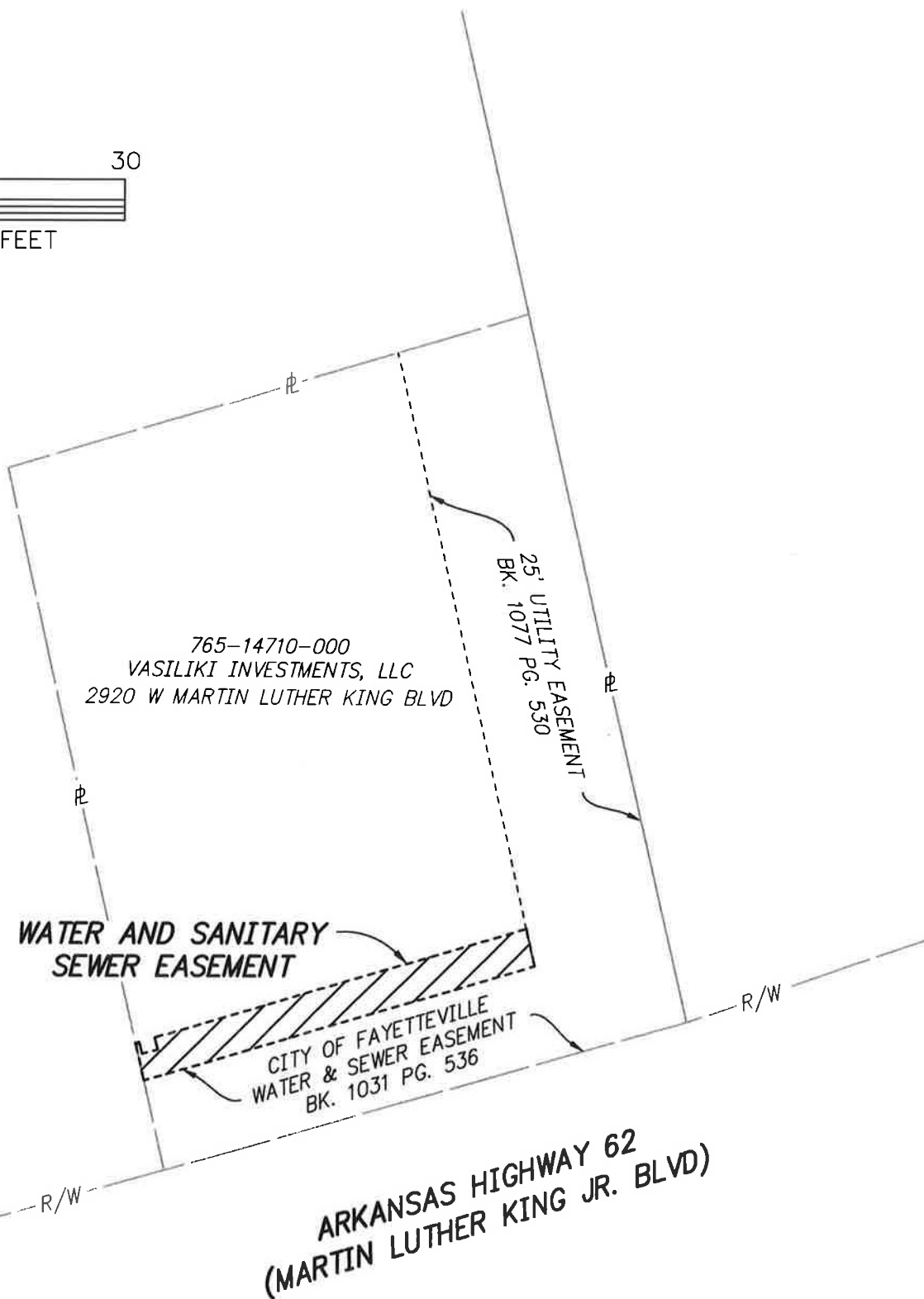
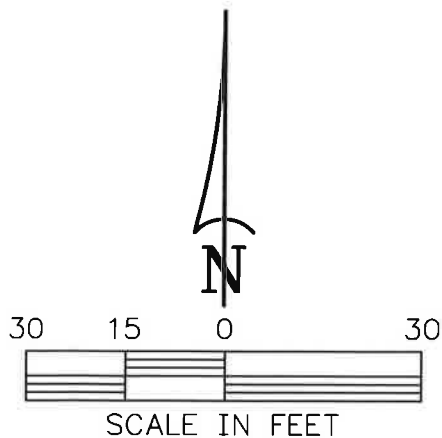
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Vasso Drosopoulos and Effie Drosopoulos**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are Members of **Vasiliki Investments, LLC, an Arkansas limited liability company**, and are duly authorized in their 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 instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK TRACT 20.DWG, 7/17/2024 2:16 PM, JOSH NICHOLS, LAYOUT1



HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

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EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 20 - VASILIKI INVESTMENTS, LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 07/12/2024

SCALE: 1"=30'

JOB NO. 2022129

Tract No. 24

Gregory S. Long and Lesa Long



November 22, 2024

Gregory S. Long
PO Box 66
Prairie Grove, AR 72753

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14705-000
2818 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Long:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

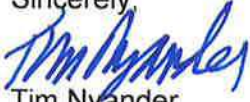
In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$1,000.00 for the rights associated with the permanent easement (105 square feet) and \$2,700.00 for the rights associated with the temporary construction and grading easement (905 square feet), for a total of **\$3,700.00**. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 1,916 SqFt retail building on 0.40 acres of commercial land. The city is relocating water and sewer easements along this corridor.

11/12/24	Effective Date
PHYSICAL CHARACTERISTICS	
Gregory S Long	Property Owner
765-14705-000	Parcel #
Fayetteville	City
AR	State
1,916	SqFt - Gross Building Area
	Before the Acquisition
17,424	SqFt - Land
	Proposed Water and Sewer Easement
105	SqFt - Land (Acquisition Area)
	After the Acquisition
17,319	SqFt - Land (Remainder)
	Remaining Rights In the Acquisition Area
105	SqFt - Land (Residual)
	Temporary Construction Easements
905	SqFt - Land
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 402,500	Land Value Before the Acquisition
\$ 401,500	Land Value After the Acquisition
\$ 1,000	Market Value of the Acquisition
\$ 2,700	TCE

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Gregory S. Long and Lesa Long, husband and wife**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2017-00026276)

Part of the W 1/2 of the NE 1/4 of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows, to-wit: Beginning at a point on the North Right-of-Way of U.S. Highway 62, which is West 526.1 feet and S18°08'E 69.0 feet, and S68°42'W 130.1 feet of the SE corner of the NW 1/4 of the NE 1/4 of said Section 19, and running thence N18°08'W 232.2 feet, thence S68°42'W 90.0 feet, thence S18°08'E 232.2 feet, thence N68°42'E 90 feet to the Point of Beginning.

LESS & EXCEPT

Part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a State Monument being used as the Quarter corner of said Sections 18 and 19; thence South 02°15'32" West a distance of 1,312.90 feet to the Northwest corner of the Southwest Quarter of the Northeast Quarter of said Section 19; thence South 86°48'31" East along the North line of the Southwest Quarter of the Northeast Quarter of said Section 19 a distance of 727.17 feet to a point on the Southwesterly right of way line of Oak Drive; thence South 15°31'16" East along said right of way line a distance of 107.11 feet to a point on the Northwesterly right of way line of U.S. Highway 62 (M.L.K. Jr. Blvd.) as shown on a Plat filed May 26, 2005 as 2005-00022724; thence South 71°02'40" West along said right of way line a distance of 77.86 feet to the POINT OF BEGINNING; thence continuing South 71°02'40" West along said right of way line of U.S. Highway 62 (M.L.K. Jr. Blvd.) as established by ARDOT Job 040846; thence North 71°43'02" East along said right of way line a distance of 89.96 feet to a point; thence South 16°03'30" East a distance of 18.19 feet to the POINT OF BEGINNING and containing 0.04 acres (1,683 square feet) more or less, as shown on plans referenced as ARDOT Job 040846.

PERMANENT EASEMENT DESCRIPTION:

Part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter of the Northeast Quarter; thence along the North line of said Quarter-Quarter S86°48'31"E 643.74'; thence S16°03'30"E 95.79' to the Point of Beginning; thence continuing S16°03'30"E 6.84' to the North line of an existing City of Fayetteville water and sewer easement (filed for record in Book 861 Page 101); thence along said North easement line S71°07'30"W 30.62'; thence N58°41'19"E 31.70' to the Point of Beginning, containing 105 square feet or 0.002 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 10.00' wide easement lying parallel and adjacent to the North line of the above-described permanent easement, containing 905 square feet or 0.02 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct pipelines and/or make repairs to lines within the above-described easement at any time in the future and agrees to pay for or repair any damages as a result of such future construction and/or repairs as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

GREGORY S. LONG

LESA LONG

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF WASHINGTON) ss.

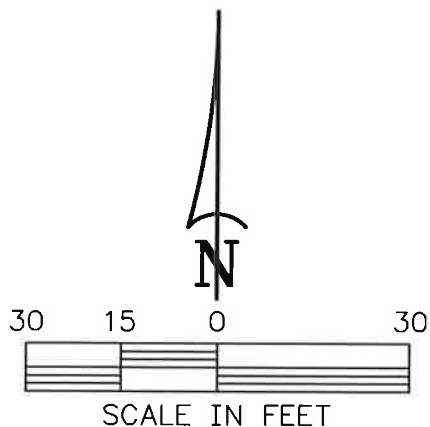
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally **Gregory S. Long and Lesa Long, husband and wife**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\TRACT 24.DWG, 10/28/2024 9:48 AM, ANDREW MCCOLLUM, LAYOUT1



765-14705-000
LONG, GREGORY S.
2818 W MARTIN LUTHER KING BLVD

**10' TEMPORARY
CONSTRUCTION EASEMENT**
**WATER AND SANITARY
SEWER EASEMENT**

CITY OF FAYETTEVILLE
WATER & SEWER EASEMENT
BK. 861 PG. 101

**ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)**

HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 24 - GREGORY S. LONG
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 10/28/2024

SCALE: 1"=30'

JOB NO. 2022129

Tract No. 25

Hultquist Investments, LLC



November 22, 2024

Mr. Mike Hultquist
Hultquist Investments, LLC
7201 W Shadow Valley Road
Rogers, AR 72758

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14706-000
2804 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Hultquist:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

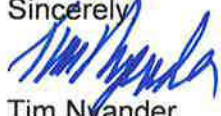
In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$9,000.00 for the rights associated with the permanent easement (1,416 square feet) and \$1,100.00 for damages, for a total of **\$10,100.00**. Damages include the loss of professionally landscaped shrubs and temporary loss of parking. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 3,224 SqFt retail building on 0.40 acres of commercial land. The city is relocating water and sewer easements along this corridor.

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

1/13/24	Effective Date
PHYSICAL CHARACTERISTICS	
Hultquist Investments, LLC	Property Owner
765-14706-000	Parcel #
Fayetteville	City
AR	State
3,224	SqFt - Gross Building Area
17,424	SqFt - Land
1,416	SqFt - Land (Acquisition Area)
16,008	SqFt - Land (Remainder)
1,416	SqFt - Land (Residual)
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 438,000	Land Value Before the Acquisition
\$ 429,000	Land Value After the Acquisition
\$ 9,000	Market Value of the Acquisition
\$ 700	Temporary Damages
\$ 400	Damages

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: Damages include the loss of professionally landscaped shrubs and temporary loss of parking.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Hultquist Investments, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2012-00039650)

Part of the W/2 of the NE/4 of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the SE Corner of the NW/4 of the NE/4 of said Section 19; thence North 89 degrees 16'18" West 569.52 feet to the Point of Beginning; and running thence South 18 degrees 08'00" East 96.53 feet to the Northerly Right of Way of U.S. Highway 62; thence South 68 degrees 00'54" West along said Right of Way 90.0 feet; thence leaving said Right of Way North 18 degrees 09'11" West 233.44 feet to an existing iron pipe, being the SW corner of Lot 9 of Rutledge Subdivision in the City of Fayetteville, Arkansas as per Plat thereof on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas; thence North 68 degrees 35' 10" East 90.03 feet to an existing iron pipe being the SE Corner of said Lot 9; thence South 18 degrees 08' East 136.02 feet to the Point of Beginning and containing 0.48 acres, more or less.

LESS & EXCEPT

Part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, Washington county, Arkansas, more particularly described as follows: Commencing at a State Monument being used as the Quarter corner of said Sections 18 and 19; thence South 02°15'3" West a distance of 1,312.90 feet to the Northwest corner of the Southwest Quarter of the Northeast Quarter of said Section 19; thence South 86°48'31" East along the North line of the Southwest Quarter of the Northeast Quarter of said Section 19 a distance of 727.17 feet to a point on the Southwesterly right of way line of Oak Drive; thence South 15°31'16" East along said right of way line a distance of 81.95 feet to the POINT OF BEGINNING; thence continuing South 15°31'16" East along said right of way line a distance of 25.16 feet to a point on the Northwesterly right of way line of U.S. Highway 62 (M.L.K. Jr. Blvd.) as shown on a Plat filed May 26, 2005 at 2005-00022734; thence South 71°02'40" West along said right of way line a distance of 77.86 feet to a point; thence North 16°03'30" West a distance of 18.19 feet to a point on the Northwesterly right of way line of U.S. Highway 62 (M.L.K. Jr. Blvd.) as established by ARDOT job 040846; thence North 65°58'51" East a distance of 78.76 feet to the POINT OF BEGINNING and containing 0.04 acres (1,687 square feet) more or less, as shown on plans referenced as ARDOT Job 040846.

PERMANENT EASEMENT DESCRIPTION:

Part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter of the Northeast Quarter; thence along the North line of said Quarter-Quarter S86°48'31"E 737.73 to the Southwest right-of-way of South Oak Road; thence along said Southwest right-of-way S15°28'18"E 45.92' to the Point of Beginning; thence continuing along said Southwest right-of-way S15°28'18"E 21.50' to the North line of an existing City of Fayetteville water and sewer easement (filed for record in Book 856 Page 724); thence along said North easement line S71°11'32"W 88.14'; thence N16°03'30"W 6.84'; thence N58°41'19"E 67.58'; thence N71°10'47"E 23.09' to the Point of Beginning, containing 1,416 square feet or 0.03 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct pipelines and/or make repairs to lines within the above-described easement at any time in the future and agrees to pay for or repair any damages as a result of such future construction and/or repairs as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

HULTQUIST INVESTMENTS, LLC, an Arkansas limited liability company

BY: Mike Hultquist, President

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

SS.

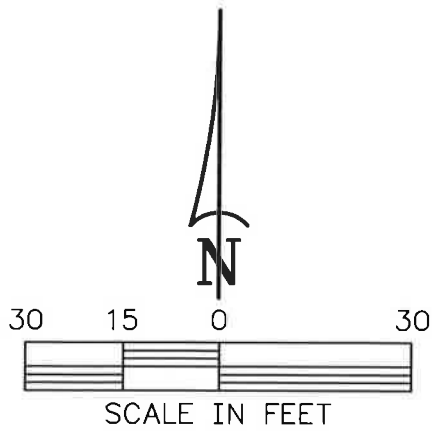
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Mike Hultquist**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that is the President of **Hultquist Investments, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\TRACT 25.DWG, 9/23/2024 9:48 AM, ANDREW MCCOLLUM, LAYOUT1



765-14706-000
HULTQUIST INVESTMENTS, LLC
2804 W MARTIN LUTHER KING BLVD

CITY OF FAYETTEVILLE
ACCESS EASEMENT
DOC. #2014-00028701

WATER AND SANITARY
SEWER EASEMENT

CITY OF FAYETTEVILLE
WATER & SEWER EASEMENT
BK. 856 PG. 724

ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)

HW **HAWKINS WEIR**
ENGINEERS, INC.

Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 25 - HULTQUIST INVESTMENTS, LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 09/23/2024

SCALE: 1"=30'

JOB NO. 2022129

Tract No. 26

Bird Cold Storage Company



November 22, 2024

Mr. Robert A. Vogel
Bird Cold Storage Company
C/O Auto Zone Inc. #3856
PO Box 2198 Dept 8700
Memphis, TN 38101

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14711-000
2790 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Vogel:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$12,000.00 for the rights associated with the permanent easement (1,777 square feet), \$3,200.00 for the rights associated with the temporary construction and grading easement (1,079 square feet), and \$500.00 for damages, for a total of **\$15,700.00**. Damages include the loss of a professionally landscaped tree. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the

documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 7,360 SqFt retail building on 0.90 acres of commercial land. The city is relocating water and sewer easements along this corridor.

11/15/24 Effective Date	
PHYSICAL CHARACTERISTICS	
Bird Cold Storage Company	Property Owner
765-14711-000	Parcel #
Fayetteville	City
AR	State
7,360	SqFt - Gross Building Area
39,204	SqFt - Land Before the Acquisition
1,777	SqFt - Land (Acquisition Area) Proposed Water and Sewer Easement
37,427	SqFt - Land (Remainder) After the Acquisition
1,777	SqFt - Land (Residual) Remaining Rights In the Acquisition Area
1,079	SqFt - Land Temporary Construction Easements
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 1,063,000	Land Value Before the Acquisition
\$ 1,051,000	Land Value After the Acquisition
\$ 12,000	Market Value of the Acquisition
\$ 3,200	TCE
\$ 500	Damages

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: Damages include the loss of a professionally landscaped tree.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Bird Cold Storage Company, an Arkansas general partnership**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2006-00036735)

Part of the West 1/2 of the NE 1/4 of Section 19, Township 16 North, Range 30 West, being more particularly described as follows: Commencing at the SE corner of the NW 1/4 of the NE 1/4 of said Section 19; thence West 214.92 feet (record 221 feet) to a point in the center of US Highway 62; thence South 68° 27' 59" West 103.66 feet (record, South 78° 48' West 104 feet) to a point in said centerline; thence North 19° 46' 10" West 40.13 feet to an existing iron rebar on the North right of way line of said Highway 62 for the true point of beginning, said point being the SW corner of a tract of land recorded in land record 2000-73345; thence South 68° 27' 59" West 190.42 feet to a set 1/2" iron rebar at the intersection of the North right of way line of said Highway 62 with the East right of way line of Oak Road; thence leaving the North right of way line of said Highway 62, North 18° 08' 01" West 233.33 feet along the East right of way line of Oak Road to an existing iron pipe; thence leaving the East right of way line of Oak Road, North 59° 17' 46" East 187.06 feet along the South line of the Rutledge Subdivision to the City of Fayetteville, Arkansas, to an existing iron rebar; thence leaving the South line of said subdivision, South 19° 46' 10" East 262.85 feet along the West line of a tract of land recorded in land document 2000-73345 to the point of beginning, containing 1.06 acres, more or less, Fayetteville, Washington County, Arkansas. The above described 1.06 acre tract being subject to a 30 foot wide utility easement, said easement lying North of and being adjacent to and parallel with the South boundary.

LESS AND EXCEPT:

Part of the West 1/2 of the NE 1/4 of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the SE corner of the NW 1/4 of the NE 1/4; thence along the South line of said Forty, North 87° 23' 35" West 214.92 feet; thence leaving said South line, South 71° 04' 24" West 103.66 feet; thence North 17° 09' 45" West 40.13 feet to an existing 1/2 inch rebar on the North right of way line of US Highway 62 and the point of beginning; thence along said right of way line, South 71° 04' 24" West 190.41 feet to an existing 1/2 inch rebar on the East right of way line of Oak Road; thence along said right of way line, North 15° 31' 36" West 15.11 feet to a point; thence leaving said right of way line, North 71° 47' 09" East 125.39 feet to a point; thence North 67° 32' 32" East 64.80 feet to a point; thence South 17° 09' 45" East 17.52 feet to the point of beginning, containing 0.06 acres, more or less, and being the same lands as conveyed to the City of Fayetteville, Arkansas, a municipal corporation, by Warranty Deed filed for record March 7, 2006, as land document number 2006-9306, records of Washington County, Arkansas.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northwest Quarter of the Northeast Quarter and part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

Commencing at the Southeast corner of said Northwest Quarter of the Northeast Quarter; thence along the South line of said Quarter-Quarter N86°48'31"W 349.92' to the intersection of said South Quarter-Quarter line with the Northern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence along said Northern right-of-way N70°48'38"E 20.11'; thence N17°08'01"W 17.91' to the North line of an existing utility easement (filed for record as Document #023A-00000206) and the Point of Beginning; thence along said North easement line S67°30'48"W 65.93'; thence continuing along said North easement line S71°45'25"W 98.01' to the East line of an existing 20' utility easement (filed for record as Document #023A-00000206); thence along said East easement line N13°59'03"W 22.49'; thence N80°13'33"E 110.25'; thence N70°34'19"E 53.10'; thence S17°08'01"E 2.41' to the Point of Beginning, containing 1,777 square feet or 0.04 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

Part of the Northwest Quarter of the Northeast Quarter and part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

Commencing at the Southeast corner of said Northwest Quarter of the Northeast Quarter; thence along the South line of said Quarter-Quarter N86°48'31"W 349.92' to the intersection of said South Quarter-Quarter line with the Northern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence along said Northern right-of-way N70°48'38"E 20.11'; thence N17°08'01"W 20.56' to the North line of the above described permanent easement and the Point of Beginning; thence along said North line S74°39'24"W 52.91'; thence continuing along said North line S80°13'33"W 110.34'; thence N15°44'32"W 6.03'; thence N80°13'33"E 110.46'; thence N70°34'19"E 52.66'; thence S17°08'01"E 9.78' to the Point of Beginning, containing 1,079 square feet or 0.02 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

BIRD COLD STORAGE COMPANY, an Arkansas general partnership

By: Robert A. Vogel Management, LLC, general partner

BY:

Robert A. Vogel, Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

}
}
}

ss.

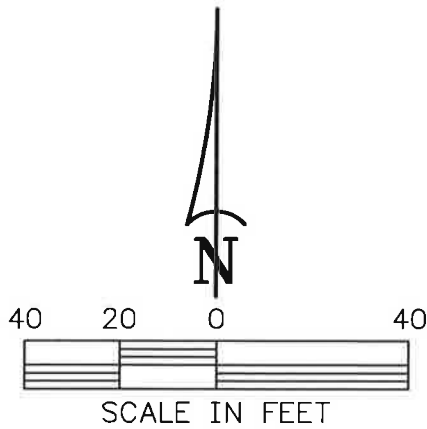
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Robert A. Vogel**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **Manager of Robert A. Vogel Management, LLC, a general partner of Bird Cold Storage Company, an Arkansas general partnership**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\TRACT 26.DWG, 10/28/2024 10:36 AM, ANDREW MCCOLLUM, LAYOUT1



SOUTH OAK ROAD

765-14711-000
BIRD COLD STORAGE COMPANY
2790 W MARTIN LUTHER KING BLVD

TEMPORARY
CONSTRUCTION EASEMENT

WATER AND SANITARY
SEWER EASEMENT

20' UTILITY EASEMENT
DOC. #023A-00000206

UTILITY EASEMENT
DOC. #023A-00000206

ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

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EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 26 - BIRD COLD STORAGE COMPANY
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 10/28/2024

SCALE: 1"=40'

JOB NO. 2022129

Tract No. 28

RPC Land Holdings, LLC



November 22, 2024

Mr. Ronald W. Connolly
RPC Land Holdings, LLC
16670 Sugar Creek Road
Garfield, AR 72732

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14700-000
2724 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Connolly:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

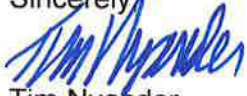
In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$31,000.00 for the rights associated with the permanent easement (4,289 square feet) and \$8,600.00 for the rights associated with the temporary construction and grading easement (2,883 square feet), for a total of **\$39,600.00**. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 4,335 SqFt automotive dealership on 1.30 acres of commercial land. The city is relocating water and sewer easements along this corridor.

- 11/18/24 Effective Date	
PHYSICAL CHARACTERISTICS	
RPC Land Holdings, LLC	Property Owner
765-14700-000	Parcel #
Fayetteville	City
AR	State
4,335	SqFt - Gross Building Area
56,628	SqFt - Land
4,289	SqFt - Land (Acquisition Area)
52,339	SqFt - Land (Remainder)
4,289	SqFt - Land (Residual)
2,880	SqFt - Land
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 1,657,000	Land Value Before the Acquisition
\$ 1,626,000	Land Value After the Acquisition
\$ 31,000	Market Value of the Acquisition
\$ 8,600	TCE

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **RPC Land Holdings, LLC**, an Arkansas limited liability company, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2021-00000129)

Part of the NW of the NE of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, described as follows, to-wit: Beginning at a point on the North line of the right of way of U.S. Highway No. 62, which is N39°W of a point on the North line of the former right of way of the O & C.C. (Frisco) Railroad, which is 50 feet North of the SE corner of said 40 acre tract; thence N39°W, with an old fence line, 264 feet to the corner with new fence; thence Westerly with said new fence line, 210 feet; thence South bearing East with new fence line 256 feet to the North line of the right of way of U.S. Highway No. 62; thence in an Easterly direction with the North line of said Highway, 298 feet to the beginning point, containing 1.5 acres, more or less.

LESS AND EXCEPT

That portion deeded to the Arkansas State Highway Commission in Deed 1060 at Page 478 described as part of the NW of the NE of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Starting at the SE corner of the NW of the NE of Section 19; thence N02°06'E along the East line a distance of 130.1 feet to a point on the Northerly existing right of way line of U.S. Highway 62; thence S70°45'W along said existing right of way line a distance of 236.3 feet for the point of beginning; thence continue S70°45'W along said existing right of way line a distance of 25.0 feet to a point on the Northerly proposed right of way line of U.S. Highway 62; thence N52°19'E along said proposed right of way line a distance of 15.8 feet to a point; thence S82°41'E along said proposed right of way line a distance of 11.2 feet to the point of beginning and containing 62 square feet, more or less.

LESS AND EXCEPT

Part of the SW/4 of the NE/4 and part of the NW/4 of the NE/4 of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a State Monument being used as the Quarter corner of said Sections 18 and 19; thence South 02°15'32" West a distance of 1,312.90 feet to the Northwest corner of the SW/4 of the NE/4 of said Section 19; thence South 86°48'31" East along the North line of the SW/4 of the NE/4 of said Section 19 a distance of 980.21 feet to a point on the Northeasterly right of way line of U.S. Highway 62 (M.L.K. Jr. Blvd.) for the POINT OF BEGINNING; thence North 17°08'01" West along said right of way line a distance of 8.16 feet to a point on the Northeasterly right of way line of U.S. Highway 62 (M.L.K. Jr. Blvd.) as established by ARDOT Job 040846; thence North 70°48'38" East along said right of way line a distance of 271.69 feet to a point; thence North 34°04'27" East along said right of way line a distance of 24.92 feet to a point; thence South 35°10'44" East a distance of 37.27 feet to a point on the Northeasterly right of way line of U.S. Highway 62 (M.L.K. Jr. Blvd.) as established by AHTD Job 4705-2; thence South 71°02'40" West along said right of way line a distance of 302.63 feet to a point; thence North 17°08'01" West a distance of 11.53 feet to the POINT OF BEGINNING and containing 0.14 acres (6,255 square feet) more or less, as shown on plans referenced as ARDOT Job 040846.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

Commencing at the Southeast corner of said Northwest Quarter of the Northeast Quarter; thence along the South line of said Quarter-Quarter N86°48'31"W 349.92' to the intersection of said South Quarter-Quarter line with the Northern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence along said Northern right-of-way N70°48'38"E 20.11'; thence N17°08'01"W 5.31' to the North line of an existing City of Fayetteville water and sewer easement (filed for record in Book 829 Page 868) and the Point of Beginning; thence continuing N17°08'01"W 15.01'; thence N71°02'36"E 289.72'; thence S35°10'44"E 4.40' to said Northern right-of-way; thence along said Northern right-of-way S34°04'27"W 17.93' to said North easement line; thence

along said North easement line S71°02'40"W 277.10' to the Point of Beginning, containing 4,289 square feet or 0.10 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 10.00' wide easement lying parallel and adjacent to the North line of the above-described permanent easement, containing 2,880 square feet or 0.07 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

RPC LAND HOLDINGS, LLC, an Arkansas limited liability company

BY: _____
Ronald W. Connolly, Managing Member

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF _____

)
)
)

ss.

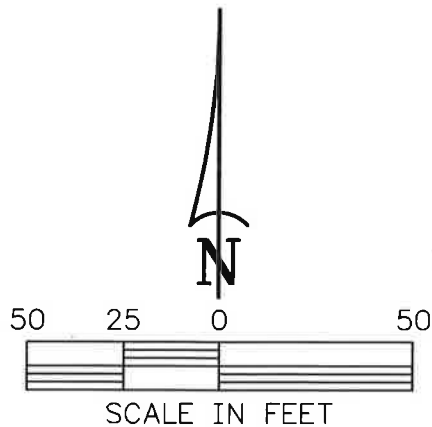
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared, **Ronald W. Connolly**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is a **Managing Member of RPC Land Holdings, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\TRACT 28.DWG, 11/15/2024 3:09 PM, ANDREW MCCOLLUM, LAYOUT1



765-14700-000
RPC LAND HOLDINGS LLC
2724 W MARTIN LUTHER KING BLVD

CITY OF FAYETTEVILLE
WATER & SEWER EASEMENT
BK. 829 PG. 868

**10' TEMPORARY
CONSTRUCTION EASEMENT**
**WATER AND SANITARY
SEWER EASEMENT**

**ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)**



Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 28 - RPC LAND HOLDINGS, LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 11/15/2024

SCALE: 1"=50'

JOB NO. 2022129

Tract No. 32

Halbert Properties, LLC



November 22, 2024

Ms. Ida Carolyn Halbert
Halbert Properties, LLC
1228 Reed Valley Road
Fayetteville, AR 72704

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14670-000
2675 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Ms. Halbert:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$7,000.00 for the rights associated with the permanent easement (3,474 square feet) and \$2,000.00 for damages, for a total of **\$9,000.00**. The construction-related damages will result in a partial and temporary restriction of parking access at the entrance point. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 4,000 SqFt retail shop on 0.72 acres of commercial land. Most of the site is in the flood plain and floodway.

11/20/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Halbert Properties LLC	Property Owner
765-14670-000 &	Parcel #
Fayetteville	City
AR	State
4,000	SqFt GBA
	Before the Acquisition
31,363	SqFt - Land
	Proposed Water and Sewer Easement
3,474	SqFt - Land (Acquisition Area)
	After the Acquisition
27,889	SqFt - Land (Remainder)
	Remaining Rights In the Acquisition Area
3,474	SqFt - Land (Residual)
C-2: Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 420,000	Land Value Before the Acquisition
\$ 413,000	Land Value After the Acquisition
\$ 7,000	Market Value of the Acquisition
\$ 2,000	Temporary Damages

The city is relocating water and sewer easements along this corridor. See mapping for specific locations.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city.

The building appears to be unaffected by the acquisition. While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: The construction will partially and temporarily restrict and limit the parking lot at the entrance point.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Halbert Properties, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2013-00011513)

Part of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of Section Nineteen (19), Township Sixteen (16) North, Range Thirty (30) West, more particularly described as follows, to-wit: Beginning at a point 145.05 feet East of the Southwest corner of said 40-acres tract, and running, thence East 132.45 feet; thence North 191.00 feet to the center line of U.S. Highway No. 62; thence South 69°15' West along the center line of said Highway 140.00 feet; thence South to the place of beginning. Except that portion contained in Highway 62, along the North side thereof. Less and Except: Part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a point being used as the Northeast Sixteenth Corner of Section 19; thence South 86°54'56" East along the South line of the Northeast Quarter of the Northeast Quarter of Section 19 a distance of 32.53 feet to a point on the Easterly right of way line of East Farmers Drive established by City of Fayetteville Master Street Plan; thence North 01°26'35" West along said right of way line a distance of 38.31 feet to a point on the Southerly right of way line of U.S. Highway 62 as established by AHTD Job 4705 Sec. 2; thence North 52°36'34" East along said right of way line a distance of 9.33 feet to a point; thence North 71°02'40" East along said right of way line a distance of 68.00 feet to a point; thence North 71°49'46" East along said right of way line a distance of 49.37 feet to the POINT OF BEGINNING; thence continue North 71°49'46" East along said right of way line a distance of 106.38 feet to a point; thence North 73°41'46" East along said right of way line a distance of 30.95 feet to a point; thence North 72°15'53" East along said right of way line a distance of 4.79 feet to a point; thence South 03°27'43" West a distance of 13.66 feet to a point on the Southerly right of way line of U.S. Highway 62 as established by AHTD Job 040485; thence South 74°29'05" West along said right of way line a distance of 140.09 feet to a point; thence North 03°27'43" East a distance of 7.80 feet to the point of beginning and containing 0.03 acres more or less (1,475 sq. ft. more or less) as shown on plans prepared by the AHTD referenced as Job 040485. Less and Except: A part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Starting at the Southwest Corner of the Northeast Quarter of the Northeast Quarter of Section 19; thence North 02°06' East along the West line of the Northeast Quarter of the Northeast Quarter of Section 19 a distance of 54.9 feet to a point on the existing Southerly right of way line of U.S. Highway 62; thence North 70°45' East along said existing right of way line a distance of 99.1 feet to a point; thence in a Northeasterly direction along said existing right of way line on a curve right having a radius of 5699.58 feet a distance of 57.06 feet to a point for the point of beginning; thence continue in a Northeasterly direction along said existing right of way line on a curve to the right having a radius of 5599.58 feet a distance of 141.60 feet to a point; thence South 02°13' West a distance of 16.5 feet to a point on the proposed Southerly right of way line of said U.S. Highway 62; thence South 73°19' West along said proposed right of way line a distance of 36.9 feet to a point; thence South 71°32' West along said proposed right of way line a distance of 105.3 feet to a point; thence North 03°53' East a distance of 16.8 feet to the point of beginning and containing 0.05 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Southwest corner of said Northeast Quarter of the Northeast Quarter; thence along the South line of said Quarter-Quarter S86°55'08"E 145.05'; thence N03°31'38"E 31.87' to the Point of Beginning; thence N03°31'38"E 26.27' to the Southern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence along said Southern right-of-way N75°42'15"E 139.07'; thence S03°33'48"W 26.21'; thence S75°40'45"W 139.07' to the Point of Beginning, containing 3,474 square feet or 0.08 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

**By its sole member: Ida Carolyn Halbert Revocable Trust
Under Declaration dated October 20, 2015**

BY: Ida Carolyn Halbert, Trustee and Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF WASHINGTON) ss.

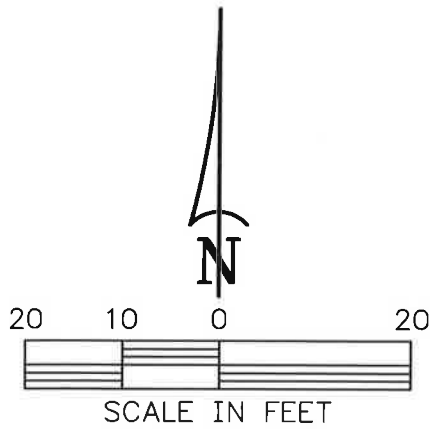
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared, **Ida Carolyn Halbert**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that she is the **Trustee of the Ida Carolyn Halbert Revocable Trust under Declaration dated October 20, 2015, sole member and manager of Halbert Properties, LLC**, and is duly authorized in her respective capacities to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that she had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

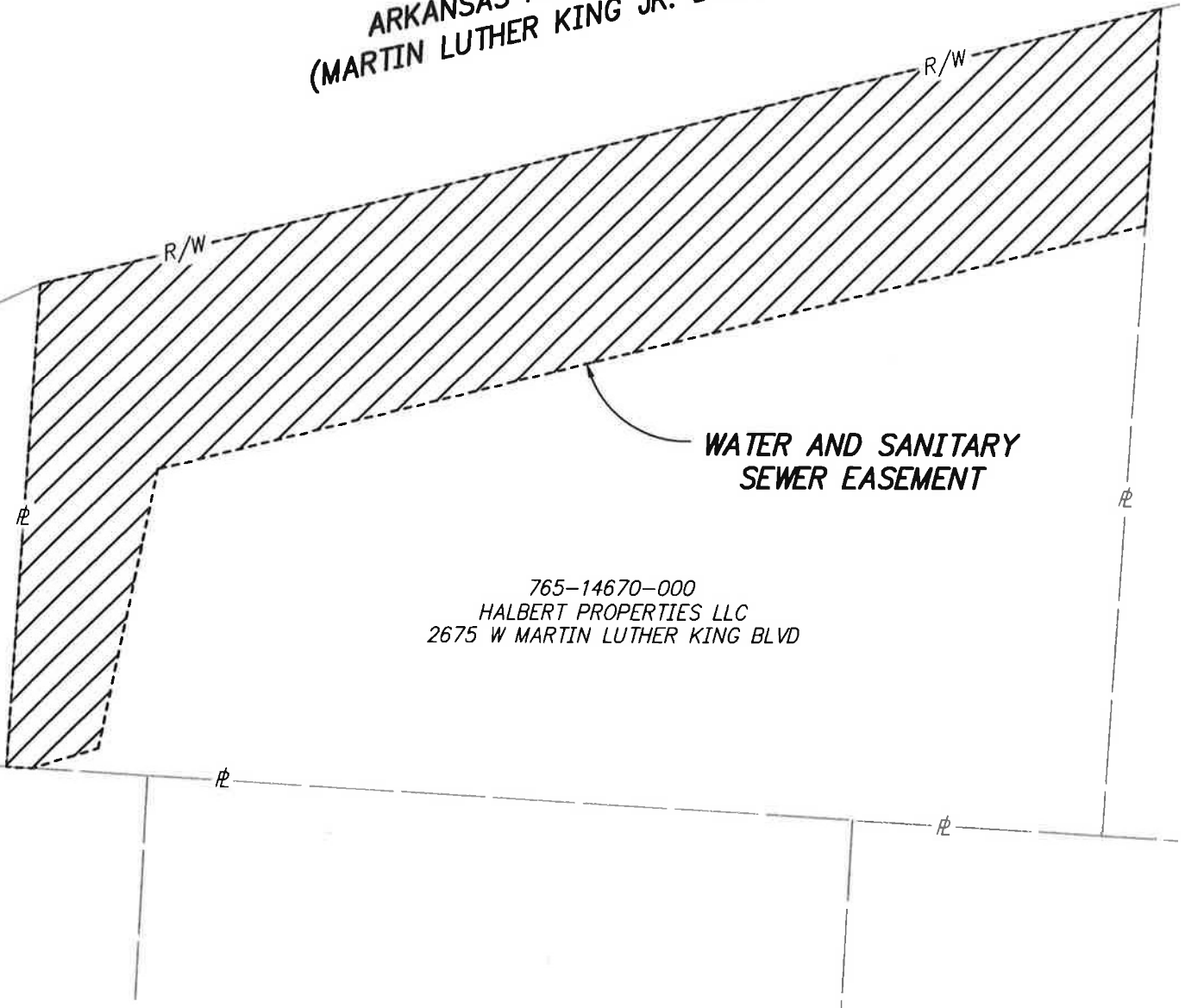
MY COMMISSION EXPIRES: _____

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\NEW FOLDER\TRACT 32.DWG, 7/8/2024 1:11 PM, ANDREW MCCOLLUM, LAYOUT1



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 32 - HALBERT PROPERTIES LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 07/12/2024

SCALE: 1"=20'

JOB NO. 2022129

Tract No. 35

University Square, LLC



November 22, 2024

Mr. Narry Krushiker
University Square, LLC
PO Box 7479
Springdale, AR 72766

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14685-000
2612 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Krushiker:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$21,000.00** for the rights associated with the permanent easement (2,502 square feet). This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a +/-44,641 SqFt in three detached buildings on 3.90 acres of commercial land. The buildings include 2 neighborhood shopping centers totaling +/-43,341 SqFt and +/-1,300 SqFt retail building. The city is relocating water and sewer easements along this corridor.

11/18/2024	Effective Date
PHYSICAL CHARACTERISTICS	
University Square, LLC	Property Owner
765-14685-000	Parcel #
Fayetteville	City
AR	State
44,641	SqFt - Gross Building Area
169,884	SqFt - Land
2,502	SqFt - Land (Acquisition Area)
167,382	SqFt - Land (Remainder)
2,502	SqFt - Land (Residual)
C-2: Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 5,647,000	Land Value Before the Acquisition
\$ 5,626,000	Land Value After the Acquisition
\$ 21,000	Market Value of the Acquisition

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **University Square, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2002-00104293)

A PART OF THE NE 1/4 OF SECTION 19, T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE CENTER OF THE RIGHT-OF-WAY OF HIGHWAY 62 WHICH POINT IS 742.50 FEET WEST OF THE EAST LINE OF NW 1/4 OF THE NE 1/4 OF SAID SECTION 19, THENCE NORTH 676.00 FEET, THENCE WEST 300.01 FEET, THENCE SOUTH 774.44 FEET TO THE CENTER OF THE RIGHT-OF-WAY OF SAID HIGHWAY 62, THENCE N 71°50' E, WITH THE CENTERLINE OF SAID RIGHT-OF-WAY, 315.74 FEET TO THE POINT OF BEGINNING, CONTAINING 4.99 ACRES, MORE OR LESS.

LESS & EXCEPT: A 0.17 ACRE TRACT CONVEYED TO THE ARKANSAS STATE HIGHWAY COMMISSION BY A WARRANTY DEED RECORDED DECEMBER 20, 1979, IN DEED RECORD BOOK 1007, AT PAGE 606.

ALSO, LESS & EXCEPT: A 0.336 ACRE TRACT CONVEYED TO THE ARKANSAS STATE HIGHWAY COMMISSION BY A QUITCLAIM DEED RECORDED AS LAND DOCUMENT #2000100196.

THE ABOVE DESCRIBED 4. 484 ACRE TRACT NOW BEING MORE ACCURATELY DESCRIBED BY A PLAT OF SURVEY BY ALAN REID & ASSOCIATES; DATED OCTOBER 9, 2000, DESIGNATED AS JOB #00442, AS FOLLOWS:

A PART OF THE NE 1/4 OF THE NE 1/4 OF SECTION 19, T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING IRON REBAR: THENCE N 87°04'58" W, ALONG THE NORTH LINE OF SAID 40 ACRE TRACT 806.23 FEET: THENCE S 02°55'02" W, 365.65 FEET TO AN EXISTING IRON REBAR ON THE WESTERLY RIGHT-OF-WAY OF U.S. HIGHWAY #540 FOR THE TRUE POINT OF BEGINNING: THENCE S 12°01'05" E, ALONG SAID RIGHT-OF-WAY 139.06 FEET TO AN EXISTING RIGHT-OF-WAY MONUMENT; THENCE S 22°03'25" E, ALONG SAID RIGHT-OF-WAY 72.63 FEET TO AN EXISTING IRON AT THE NW CORNER OF LAND PARCEL #765-14664-000, RECORDED IN DEED BOOK 1324 AT PAGES 186 THRU 190: THENCE LEAVING SAID RIGHT-OF-WAY S 02°49'01" W, ALONG THE WEST LINE OF THE ABOVE REFERENCED PARCEL 410.03 FEET TO AN EXISTING IRON ON THE NORTH RIGHT-OF-WAY OF U.S. HIGHWAY #62 AT THE SW CORNER OF THE ABOVE REFERENCED PARCEL; THENCE S 71°06'14" W, ALONG SAID NORTH RIGHT-OF-WAY 162.08 TO AN EXISTING PIPE; THENCE S 72°35'24" W, ALONG SAID NORTH RIGHT-OF-WAY 154.29 FEET TO AN EXISTING RIGHT-OF-WAY MONUMENT; THENCE S 76°45'42" W, ALONG SAID NORTH RIGHT-OF-WAY, 3.16 FEET TO AN EXISTING IRON, THENCE LEAVING SAID NORTH RIGHT-OF-WAY N 02°41'55" E, 724.20 FEET TO A POINT FROM WHICH AN EXISTING IRON BEARS S 02°41'55" W, .60 FEET; THENCE S 87°15'47" E, 233.74 FEET TO THE POINT OF BEGINNING, CONTAINING 4.418 ACRES, MORE OR LESS.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Northeast Quarter of the Northeast Quarter; thence N86°22'20"W 733.50'; thence S03°37'40"W 557.13' to the West right-of-way of South Shiloh Drive; thence S02°48'59"W 368.78' to the Point of Beginning; thence continuing S02°48'59"W 17.24' to the North line of an existing City of Fayetteville water and sewer easement (filed for record in Book 829 Page 865); thence along said North easement line S70°52'19"W 40.67'; thence continuing along said North easement line S70°02'15"W 41.47' to the intersection of the North line of an existing 20.00' utility easement (filed for record as Document #2002-

118059); thence along the North line of said 20.00' utility easement S74°22'23"W 261.42' to the East line of an existing 15.00' utility easement (filed for record as Document #2002-118059); thence along the East line of said 15.00' utility easement N18°05'14"W 2.11'; thence N72°40'08"E 314.15'; thence N32°01'45"E 9.57'; thence N59°56'49"E 22.22'; thence N87°26'06"E 6.42' to the Point of Beginning, containing 2,502 square feet or 0.06 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct pipelines and/or make repairs to lines within the above-described easement at any time in the future and agrees to pay for or repair any damages as a result of such future construction and/or repairs as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

UNIVERSITY SQUARE, LLC, an Arkansas limited liability company

BY: _____
Narry Krushiker, Member

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
)
) ss.

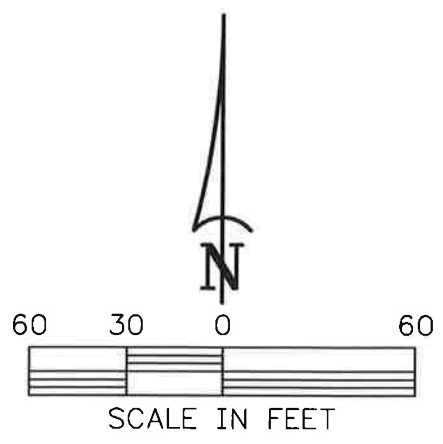
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared, **Narry Krushiker**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is a **Member of University Square, LLC**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

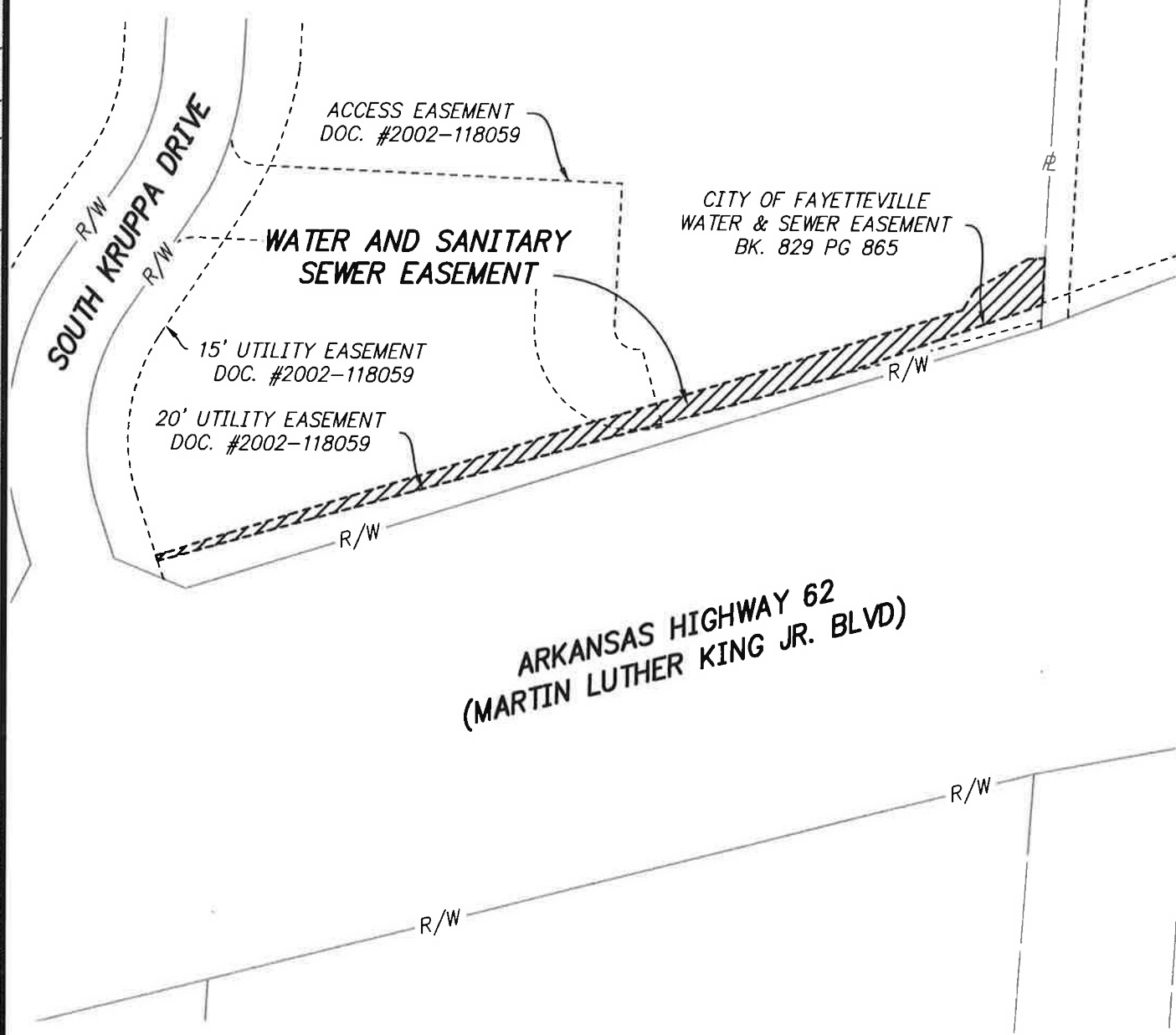
MY COMMISSION EXPIRES:

Notary Public

\\HWET-VB\HAWKINS-WEIR\LOCAL\PROJECTS\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\FINAL\KG EDITS\TRACT 35.DWG, 8/1/2024 11:35 AM, KELLI GREGG



765-14685-000
UNIVERSITY SQUARE, LLC
W MARTIN LUTHER KING BLVD



Van Buren (479) 474-1227	Fort Smith (479) 242-4685	Fayetteville (479) 455-2206	Little Rock (501) 374-4846
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www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 35 - UNIVERSITY SQUARE, LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 07/12/2024	SCALE: 1"=60'	JOB NO. 2022129
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Tract No. 36

Western Park, LLC



December 13, 2024

Mr. Lou Bitove
Western Park, LLC
31200 Northwestern Hwy
Farmington Hills, MI 48334

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14743-000
2575 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Bitove:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$4,000.00 for the rights associated with the permanent easement (4,484 square feet). This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property is the entrance driveway of a 16.94 acre mobile home park. The city is relocating water and sewer easements along this corridor. See mapping for specific locations.

12/12/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Western Park LLC	Property Owner
765-14743-000	Parcel #
Fayetteville	City
AR	State
Before the Acquisition	
737,776	SqFt - Land
Proposed Water and Sewer Easement	
4,484	SqFt - Land (Acquisition Area)
After the Acquisition	
733,292	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
4,484	SqFt - Land (Residual)
Not Zoned	Zoning
CONCLUSIONS	
\$ 6,243,000	Land Value Before the Acquisition
\$ 6,239,000	Land Value After the Acquisition
\$ 4,000	Market Value of the Acquisition

Due to the narrow driveway and floodway and floodplain, the acquisition area is effectively unbuildable and only useful as driveways, green space or signage.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the mobile home park and driveway do not appear to be permanently damaged by the new easements.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Western Park, LLC, a Delaware limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2012-00038333)

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) AND A PART OF THE NORTHEAST QUARTER (NE1/4) OF THE NORTHEAST QUARTER (NE1/4) ALL IN SECTION NINETEEN (19), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, IN THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION NINETEEN (19); THENCE SOUTH 89° 41' 04" WEST ALONG THE NORTH LINE OF SAID 40 ACRE TRACT 476.40 FEET; THENCE SOUTH 00° 00' 19" EAST 237.94 FEET TO AN EXISTING IRON FOR THE TRUE POINT OF BEGINNING; THENCE SOUTH 00° 00' 40" WEST 1091.01 FEET TO AN EXISTING IRON; THENCE NORTH 85° 57' 53" WEST 201.18 FEET TO AN EXISTING IRON; THENCE SOUTH 89° 38' 00" WEST 395.21 FEET TO AN EXISTING IRON; THENCE NORTH 00° 01' 44" EAST 162.45 FEET TO AN EXISTING IRON; THENCE SOUTH 89° 41' 54" EAST 12.99 FEET TO AN EXISTING IRON; THENCE 329.64 FEET TO A CHISELED "X"; THENCE NORTH 00° 38' 26" EAST 231.51 FEET TO AN EXISTING IRON OF THE SOUTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY #62; THENCE NORTH 75° 12' 30" EAST ALONG SAID RIGHT-OF-WAY LINE 62.20 FEET TO AN EXISTING IRON; THENCE LEAVING SAID RIGHT-OF-WAY LINE SOUTH 00° 38' 52" WEST 247.05 FEET TO AN EXISTING SURVEYORS NAIL; THENCE SOUTH 31° 28' 54" WEST 145.22 FEET TO AN EXISTING IRON; THENCE SOUTH 00° 00' 28" EAST 114.52 FEET TO AN EXISTING CHISELED "X" IN CONCRETE; THENCE NORTH 89° 31' 04" EAST 282.00 FEET TO THE POINT OF BEGINNING. LESS AND EXCEPT ALL THAT PART DEEDED TO THE ARKANSAS STATE HIGHWAY COMMISSION AS SHOWN BY INSTRUMENT NO. 2010-19515, MORE PARTICULARLY DESCRIBED AS FOLLOWS: PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A POINT BEING USED AS THE NORTHEAST SIXTEENTH CORNER OF SECTION 19; THENCE SOUTH 86° 54' 56" EAST ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 19 A DISTANCE OF 32.53 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF EAST FARMERS DRIVE AS ESTABLISHED BY CITY OF FAYETTEVILLE MASTER STREET PLAN PLAT; THENCE NORTH 01° 26' 35" WEST LONG SAID RIGHT OF WAY A DISTANCE OF 38.31 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 62 AS ESTABLISHED BY AHTD JOB 4705 SEC. 2; THENCE NORTH 52° 36' 34" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 9.33 FEET TO A POINT; THENCE NORTH 71° 02' 40" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 68.00 FEET TO A POINT; THENCE NORTH 71° 49' 46" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 155.75 FEET TO A POINT; THENCE NORTH 73° 41' 46" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 30.95 FEET TO A POINT; THENCE NORTH 72° 15' 53" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 192.94 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 62 AS ESTABLISHED BY AHTD JOB 9447; THENCE NORTH 79° 21' 32" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 131.01 FEET TO THE POINT OF BEGINNING; THENCE NORTH 79° 21' 32" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 58.21 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 62 AS ESTABLISHED BY AHTD JOB 040485; THENCE SOUTH 75° 54' 09" WEST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 59.21 FEET TO A POINT; THENCE NORTH 03° 27' 43" EAST A DISTANCE OF 3.68 FEET TO THE POINT OF BEGINNING AND CONTAINING 104 SQ. FT., MORE OR LESS AS SHOWN ON PLANS PREPARED BY THE AHTD REFERENCED AS JOB 04085. 12/21/09 REV. JB 01104/10.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Southeast corner of said Northeast Quarter of the Northeast Quarter; thence along the South line of said Quarter-Quarter N86°55'08"W 678.38'; thence N03°27'56"E 74.06' to the Point of Beginning; thence N89°24'50"W 58.43'; thence N04°07'29"E 122.92' to the Southern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence along said Southern right-of-way N79°24'24"E 15.50'; thence S02°24'38"W 100.74'; thence S89°24'50"E 40.10'; thence S03°27'43"W 4.45'; thence S03°27'56"W 20.58' to the Point of Beginning, containing 3,099 square feet or 0.07 acres more or less.

ALSO

Part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Southeast corner of said Northeast Quarter of the Northeast Quarter; thence along the South line of said Quarter-Quarter N86°55'08"W 678.38'; thence N03°27'56"E 94.65'; thence N03°27'43"E 20.64' to the Point of Beginning; thence N16°43'54"W 90.74' to the Southern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence along said Southern right-of-way N79°24'24"E 25.14'; thence S16°43'54"E 20.08'; thence S03°27'43"W 72.42' to the Point of Beginning, containing 1,385 square feet or 0.03 acres more or less.

Containing a net total of 4,484 square feet or 0.10 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct pipelines and/or make repairs to lines within the above-described easement at any time in the future and agrees to pay for or repair any damages as a result of such future construction and/or repairs as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

WESTERN PARK, LLC, a Delaware limited liability company

BY: _____
Joel Brown, Director

ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) ss.

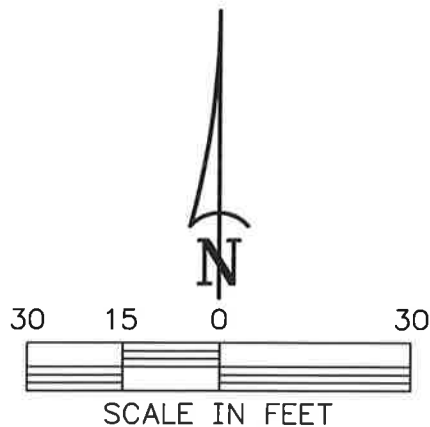
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared, **Joel Brown**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is a **Director of Western Park, LLC**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

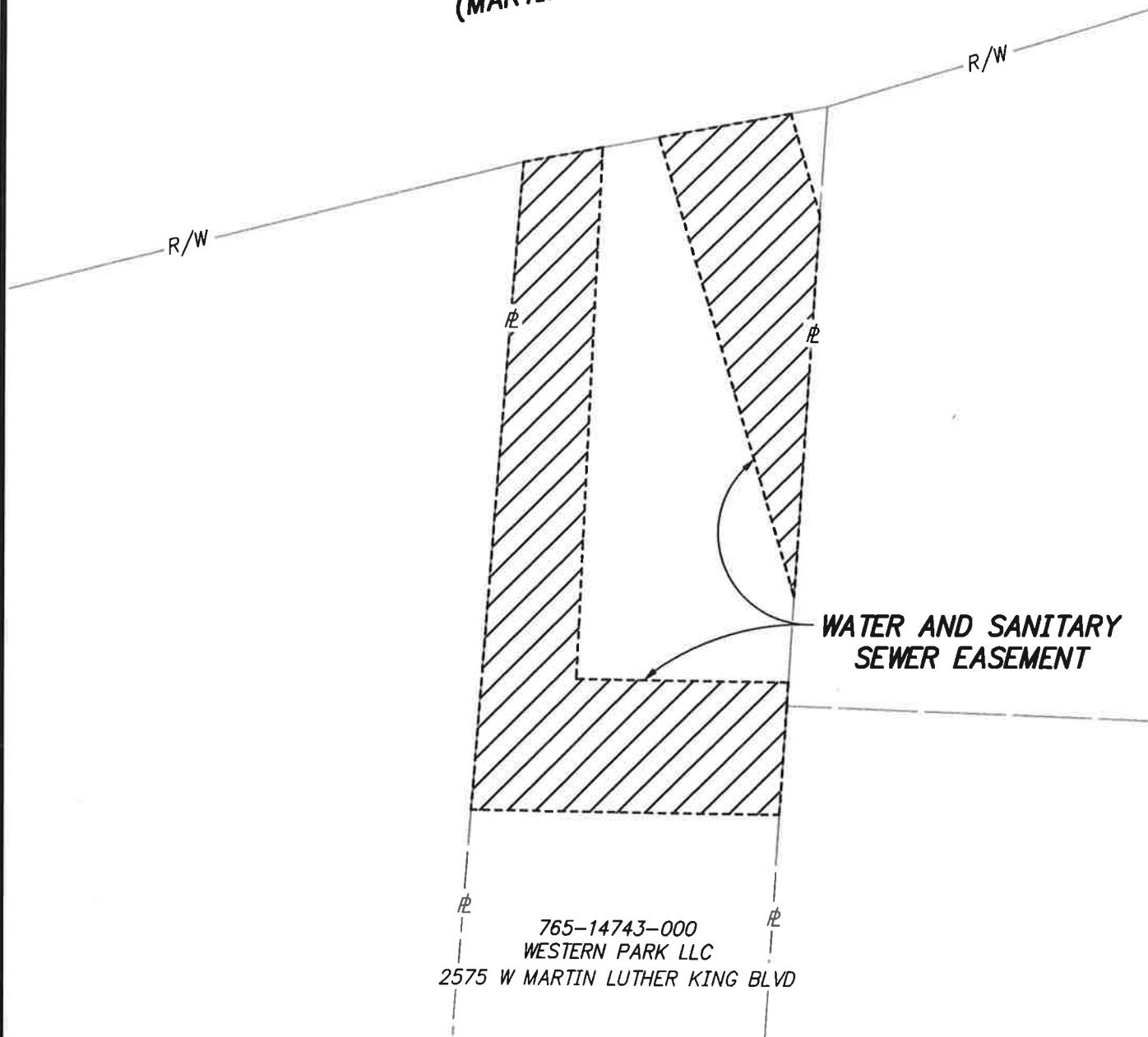
MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\NEW FOLDER\TRACT 36.DWG, 7/8/2024 2:00 PM, ANDREW MCCOLLUM, LAYOUT1



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 36 - WESTERN PARK LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 07/12/2024

SCALE: 1"=30'

JOB NO. 2022129

Tract No. 39

LLEJ Shiloh, LLC



November 22, 2024

Mr. Leonard Boen
LLEJ Shiloh, LLC
1 Remington Drive, Suite 100
Little Rock, AR 72221

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14674-000
1255 S SHILOH, Fayetteville, AR
(Offer Letter)

Dear Mr. Boen:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$2,000.00** for the rights associated with the permanent easement (1,373 square feet). This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

11/14/2024	Effective Date
PHYSICAL CHARACTERISTICS	
LLEJ Shiloh LLC	Property Owner
765-14674-000	Parcel #
Fayetteville	City
AR	State
Before the Acquisition	
13,504	SqFt - Land
Proposed Water and Sewer Easement	
1,373	SqFt - Land (Acquisition Area)
After the Acquisition	
12,131	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
1,373	SqFt - Land (Residual)
C-2: Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 144,000	Land Value Before the Acquisition
\$ 142,000	Land Value After the Acquisition
\$ 2,000	Market Value of the Acquisition

Before the acquisition, the subject property consists of 0.31 acres of vacant commercial land. Due to floodway and floodplain, it is effectively an unbuildable parcel only useful as green space or signage. The city is relocating water and sewer easements along this corridor. See mapping for specific locations.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city.

There is a paved driveway and a sign that are not in the easement area and appear unaffected.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **LLEJ Shiloh, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2020-00012196)

A tract of land located In the NE of the NE of Section 19, Township 16 North, Range 30 West of the 5th PM, Washington County, Arkansas, more particularly described as follows: Commencing at the Southeast corner of the NE of the NE of said Section 19, and run along the South line of said NE of the NE S88°51'W 403.37 feet to a point on the Westerly right of way line of the lands deeded to the Arkansas State Highway Commission In Warranty Deed Volume 1002, Page 528, for the point of beginning; thence continuing along said South line S88°51'W 128.74 feet; thence leaving said South line N 268.28 feet to said Westerly right of way line; thence along said right of way line the following courses: S56°23'55"E 96.72 feet; thence S13°06'W 32.0 feet; thence S25°34'E 75.0 feet; thence S56°32'E 29.2 feet; thence S32°42'E 74.1 feet to the point of beginning, containing 0.33 acres, more or less.

LESS and EXCEPT

That portion of the above described property conveyed to the Arkansas State Highway Commission in Warranty Deed filed for record as File No. 2010-00012108, Records of Washington County, Arkansas, being more particularly described as follows: Part of the NE of the NE of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a point being used as the Northeast Sixteenth Corner of Section 19; thence S86°54'56"E along the South line of the NE of the NE of Section 19 a distance of 32.53 feet to a point on the Easterly right of way line of East Farmers Drive as established by the City of Fayetteville Master Street Plan; thence N01°26'35"W along said right of way line 38.31 feet to a point on the Southerly right of way line of US Highway 62 as established by AHTD Job 4705 Sec. 2; thence N52°36'34"E along said right of way line 9.33 feet; thence N71°02'40"E along said right of way line 68.00 feet; thence N71°49'46"E along said right of way line 155.75 feet; thence N73°41'46"E along said right of way line 30.95 feet; thence N72°15'53"E along said right of way line 192.94 feet to a point on the Southerly right of way line of US Highway 62 as established by AHTD Job 9447; thence N79°21'32"E along said right of way line 338.68 feet to a point on the Westerly right of way line of I-540 as established by AHTD Job 4706 Sec. 3; thence S20°19'18"E along said right of way line 0.92 feet to the Point of Beginning; thence continue S20°19'18"E along said right of way line 113.13 feet; thence S16°40'48"W along said right of way line 10.99 feet to a point on the Westerly right of way line of I-540 as established by AHTD Job 040485; thence N 23°49'54"W along said right of way line 92.06 feet; thence N01°52'36"E 32.43 feet to the point of beginning, containing 0.02 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Southeast corner of said Northeast Quarter of the Northeast Quarter; thence along the South line of said Quarter-Quarter N86°55'08"W 525.37'; thence N01°59'12"E 73.65' to the Point of Beginning; thence N01°59'12"E 24.09'; thence N01°52'36"E 17.89'; thence S71°01'52"E 26.61' to the West line of an existing City of Fayetteville water and sewer easement (filed for record in Book 1016 Page 507); thence along said West easement line S21°52'38"E 41.30'; thence N88°42'42"W 36.03'; thence N54°40'50"W 7.29' to the Point of Beginning, containing 1,373 square feet or 0.03 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct pipelines and/or make repairs to lines within the above-described easement at any time in the future and agrees to pay for or repair any damages as a result of such future construction and/or repairs as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

LLEJ SHILOH, LLC, an Arkansas limited liability company

BY:

Leonard Boen, Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
)
)

ss.

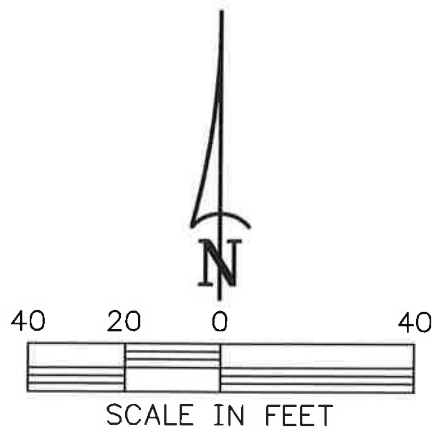
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared, **Leonard Boen**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **Manager of LLEJ Shiloh, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

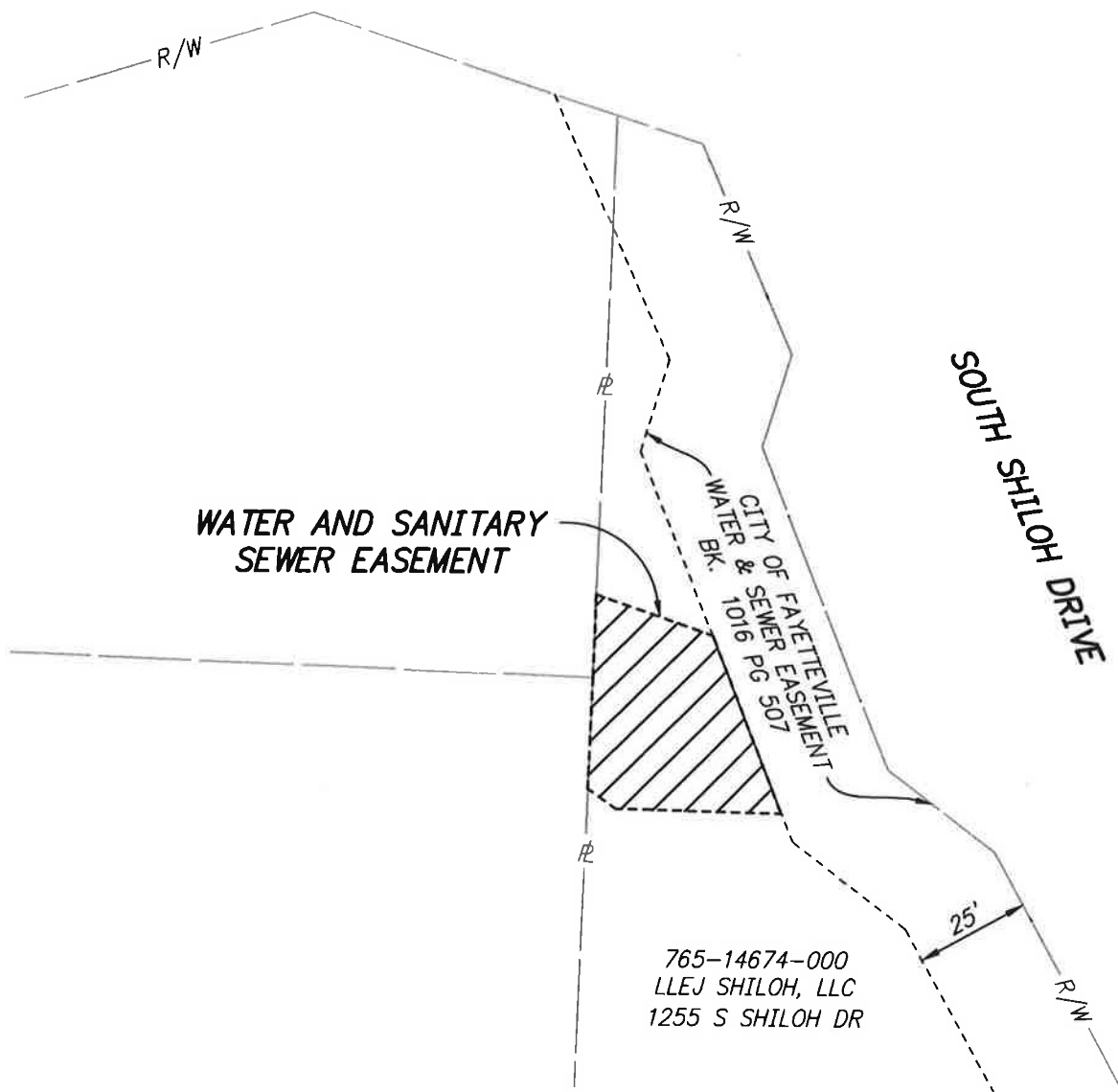
MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\TRACT 39.DWG, 7/15/2024 4:41 PM, JOSH NICHOLS, LAYOUT1



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

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EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 39 - LLEJ SHILOH, LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 07/12/2024

SCALE: 1"=40'

JOB NO. 2022129

Tract No. 45

Tract 2 Holdings, LLC



November 22, 2024

Mr. Leonard Boen
Tract 2 Holdings, LLC
1 Remington Drive, Suite 100
Little Rock, AR 72204

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14734-000
1255 S SHILOH DR, Fayetteville, AR
(Offer Letter)

Dear Mr. Boen:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$40,000.00 for the rights associated with the permanent easement (9,011 square feet) and \$7,000.00 for the rights associated with the temporary construction and grading easement (4,939 square feet), for a total of **\$47,000.00**. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of 4.172 acres of commercial land. The city is relocating water and sewer easements along this corridor.

[illegible]

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach | Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Tract 2 Holdings, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2019-00029736)

Part of the SE1/4, of the NE1/4, of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at the NE corner of the SE1/4, of the NE1/4, of said Section 19; thence N87°55'30"W 401.80 feet to a point on the West Right-of-Way Line of US Highway No. 71 frontage Road (S. Shiloh Drive); thence along said Right-of-Way Line, S29°07'22"E 127.40 feet; thence S41°14'12"E 106.00 feet; thence S47°46'12"E 222.20 feet; thence S38°54'12"E 42.80 feet; thence S31°04'12"E 10.82 feet to the point of beginning; thence continuing S31°04'12"E 69.88 feet; thence S08°44'18"E 36.86 feet; thence S02°32'24"W 260.00 feet; thence S00°48'30"E 102.23 feet; thence leaving said Right-of-Way Line, N86°57'30"W 476.46 feet; thence N02°46'39"E 306.47 feet; thence N73°34'44"E 422.79 feet; thence N42°54'55"E 34.59 feet to the point of beginning, containing 4.172 acres more or less.

PERMANENT EASEMENT DESCRIPTION:

Part of the Southeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northeast Quarter; thence along the East line of said Quarter-Quarter S02°51'24"W 822.77' to the intersection of said East Quarter-Quarter line with the West right-of-way of South Shiloh Drive; thence along said West right-of-way N40°30'35"W 30.88' to the West line of an existing City of Fayetteville water and sewer easement (filed for record as Document #2021-00049240) and the Point of Beginning; thence along said West easement line S04°05'56"W 20.29' to the North line of an existing 15' utility easement (filed for record in Book 1165 Page 617); thence along said North easement line N86°53'29"W 7.94'; thence N40°30'35"W 45.96'; thence N02°26'50"E 342.72'; thence N88°22'27"W 5.03'; thence S68°12'51"W 3.91'; thence N19°48'48"W 24.16'; thence N70°30'43"E 13.80'; thence N02°27'18"E 14.80'; thence N11°53'25"W 16.25'; thence N42°54'55"E 6.55' to the Southwest line of an existing utility easement (filed for record as Document #2019-00008609); thence along said Southwest easement line S47°35'07"E 6.84' to the intersection of the Southwest line of an existing utility easement (filed for record in Book 1015 Page 679); thence along said Southwest easement line S31°04'37"E 35.28' to the West right-of-way of South Shiloh Drive; thence along said West right-of-way S02°26'53"W 362.41'; thence continuing along said West right-of-way S40°30'35"E 29.13' to the Point of Beginning, containing 9,011 square feet or 0.21 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

Part of the Southeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northeast Quarter; thence along the East line of said Quarter-Quarter S02°51'24"W 822.77' to the intersection of said East Quarter-Quarter line with the West right-of-way of South Shiloh Drive; thence along said West right-of-way N40°30'35"W 2.85' to the North line of an existing 15' utility easement (filed for record in Book 1165 Page 617); thence along said North easement line N86°53'29"W 27.63' to the West line of the above described permanent easement and the Point of Beginning; thence continuing along said North easement line N86°53'29"W 13.81'; thence N40°30'35"W 40.37'; thence N02°25'31"E 337.14'; thence N88°43'07"W 16.75'; thence N19°30'56"W 39.44'; thence N73°17'08"E 38.83' to the West line of the above described permanent easement; thence along said West line the following seven (7) courses: S02°27'18"W 13.64'; thence S70°30'43"W 13.80'; thence S19°48'48"E 24.16'; thence N68°12'51"E 3.91'; thence S88°22'27"E 5.03'; thence S02°26'50"W 342.72'; thence S40°30'35"E 45.96' to the Point of Beginning, containing 4,939 square feet or 0.11 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

TRACT 2 HOLDINGS, LLC, an Arkansas limited liability company

BY: _____
Leonard Boen, Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

}
}
ss.

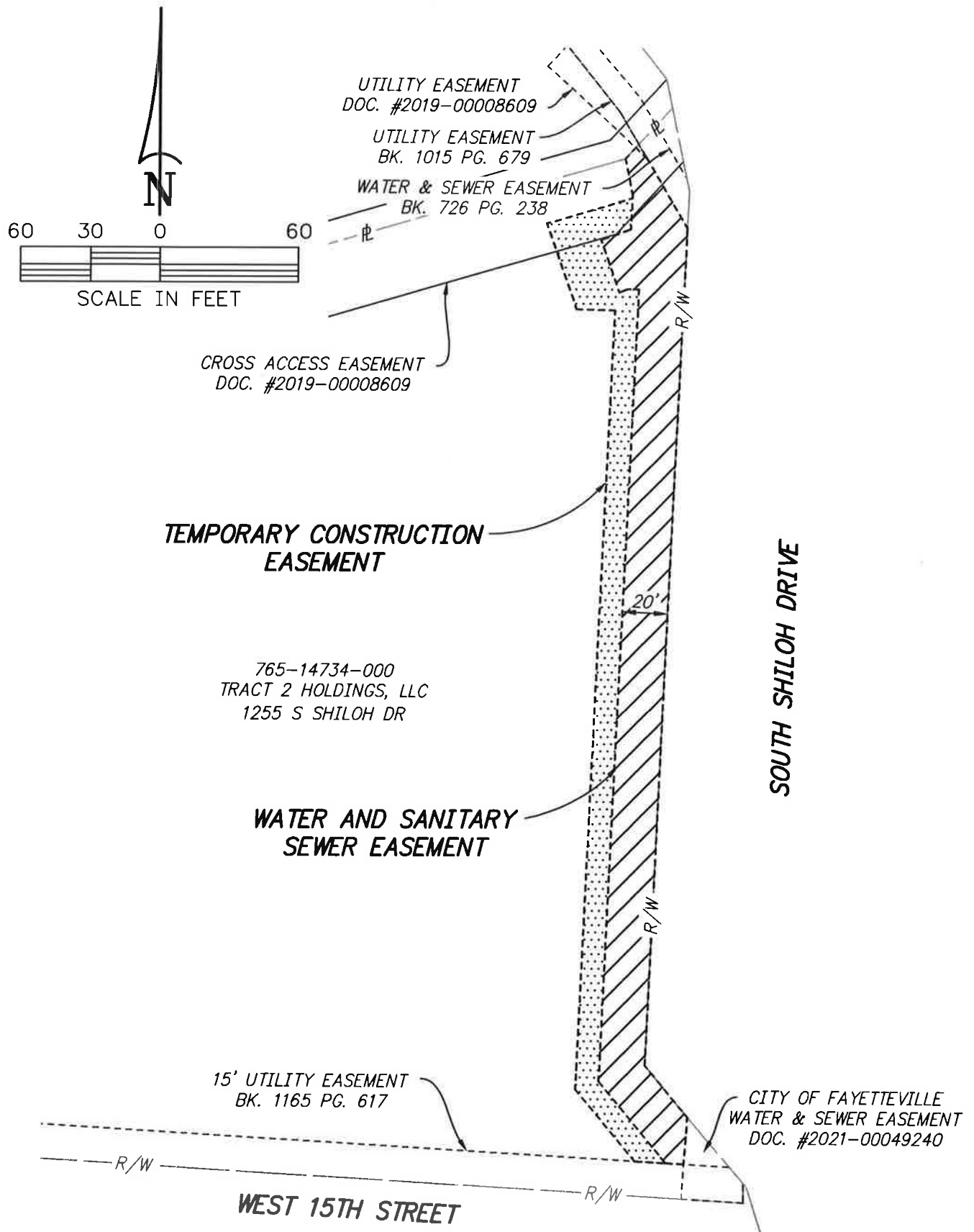
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared, **Leonard Boen**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **Manager of Tract 2 Holdings, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\KG EDITS\TRACT 45.DWG, 8/19/2024 3:15 PM, ANDREW MCCOLLUM, LAYOUT1



HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 45 - TRACT 2 HOLDINGS, LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 08/16/2024

SCALE: 1"=60'

JOB NO. 2022129

City of Fayetteville Staff Review Form

2025-302

Item ID

3/18/2025

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Tim Nyander

2/27/2025

WATER SEWER (720)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends City Council approval of a Resolution authorizing the City Attorney to seek condemnation and orders of possession for the remaining easements necessary for the I-49/MLK Utility Relocations Project.

Budget Impact:

5400.720.5600-5810.00

Water & Sewer

Account Number

Fund

11011.2301

Water & Sewer Relocations - I-49 & MLK
Interchange

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 9,781,598.00

Expenses (Actual+Encum)

\$ 8,814,071.29

Available Budget

\$ 967,526.71

Does item have a direct cost? Yes

Item Cost

\$ 889,716.08

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 77,810.63

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Tract No.	Owner	Appraised Value of PUE*	Appraised Value of TCE**	Damages	Total Value of Easements
Unnumbered	Manav Investor of N.W. Arkansas, Inc.	\$2,000.00	\$1,600.00		\$3,600.00
10	Lowe's Home Center Inc.	\$90,000.00	\$26,000.00	\$1,700.00	\$117,700.00
12	Mathias Shopping Centers, Inc.	\$48,000.00	\$5,800.00	\$500.00	\$54,300.00
13	Metropolitan Bank	\$1,400.00			\$1,400.00
14	Superior Bank	\$101,000.00	\$1,800.00	\$2,800.00	\$105,600.00
15	Liberty Bank of Arkansas	\$94,366.08	\$7,550.00	\$2,500.00	\$104,416.08
16	Cooper Realty Investments, Inc.; Burger Investments, LLC; and IWS Shelby, LLC	\$38,000.00	\$9,400.00		\$47,400.00
17	Wal-Mart Real Estate Business Trust	\$226,000.00	\$28,000.00		\$254,000.00
19	Inreit Fayetteville, LLC	\$25,000.00		\$18,000.00	\$43,000.00
20	Vasiliki Investments, LLC	\$3,000.00		\$400.00	\$3,400.00
24	Gregory S. Long	\$1,000.00	\$2,700.00		\$3,700.00
25	Hultquist Investments, LLC	\$9,000.00		\$1,100.00	\$10,100.00
26	Bird Cold Storage Company	\$12,000.00	\$3,200.00	\$500.00	\$15,700.00
28	RPC Land Holdings, LLC	\$31,000.00	\$8,600.00		\$39,600.00
32	Halbert Properties, LLC	\$7,000.00		\$2,000.00	\$9,000.00
35	University Square, LLC	\$21,000.00			\$21,000.00
36	Western Park, LLC	\$4,000.00			\$4,000.00
39	LLEJ Shiloh, LLC	\$2,000.00			\$2,000.00
40	Wal-Mart Stores, Inc. now known as Walmart Inc.	\$2,000.00	\$800.00		\$2,800.00
45	Tract 2 Holdings, LLC	\$40,000.00	\$7,000.00		\$47,000.00
		\$757,766.08	\$102,450.00	\$29,500.00	\$889,716.08

*PUE = Permanent Utility Easement

**TCE = Temporary Construction Easement

Parcel No. 765-14676-000

Manav Investor of N.W. Arkansas, Inc.



December 3, 2024

Mr. Raj Gandhi
Manav Investor of N.W. Arkansas, Inc.
1219 S Thompson Street
Springdale, AR 72764

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14676-000
MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Gandhi:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$2,000.00 for the rights associated with the permanent easement (2,030 square feet) and \$1,600.00 for the rights associated with the temporary construction and grading easement (1,344 square feet), for a total of **\$3,600.00**. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of 0.28 acres of commercial land serving as an entrance and signage parcel to the greater Super 8 hotel use including the larger parcel to the south under the same ownership. The city is relocating water and sewer easements along this corridor. See mapping for specific locations.

12/2/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Manav Investor of NW	Property Owner
AR	Property Owner
765-14676-000	Parcel #
Fayetteville	City
AR	State
31,296	SqFt Hotel GBA
Before the Acquisition	
12,197	SqFt - Land
Proposed Water and Sewer Easement	
2,030	SqFt - Land (Acquisition Area)
After the Acquisition	
10,167	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
2,030	SqFt - Land (Residual)
Temporary Construction Easements	
1,344	SqFt - Land
C-2: Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 130,000	Land Value Before the Acquisition
\$ 128,000	Land Value After the Acquisition
\$ 2,000	Market Value of the Acquisition
\$ 1,600	TCE
\$ -	Damages

Due to floodway and floodplain, the acquisition area is effectively unbuildable and only useful as driveways, green space or signage.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the hotel and driveway improvements do not appear to be permanently damaged by the new easements.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Manav Investor of N.W. Arkansas, Inc., an Arkansas corporation**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2012-00002030)

Part of a tract of land recorded in Liber 1406, page 906, located in the SE 1/4 of the NE 1/4 and a part of a tract of land recorded at Liber 1311, page 229, located in the NE 1/4 of the NE 1/4, all in Section 19, T-16-N, R-30-W, Washington County, Arkansas, described as:

Commencing at the NE corner of said SE 1/4 of the NE 1/4; thence N 89°32'00" W, 476.40 feet along the North line of said SE 1/4 of the NE 1/4 to an existing iron pin at the NE corner of the aforementioned tract of land recorded at Liber 1406, page 906, for the point of beginning, said point being also the NW corner of a tract of land recorded at Liber 1153, page 585; thence S 00°50'37" W, 238.30 feet, along the common line of the above mentioned tracts to a found iron pin; thence N 89°32'00" W, 282.00 feet to a chiseled "X" on the East line of a private street; thence N 00°50'37" E, 115.00 feet along said East line of the private street to a found iron pin; thence N 32°22'28" E, 145.24 feet to an existing bole set in concrete on the North line of said SE 1/4 of the NE 1/4, being also the SW corner of the aforementioned tract of land recorded at Liber 1311, page 229; thence N 01°23'53" E, 94.81 feet along the west line of said tract to a found iron pin; thence N 89°53'4" E, 150.42 feet to a found iron pin; thence S 00°06'11" E, 96.30 feet along the east line of said tract to an existing chiseled "X" at the SE corner thereof; thence S 89°32'00" E, 53.14 feet to the point of beginning, containing 1.77 acres, more or less, being subject to any and all easements and rights-of-way of record.

The above-described property now being more accurately described on a plat of survey dated December 14, 2011, designated as job number 11218, by Survey 1, Inc., Gene Buescher, PLS #1181, as follows:

A part of the SE 1/4 of the NE 1/4 and a part of the NE 1/4 of the NE 1/4, Section 19, T-16-N, R-30-W, Washington County, Arkansas, being more particularly described as follows:

Commencing at the NE corner of the said SE 1/4 of the NE 1/4, thence N 87°31'45" W, 476.40 feet to a set iron pin and the point of beginning; thence S 02°50'52" W, 238.30 feet; thence N 87°27'47" W, 281.83 feet to a chiseled "X" on the East line of a private concrete street; thence N 02°49'37" E, 114.53 feet to a found iron pin; thence N 34°15'53" E, 145.25 feet to a found iron pin; thence N 03°28'05" E, 94.79 feet to a found iron pin; thence S 88°05'51" E, 150.42 feet to a found iron pin; thence S 01°54'02" W, 96.28 feet to a chiseled "X" in the concrete; thence S 87°31'05" E, 53.13 feet to the point of beginning, containing 1.77 acres, more or less, and subject to any and all easements of record or fact.

Together with and Subject to the rights granted in an Access Agreement, by and between Payless Shoesource, Inc., Supertel Hospitality, Inc., Retail Buildings, Inc., and Robert B. Westphal and Betty J. Westphal, filed for record March 21, 1995 in land document #95-13732 and in land document #95- 13741, and also filed for record March 29, 1995 in land document #95-15184.

Together with and subject to the rights granted in a Reciprocal Access Easement Agreement, by and between Supertel Hospitality, Inc., and Payless Shoesource, Inc., dated March 16, 1995 and filed for record March 21, 1995 in land document #95-13750.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Southeast corner of said Northeast Quarter of the Northeast Quarter; thence along the South line of said Quarter-Quarter N86°55'08"W 525.37'; thence N01°59'12"E 73.65' to the Point of Beginning; thence N54°40'50"W 18.23'; thence N89°05'36"W 115.74' to the East line of an existing 20' City of Fayetteville water and sewer easement (filed for record as Document #2022-00018409); thence along said East easement line N03°27'56"E 16.08'; thence S88°05'19"E 130.54'; thence S01°59'12"W 24.09' to the Point of Beginning, containing 2,030 square feet or 0.05 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 10.00' wide easement lying parallel and adjacent to the South line of the above-described permanent easement, containing 1,344 square feet or 0.03 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

MANAV INVESTOR OF N.W. ARKANSAS, INC.

BY: _____
Raj Gandhi, President

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

)
) ss.
)

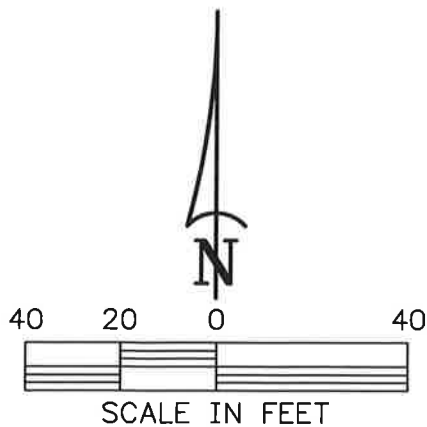
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Raj Gandhi** to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **President of Manav Investor of NW Arkansas Incorporated**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

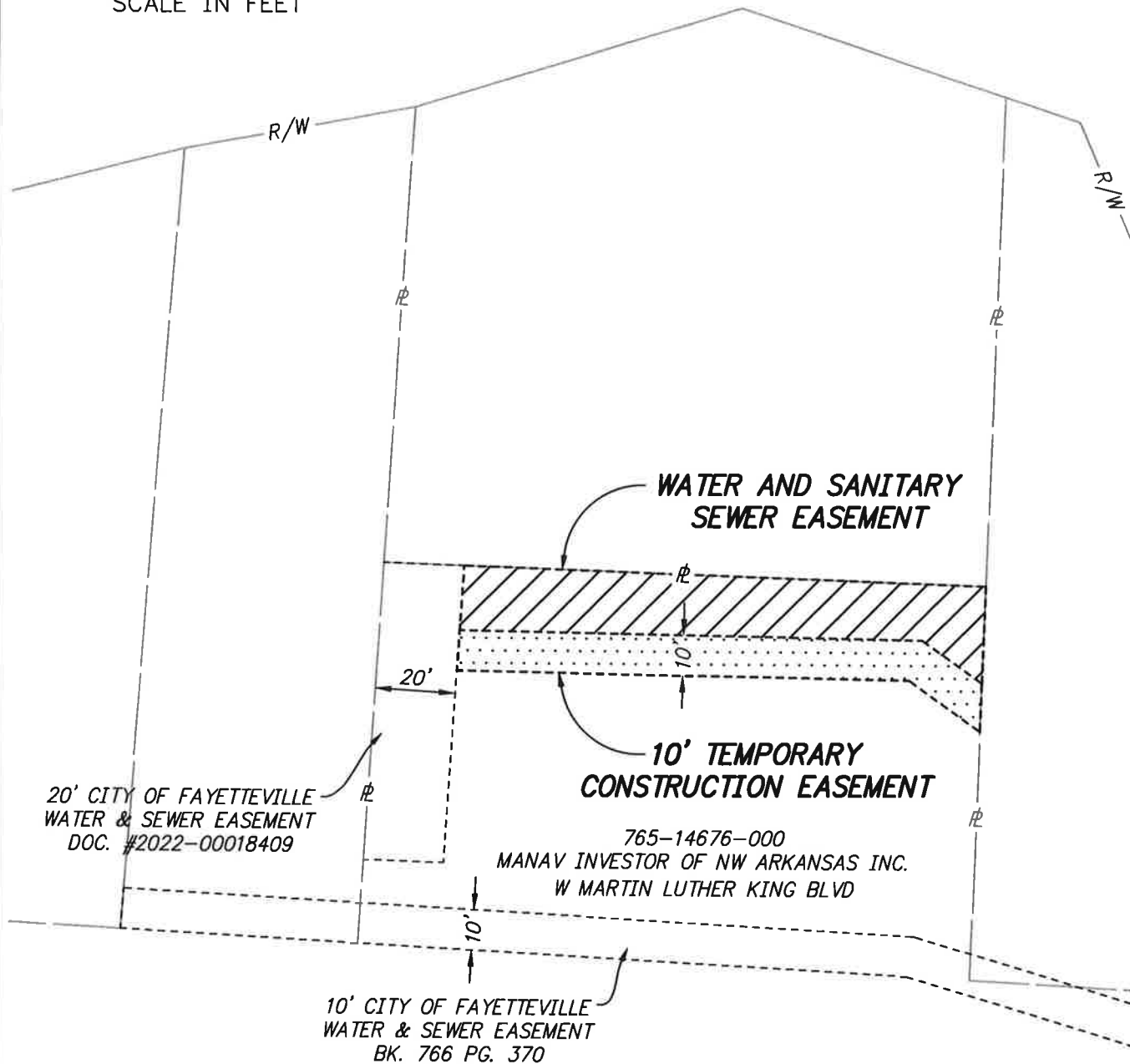
MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\KG EDITS\MANAV INVESTOR OF NW ARKANSAS INC.DWG, 8/19/2024 4:48 PM, ANDREW MCCOLLUM, LAYOUT



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



HW HAWKINS & WEIR
ENGINEERS, INC.

Van Buren (479) 474-1227 | Fort Smith (479) 242-4685 | Fayetteville (479) 455-2206 | Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
MANAV INVESTOR OF NW ARKANSAS INC.
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 08/16/2024

SCALE: 1"=40'

JOB NO. 2022129

Tract No. 10

Lowe's Home Center, Inc.



December 13, 2024

Mr. Mark Nuckolls
Lowe's Home Center Inc.
P.O. Box 1000- Mail Code 2ETA
Mooresville, NC 28115

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-22966-000
3231 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Nuckolls:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$90,000.00 for the rights associated with the permanent easement (15,164 square feet), \$26,000.00 for the rights associated with the temporary construction and grading easement (9,106 square feet), and \$1,700.00 for damages, for a total of **\$117,700.00**. Damages include the loss of professionally landscaped tree and bushes. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 135,268 SqFt big box store on 13.30 acres of commercial land. The city is relocating water and sewer easements along this corridor.

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

12/12/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Lowe's Home Centers	Property Owner
Inc #432	
765-22966-000	
Fayetteville	
AR	State
135,268	SqFt - Gross Building Area
566,280	SqFt - Land
15,164	SqFt - Land (Acquisition Area)
551,116	SqFt - Land (Remainder)
15,164	SqFt - Land (Residual)
9,106	SqFt - Land
D: Commercial Planned Zoning District	Zoning
CONCLUSIONS	
\$ 13,170,000	Land Value Before the Acquisition
\$ 13,080,000	Land Value After the Acquisition
\$ 90,000	Market Value of the Acquisition
\$ 26,000	TCE
\$ 1,700	Damages

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: Damages include the loss of professionally landscaped trees and bushes.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Lowe's Home Center Inc., a North Carolina Corporation**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2003-42899)

LOT 1:

Part of the Northwest and the Southwest Quarters of Section 19, Township 16 North, Range 30 West of the 5th P.M., City of Fayetteville, Washington County, Arkansas, described as follows:

Commencing at the Southeast corner of said Northwest Quarter, thence North 88°08'58" West 42.94 feet along the South line of said Northwest Quarter to its intersection with the West right of way line of Finger Road; thence North 1°49'53" East, 169.01 feet along said West right of way; thence North 88°57'24" West, 163.24 feet; thence South 68°53'07" West, 173.40 feet; thence North 88°05'33" West, 265.19 feet to the point of beginning; thence South 1°51'27" West 338.10 feet; thence South 90°00'00" West 802.44 feet; thence North 1°02'35" East 656.56 feet to a point on the South right of way of US Highway 62; thence North 74°35'55" East 790.68 feet along said South right of way, thence South 1°02'36" West 527.72 feet; thence North 88°57'31" East, 48.78 feet to the point of beginning. Contains 13.619 acres of land, more or less.

PERMANENT EASEMENT DESCRIPTION:

Part of Lot 1, Cobb & Westphal Concurrent Plat, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northwest corner of said Lot 1; thence along the West line of said Lot S02°13'26"W 35.52' to the Southern right-of-way of Martin Luther King Jr. Boulevard (Per ARDOT Job 040846) and the Point of Beginning; thence continuing along said Southern right-of-way the following two courses: N76°05'05"E 12.57'; thence N48°36'37"E 30.79' to the Southern line of an existing utility easement (filed for record as Document #2002-00104765); thence along said Southern easement line N75°53'32"E 42.90' to the West line of an existing 20' utility easement (filed for record as Document #023A-00000058); thence along said West easement line S02°21'55"W 15.64'; thence S75°53'32"W 12.84'; thence S48°41'43"W 52.77'; thence S75°58'29"W 25.95'; thence N02°13'26"E 26.06' to the Point of Beginning, containing 1,946 square feet or 0.05 acres more or less.

ALSO

Part of Lot 1, Cobb & Westphal Concurrent Plat, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Lot 1; thence along the East line of said Lot S02°20'26"W 103.95' to the Point of Beginning; thence continuing along said East line S02°20'26"W 25.00'; thence N87°44'39"W 314.74'; thence S75°53'32"W 366.27' to the East line of an existing 20' utility easement (filed for record as Document #023A-00000058); thence along said East easement line N02°21'55"E 15.64' to the Southern line of an existing utility easement (filed for record as Document #2002-00104765); thence along said Southern easement line N75°53'32"E 399.60'; thence S87°44'14"E 282.76' to the Point of Beginning, containing 13,218 square feet or 0.30 acres more or less.

Containing a net total of 15,164 square feet or 0.35 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

Part of Lot 1, Cobb & Westphal Concurrent Plat, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Lot 1; thence along the East line of said Lot S02°20'26"W 128.95' to the Point of Beginning; thence continuing along said East line S02°20'26"W 10.00'; thence N87°44'39"W 313.29'; thence S75°53'32"W 252.96'; thence S13°23'37"E 25.87'; thence S76°20'41"W 53.77'; thence N13°23'37"W 25.44'; thence S75°53'32"W 61.06' to the East line of an existing 20' utility easement (filed for record as Document #023A-00000058); thence along said East easement line N02°21'55"E 10.43'; thence N75°53'32"E 366.27'; thence S87°44'39"E 314.74' to the Point of Beginning, containing 8,190 square feet or 0.19 acres more or less.

ALSO

A 10.00' wide easement over part of Lot 1, Cobb & Westphal Concurrent Plat, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Northwest corner of said Lot 1; thence along the West line of said Lot S02°13'26"W 66.79' to the Point of Beginning; thence N75°58'29"E 28.62'; thence N48°41'43"E 52.78'; thence N75°53'32"E 10.15' to the West line of an existing 20' utility easement (filed for record as Document #023A-00000058) and the Point of Termination, containing 916 square feet or 0.02 acres more or less.

Containing a net total of 9,106 square feet or 0.21 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

LOWE'S HOME CENTER INC., A North Carolina corporation

BY: _____

[Please print or type Name and Title]

ATTEST:

[Please print or type Name and Title]

ACKNOWLEDGMENT

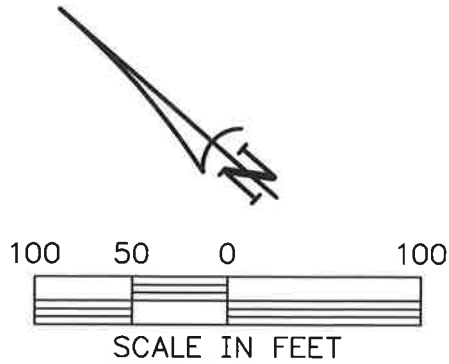
STATE OF _____ }
COUNTY OF _____ } ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the _____ and _____, respectively, of **Lowe's Home Center Inc. a North Carolina corporation**, and are 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 instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)

R/W
UTILITY EASEMENT
DOC. #2002-00104765

WATER AND SANITARY
SEWER EASEMENT

765-22966-000
LOWE'S HOME CENTERS INC #432
3231 W MARTIN LUTHER KING BLVD

TEMPORARY
CONSTRUCTION EASEMENT

20' UTILITY EASEMENT
DOC. #023A-00000058

TEMPORARY
CONSTRUCTION EASEMENT
WATER AND SANITARY
SEWER EASEMENT

HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"

UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 10 - LOWE'S HOME CENTER INCORPORATED #432
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 08/16/2024

SCALE: 1"=100'

JOB NO. 2022129

Tract No. 12

Mathias Shopping Centers, Inc.



November 22, 2024

Mr. Arthur Thurman
Mathias Shopping Centers, Inc.
PO Box 6485
Springdale, AR 72766

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14764-000
3052 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Thurman:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$48,000.00 for the rights associated with the permanent easement (7,850 square feet), \$5,800.00 for the rights associated with the temporary construction and grading easement (1,923 square feet), and \$500.00 for damages, for a total of **\$54,300.00**. Damages include the loss of one professionally landscaped tree. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of 23,140 SqFt in three detached buildings on 3.32 acres of commercial land. The three buildings consist of a +/-7,920 SqFt service garage, a +/-11,220 SqFt professional office, and a +/-4,000 SqFt retail building. The city is relocating water and sewer easements along this corridor.

11/8/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Mathias Shopping Centers, Inc.	Property Owner
765-14764-000	Parcel #
Fayetteville	City
AR	State
23,140	SqFt - Gross Building Area
144,619	SqFt - Land
7,850	SqFt - Land (Acquisition Area)
136,769	SqFt - Land (Remainder)
7,850	SqFt - Land (Residual)
1,923	SqFt - Land
C-2: Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 3,524,000	Value Before the Acquisition
\$ 3,476,000	Value After the Acquisition
\$ 48,000	Market Value of the Acquisition
\$ 5,800	TCE
\$ 500	Damages

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: Damages include the loss of one professionally landscaped tree.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Mathias Shopping Centers, Inc., an Arkansas corporation**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2013-00039657)

A part of the SE 1/4 of the NW 1/4 of Section 19, Township 16 North, Range 30 West, Fayetteville, Washington County, Arkansas, being more particularly described as follows: Commencing at the NE corner of said 40 acre tract, said point being an existing railroad spike, thence S 02°16'39" W 142.01 feet (deed= South 142.50 feet) along the East line of said 40 acre tract; thence N 87°01'19" W 221.51 feet (deed= West 219.70 feet) to an existing iron rebar for the true point of beginning; thence N 88°06'54" W 386.34 feet (deed= S 89°12'56" W 287.80 feet) along the South line of Stapleton's Subdivision to the City of Fayetteville, Arkansas, to a set 1/2" iron rebar thence S 02°16'56" W 428.47 feet (deed= S 00°47'04" E 424.79 feet) to an existing iron rebar on the North right-of-way line of U.S. Highway #62 (West Sixth Street); thence N 76°09'08" E 402.30 feet (deed= N 73°37'48" E 390.78 feet) along said right-of-way line to an existing iron rebar; thence leaving said right-of-way line, N 02°15'30" E 319.38 feet (deed=N 01°15'20" E 320 feet) to the point of beginning, containing 3.32 acres, more or less.

Subject to recorded instruments, covenants, rights of way, and easements, if any.

Subject to all prior mineral reservations and oil and gas leases, if any.

PERMANENT EASEMENT DESCRIPTION:

Part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 235.80'; thence N87°33'59"W 231.50' to the Point of Beginning; thence S02°20'28"W 159.83'; thence N08°28'39"W 168.87' to the Southeast line of an existing utility and access easement (filed for record as Document #2016-00017161); thence along said Southeast easement line N68°32'02"E 30.79'; thence S08°28'39"E 18.80' to the Point of Beginning, containing 2,815 square feet or 0.06 acres more or less.

ALSO

Part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 440.18'; thence N87°33'59"W 231.17' to the Northern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence N02°20'28"E 244.74' to the North line of an existing utility and access easement (filed for record as Document #2016-00017161) and the Point of Beginning; thence along said North easement line S68°32'02"W 56.67'; thence N40°13'37"E 16.31'; thence N07°46'00"W 21.35'; thence N39°10'44"E 44.17'; thence N76°11'07"E 19.76'; thence S02°20'28"W 51.94' to the Point of Beginning, containing 2,120 square feet or 0.05 acres more or less.

ALSO

Part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 440.18'; thence N87°33'59"W 231.17' to the Northern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence N02°20'28"E 244.74' to the North line of an existing utility and access easement (filed for record as Document #2016-00017161); thence along said North easement line S68°32'02"W 69.15' to the Point of Beginning; thence continuing along said North easement line S68°32'02"W 52.94'; thence leaving said North easement line N89°16'05"W 26.60'; thence S31°57'02"W 16.86' to said North easement line; thence along said North easement line S68°32'02"W 32.76'; thence continuing along said North easement line West 17.45' to the East line of said easement; thence along said East easement line N00°47'05"W 13.92'; thence leaving said East easement line N79°04'42"E 29.82'; thence N31°57'02"E 31.67'; thence S89°16'05"E 86.88' to the Point of Beginning, containing 2,223 square feet or 0.05 acres more or less.

ALSO

A 20.00' wide easement over part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 440.18'; thence N87°33'59"W 231.17' to the Northern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence along said Northern right-of-way S74°00'50"W 83.02'; thence continuing along said Northern right-of-way S76°05'05"W 67.34'; thence N22°43'50"W 7.64' to the North line of an existing utility easement (filed for record as Document #2016-00017161) and the Point of Beginning; thence N22°43'50"W 34.61' to the Point of Termination, containing 692 square feet or 0.02 acres more or less.

Containing a net total of 7,850 square feet or 0.18 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 10.00' wide easement over part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 440.18'; thence N87°33'59"W 231.17' to the Northern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence N02°20'28"E 17.91' to the Point of Beginning; thence N08°28'39"W 193.88' to the South line of an existing utility and access easement (filed for record as Document #2016-00017161) and the Point of Termination, containing 1,923 square feet 0.04 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities,

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

MATHIAS SHOPPING CENTERS, INC., an Arkansas corporation

BY: Arthur Thurman, President

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

SS.

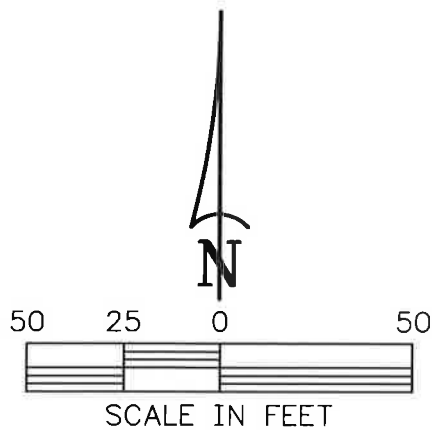
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Arthur Thurman**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **President of Mathias Shopping Centers, Inc.**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\KG EDITS\TRACT 12.DWG, 8/19/2024 7:56 AM, ANDREW MCCOLLUM, LAYOUT1



**WATER AND SANITARY
SEWER EASEMENT**

UTILITY & ACCESS EASEMENT
DOC. #2016-00017161

**TEMPORARY
CONSTRUCTION EASEMENT**

**WATER AND SANITARY
SEWER EASEMENT**

765-14764-000
MATHIAS SHOPPING CENTERS, INC.
3052 W MARTIN LUTHER KING BLVD

**WATER AND SANITARY
SEWER EASEMENT**

UTILITY EASEMENT
DOC. #2016-00017161

**ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)**

HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 12 - MATHIAS SHOPPING CENTERS, INC.
FOR: CITY OF FAYETTEVILLE, ARKANSAS

8/16/2024

SCALE: 1"=50'

JOB NO. 2022129

Tract No. 13

Metropolitan Bank



November 22, 2024

Mr. Matt Lukas
Metropolitan Bank
PO Box 8010
Little Rock, AR 72203

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-22967-001
3111 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Lukas:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$1,400.00** for the rights associated with the permanent easement (185 square feet). This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 3,442 SqFt bank on 1.36 acres of commercial land. The acquisition consists of:

Permanent Easements (WSE of 185 SqFt).

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

10/28/2024 Effective Date	
PHYSICAL CHARACTERISTICS	
Metropolitan Bank	Property Owner
765-22967-001	Parcel #
Fayetteville	City
AR	State
3,442	SqFt - Gross Building Area
59,242	SqFt - Land
185	SqFt - Land
59,057	SqFt - Total Land (Remainder)
185	SqFt - Land (Residual)
CPZD: Commercial Planned Zoning District	Zoning
CONCLUSIONS	
\$ 1,775,500	Value Before the Acquisition
\$ 1,774,100	Value After the Acquisition
\$ 1,400	
\$ 1,400	Market Value of the Acquisition

After the acquisition, the property rights in the relocated 185 SqFt water and sewer easement will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Metropolitan Bank**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2005-32443)

LOT 2-B OF THE LOT SPLIT FOR COBB AND WESTPHAL, AS SHOWN UNDER LAND DOCUMENT NUMBER 2005-00014956 AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:
A PART OF THE SE¼ OF THE NW¼ OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS:
COMMENCING AT AN ALUMINUM CAP FOUND FOR THE SE CORNER OF THE SE¼ OF THE NW ¼ OF SECTION 19, T-16-N, R-30-W; THENCE NORTH 86 DEGREES, 55 MINUTES, 53 SECONDS WEST 43.03 FEET; THENCE NORTH 03 DEGREES, 06 MINUTES, 28 SECONDS EAST 558.05 FEET; THENCE NORTH 87 DEGREES, 10 MINUTES, 12 SECONDS WEST 290.31 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING A FOUND IRON PIN; THENCE SOUTH 02 DEGREES, 48 MINUTES, 54 SECONDS WEST 20.00 FEET TO A SET COTTON SPINDLE; THENCE NORTH 88 DEGREES, 14 MINUTES, 35 SECONDS WEST 75.94 FEET TO A SET COTTON SPINDLE; THENCE SOUTH 71 DEGREES, 55 MINUTES, 16 SECONDS WEST 171.01 FEET TO A SET COTTON SPINDLE; THENCE NORTH 87 DEGREES 46 MINUTES, 50 SECONDS WEST 116.34 FEET TO A SET COTTON SPINDLE; THENCE NORTH 02 DEGREES, 18 MINUTES, 39 SECONDS EAST 155.25 FEET TO A FOUND IRON PIN ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 62; THENCE ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 62, NORTH 75 DEGREES, 51 MINUTES, 05 SECONDS EAST 369.46 FEET TO A FOUND IRON PIN; THENCE LEAVING THE SAID RIGHT-OF-WAY LINE OF U.S. HIGHWAY 62, SOUTH 02 DEGREES, 48 MINUTES, 54 SECONDS WEST 179.43 FEET TO THE TRUE POINT OF BEGINNING.

PERMANENT EASEMENT DESCRIPTION:

Part of Lot 2B, Cobb & Westphal Lot Split, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northwest corner of said Lot 2B; thence along the West line of said Lot S02°20'26"W 136.53'; thence S87°45'41"E 37.87' to the East line of an existing access & utility easement (filed for record as Document #2003-00042901) and the Point of Beginning; thence along said East easement line N02°18'08"E 20.44'; thence S34°14'48"E 17.55'; thence S63°43'39"E 15.53' to the North line of said existing access & utility easement; thence along said North line N87°45'41"W 24.64' to the Point of Beginning, containing 185 square feet or 0.004 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct pipelines and/or make repairs to lines within the above-described easement at any time in the future and agrees to pay for or repair any damages as a result of such future construction and/or repairs as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

METROPOLITAN BANK

BY: _____

[Please print or type Name and Title]

ATTEST:

[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF _____

}
} ss.
}

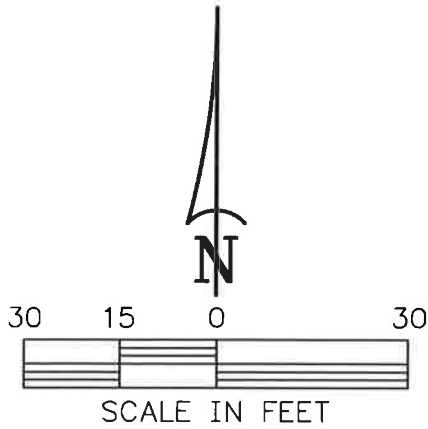
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the _____ and _____, respectively, of **Metropolitan Bank**, and are 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 instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

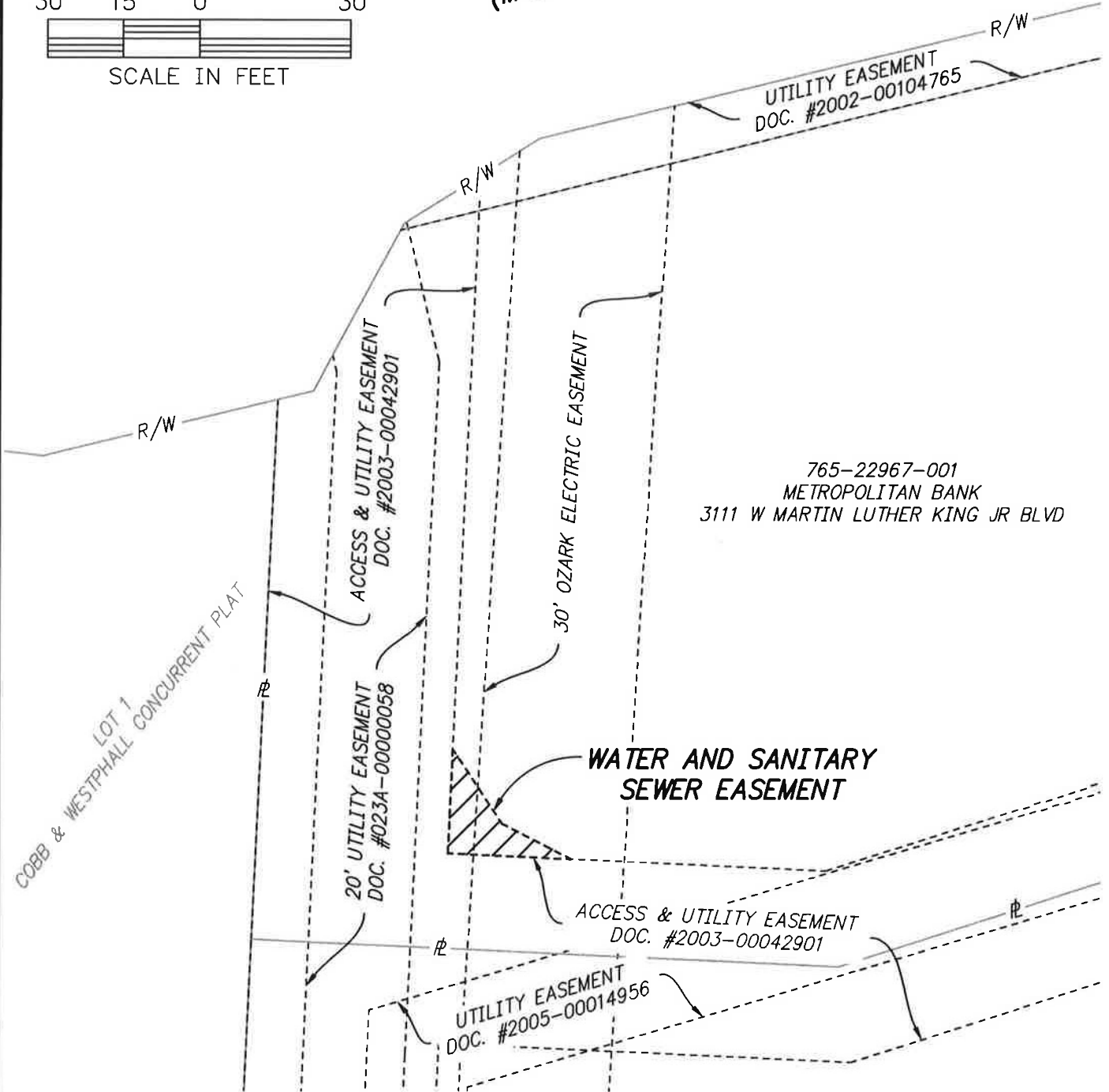
MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\NEW FOLDER\TRACT 13.DWG, 7/8/2024 12:45 PM, ANDREW MCCOLLUM, LAYOUT1



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 13 - METROPOLITAN BANK
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 07/12/2024

SCALE: 1"=30'

JOB NO. 2022129

Tract No. 14

Superior Bank



October 28, 2024

Superior Bank
c/o Arvest Bank #310
1183 Joyce Blvd., Suite 2
Fayetteville, AR 72703

RE: Highway 112 Widening Project
Parcel No. 765-14805-001
3045 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

To Whom It May Concern:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to the Martin Luther King Boulevard and I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$101,000.00 for the rights associated with the permanent easement (12,848 square feet), \$1,800.00 for the rights associated with the temporary construction and grading easement (600 square feet), and \$2,800.00 for damages, including the loss of trees and shrubs, for a total of \$105,600.00. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. For engineering questions or concerns, please contact Corey Granderson, Utilities Engineer at (cgranderson@fayetteville-ar.gov) or myself at (tnyander@fayetteville-ar.gov).

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 2,901 SqFt bank on 1.46 acres of commercial land. The acquisition consists of:

Permanent Easements (WSE of 12,848 SqFt).

Temporary Construction Easement
(TCE of 600 SqFt).

10/25/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Superior Bank	Property Owner
765-14805-001	Parcel #
Fayetteville	City
AR	State
2,901	SqFt - Gross Building Area
	Before the Acquisition
63,598	SqFt - Land
	Proposed Water and Sewer Easement
12,848	SqFt - Land
	After the Acquisition
50,750	SqFt - Total Land (Remainder)
	Residual Rights in the WSE area
12,848	SqFt - Land (Residual)
	Temporary Construction Easements
600	SqFt - Land
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 2,012,000	Value Before the Acquisition
\$ 1,910,000	Value After the Acquisition
\$ 102,000	
\$ 102,000	Market Value of the Acquisition
\$ 1,800	Temporary Construction Easement
\$ 2,800	Damages

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the relocated 12,848 SqFt water and sewer easement will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement.

While the WSE document restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: Damages include the loss of professionally landscaped trees at the southern border of the site and shrubs at the front of the building.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Superior Bank**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2002-00117188)

PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH LIES NORTH 559.92 FEET AND WEST 14.75 FEET FROM THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID 40 ACRE TRACT AND RUNNING THENCE NORTH 89 DEGREES 28' 38" WEST 290.33 FEET, THENCE NORTH 00 DEGREES 31' 22" EAST 179.38 FEET, THENCE NORTH 73 DEGREES 46' 57" EAST 253.75 FEET, THENCE SOUTH 53 DEGREES 53' 10" EAST 58.20 FEET, THENCE SOUTH 00 DEGREES 31' 22" WEST 218.59 FEET TO THE POINT OF BEGINNING, CONTAINING 63,616.25 SQ. FT. OR 1.46 ACRES, MORE OR LESS.

PERMANENT EASEMENT DESCRIPTION:

Part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Southeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter N02°26'01"E 559.52'; thence N87°20'34"W 66.24' to the West right-of-way of South Finger Road (Per ARDOT Job 040846) and the Point of Beginning; thence N87°10'12"W 30.16'; thence N02°52'34"E 132.94'; thence N53°14'36"W 7.88'; thence N87°19'19"W 223.91'; thence N02°48'58"E 21.88' to the South line of an existing utility easement (filed for record as Document #023A-00000024); thence along said South easement line N76°06'21"E 177.72'; thence S18°13'48"E 8.70'; thence S53°14'36"E 78.84'; thence S87°19'19"E 20.94' to said West right-of-way of South Finger Road; thence along said West right-of-way S03°28'56"W 134.49'; thence continuing along said West right-of-way S02°36'19"E 23.06' to the Point of Beginning, containing 15,383 square feet or 0.35 acres more or less.

LESS AND EXCEPT

Part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Southeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter N02°26'01"E 559.52'; thence N87°20'34"W 66.24' to the West right-of-way of South Finger Road (Per ARDOT Job 04086); thence N87°10'12"W 30.16'; thence N02°52'34"E 132.94'; thence N53°14'36"W 7.88'; thence N87°19'19"W 38.49'; thence N02°40'41"E 20.00' to the Point of Beginning; thence N87°19'19"W 156.63'; thence N76°06'14"E 113.49'; thence S53°14'36"E 57.78' to the Point of Beginning, containing 2,535 square feet or 0.06 acres more or less.

Containing a net total of 12,848 square feet or 0.29 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 20.00'x30.00' easement over part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Southeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter N02°26'01"E 559.52'; thence N87°20'34"W 66.24' to the West right-of-way of South Finger Road (Per ARDOT Job 040846); thence N87°10'12"W 30.16'; thence N02°52'34"E 132.94'; thence N53°14'36"W 7.88'; thence N87°19'19"W 193.91' to the Point of Beginning; thence S02°48'58"W 20.00'; thence N87°19'19"W 30.00'; thence N02°48'58"E 20.00'; thence S87°19'19"E 30.00' to the Point of Beginning, containing 600 square feet or 0.01 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

SUPERIOR BANK

BY: _____

[Please print or type Name and Title]

ATTEST:

[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
)
)

ss.

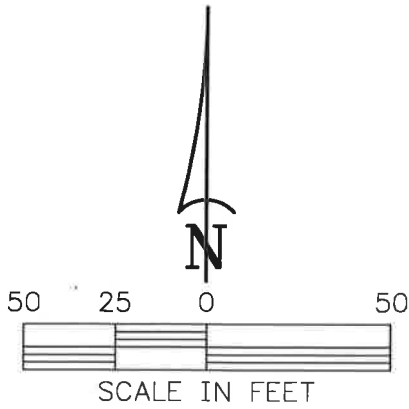
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the _____ and _____, respectively, of **Superior Bank**, and are 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 instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

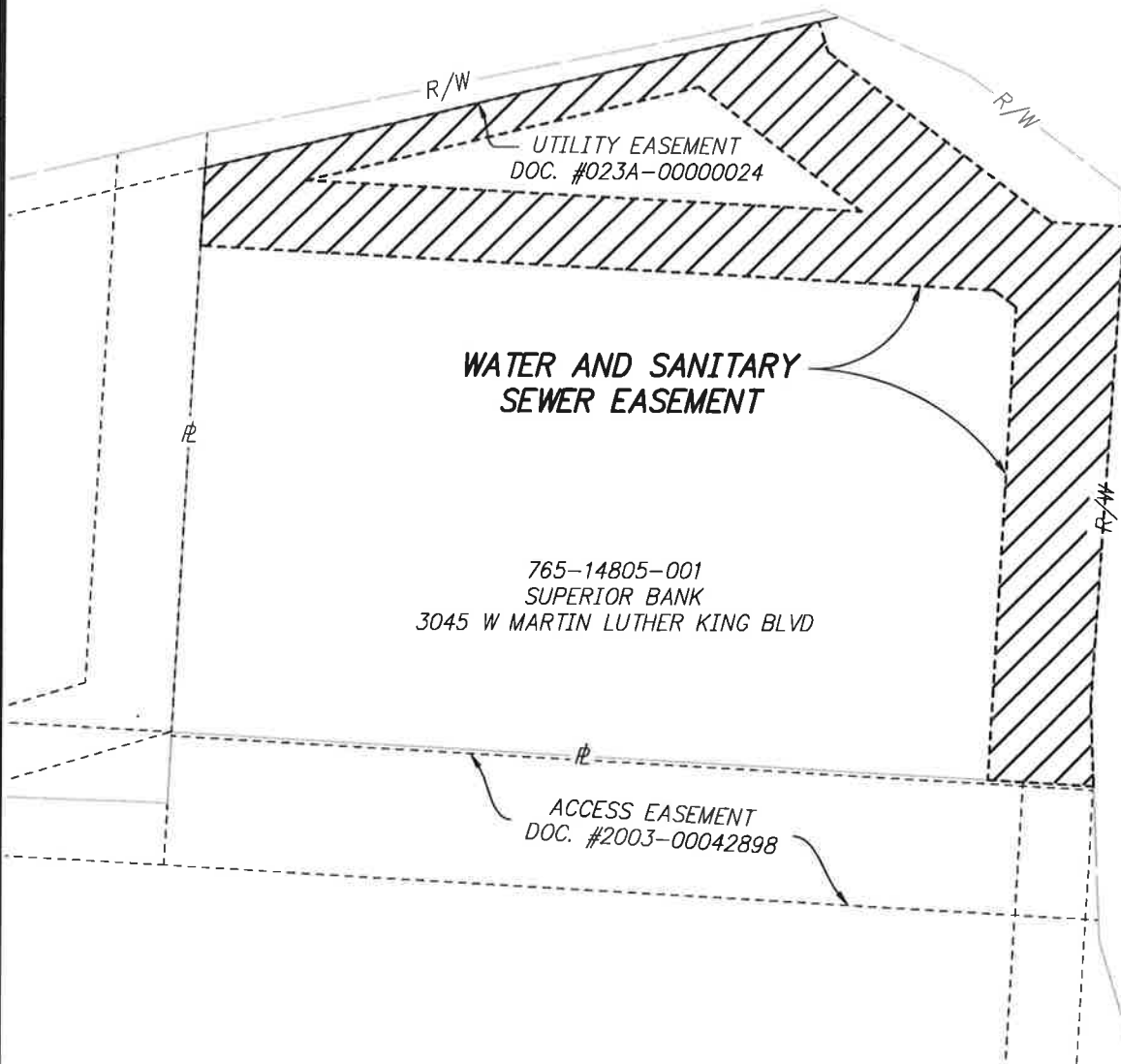
MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\NEW FOLDER\TRACT 14.DWG, 7/8/2024 12:53 PM, ANDREW MCCOLLUM, LAYOUT1



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



HW **HAWKINS & WEIR**
ENGINEERS, INC.

Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 14 - SUPERIOR BANK
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 07/12/2024

SCALE: 1"=50'

JOB NO. 2022129

Tract No. 15

Liberty Bank of Arkansas



February 19, 2025

Liberty Bank of Arkansas
c/o Emily McCord
PO Box 1028
Cabot, AR 72023

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14767-000
3010 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Ms. McCord:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$94,366.08 for the rights associated with the permanent easement (12,192 square feet), \$7,550.00 for the rights associated with the temporary construction and grading easement (2,732 square feet), and \$2,500.00 for damages, for a total of **\$104,416.08**. Damages include the loss of professionally landscaped trees and shrubs and temporary loss of parking. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the

documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 4,750 SqFt bank on 1.65 acres of commercial land. The city is relocating water and sewer easements along this corridor.

10/28/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Liberty Bank of Arkansas	Property Owner
765-14767-000	Parcel #
Fayetteville	City
AR	State
4,750	SqFt - Gross Building Area
71,874	SqFt - Land
11,622	SqFt - Land (acquisition area)
60,252	SqFt - Land (Remainder)
11,622	SqFt - Land (Residual)
905	SqFt - Land
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 2,213,000	Value Before the Acquisition
\$ 2,123,000	Value After the Acquisition
\$ 90,000	
\$ 90,000	Market Value of the Acquisition
\$ 2,500	TCE
\$ 900	Temporary Damages
\$ 1,600	Damages

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE document restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: Damages include the loss of professionally landscaped trees and shrubs and temporary loss of parking.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Liberty Bank of Arkansas**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2005-00021116)

A part of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) of Section Nineteen (19), Township Sixteen (16) North, Range Thirty (30) West, being more particularly described as follows: Commencing at the northeast corner of said 40 acre tract, said point being an existing railroad spike in One-Mile Road; thence south along the east line of said 40 acre tract 49.50 feet to the true point of beginning, said point being in One-Mile Road and from which a 1/2" iron rebar set on the west right-of-way line of said road (as presently located) bears south 71 degrees 47 minutes 21 seconds west 19.12 feet, said set reference iron also being the southeast corner of lot numbered eight (8) in block numbered one (1) of Stapleton's Subdivision Number One (1) to the City of Fayetteville, Arkansas; thence south along the east line of said 40 acre tract 334.52 feet to a point on the north right-of-way line of U.S. Highway #62 (West 6th Street), said point being in One-Mile Road and from which a 1/2" iron rebar set on the west right-of-way line of said road (as presently located) bears south 73 degrees 51 minutes 41 seconds west 20.82 feet; thence leaving the east line of said 40 acre tract and running along the north right-of-way line of said Highway #62 the following bearings and distances: south 73 degrees 51 minutes 41 seconds west 41.10 feet to a set 1/2" iron rebar, south 27 degrees 47 minutes 53 seconds west 14.01 feet to a set 1/2" iron rebar, south 73 degrees 51 minutes 41 seconds west 182.58 feet to a set 1/2" iron rebar; thence leaving the north right-of-way line of said Highway #62 north 00 degrees 04 minutes 47 seconds east 336.40 feet to a set 1/2" iron rebar at the southwest corner of lot numbered eight (8) in block numbered one (1) of Stapleton's Subdivision, Number One (1) to the City of Fayetteville, Arkansas; thence north 71 degrees 47 minutes 21 seconds east 232.58 feet to the point of beginning, in Washington County, Arkansas, containing 1.72 acres, more or less. Subject to the right-of-way of One-Mile Road along the entire east boundary and any other easements and/or rights of way whether or not of record.

PERMANENT EASEMENT DESCRIPTION:

A variable width easement over part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 110.58'; thence N87°33'59"W 60.78' to the West line of an existing City of Fayetteville Water & Sewer Easement (filed in Book 92 Page 58194) and the Point of Beginning; thence N88°47'16"W 17.22'; thence S74°04'12"W 119.73'; thence S51°15'57"W 53.08'; thence N02°20'28"E 58.52'; thence N74°04'12"E 179.94' to said West easement line; thence along said West easement line S02°16'51"W 42.19' to the Point of Beginning, containing 6,778 square feet or 0.16 acres more or less.

ALSO

Part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 367.77'; thence N87°33'59"W 60.10' to the West right-of-way of South One Mile Road (Per ARDOT Job 040846) and the Point of Beginning; thence along said West right-of-way S32°36'36"W 13.31' to the North line of an existing City of Fayetteville water and sewer easement (filed for record in Book 861 Pages 103 & 838); thence along said North easement line S75°22'54"W 165.52'; thence N08°28'39"W 32.78'; thence N02°20'28"E 159.83'; thence S08°28'39"E 171.46'; thence N75°23'21"E 145.31' to the West line of an existing City of Fayetteville water and sewer easement (filed for record in Book 92 Page 58194); thence along said West easement line S02°16'51"W 6.20' to the Point of Beginning, containing 5,414 square feet or 0.13 acres more or less.

Containing a net total of 12,192 square feet or 0.28 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 20.00' wide easement over part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 367.77'; thence N87°33'59"W 60.10' to the West right-of-way of South One Mile Road (Per ARDOT Job 040846); thence N02°16'51"E 6.20' to the North line of the above described permanent easement; thence along said North line S75°23'21"W 135.25' to the Point of Beginning; thence N08°28'39"W 41.20' to the Point of Termination, containing 824 square feet or 0.02 acres more or less.

ALSO

A 10.00' wide easement over part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northwest Quarter; thence along the East line of said Quarter-Quarter S02°26'01"W 115.58'; thence N87°33'59"W 60.77' to the West line of an existing City of Fayetteville Water & Sewer Easement (filed in Book 92 Page 58194) and the Point of Beginning; thence N88°47'16"W 16.37'; thence S74°04'12"W 117.96'; thence S51°15'57"W 56.43' to the Point of Termination, containing 1,908 square feet or 0.04 acres more or less.

Containing a net total of 2,732 square feet or 0.06 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

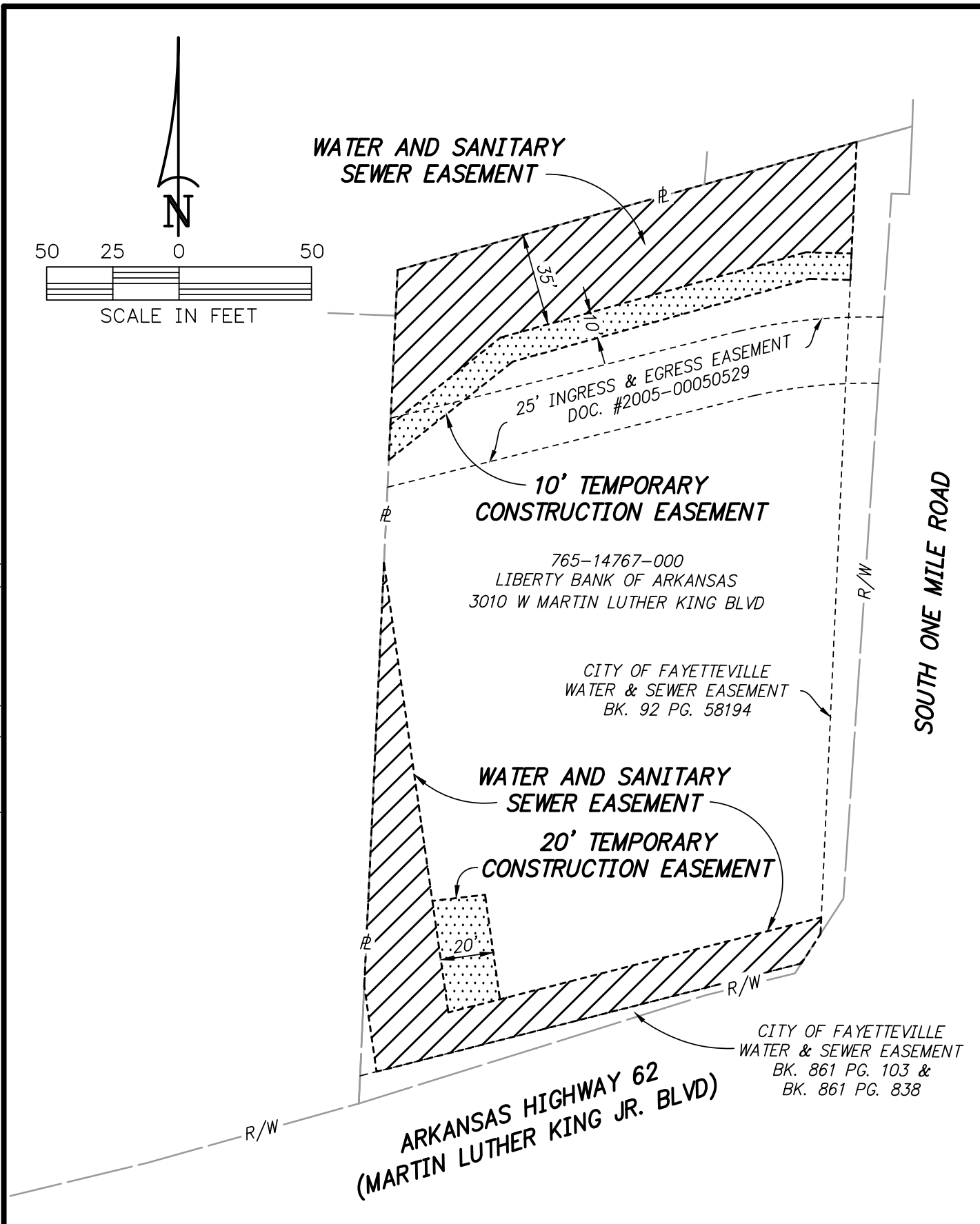
The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\TRACT 15.DWG, 2/20/2025 7:25 AM, ANDREW MCCOLLUM, LAYOUT1



Van Buren (479) 474-1227 | Fort Smith (479) 242-4685 | Fayetteville (479) 455-2206 | Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 15 - LIBERTY BANK OF ARKANSAS
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 02/20/2025

SCALE: 1"=50'

JOB NO. 2022129

Tract No. 16

Cooper Realty Investments, Inc.



November 22, 2024

Mr. Jim Keith
Cooper Realty Investments, Inc.,
Burger Investments, LLC, and
IWS Shelby, LLC
903 N 47th Street
Rogers, AR 72756

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-22967-000
3049 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Keith:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$38,000.00 for the rights associated with the permanent easement (6,017 square feet) and \$9,400.00 for the rights associated with the temporary construction and grading easement (5,202 square feet), for a total of **\$47,400.00**. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 52,620 SqFt shopping center on 5.84 acres of commercial land. The city is relocating water and sewer easements along this corridor.

10/28/2024 Effective Date	
PHYSICAL CHARACTERISTICS	
Cooper Realty Investments, Inc.	Property Owner
765-22967-000	Parcel #
Fayetteville	City
AR	State
52,620	SqFt - Gross Building Area
Before the Acquisition	
254,390	SqFt - Land
Proposed Water and Sewer Easement	
6,017	SqFt - Land (Acquisition)
After the Acquisition	
248,373	SqFt - Land (Remainder)
Remaining Rights (non-permanent surface use)	
6,017	SqFt - Land (Residual)
Temporary Construction Easements	
5,202	SqFt - Land
CPZD: Commercial Planned Zoning District	Zoning
CONCLUSIONS	
\$ 6,498,000	Value Before the Acquisition
\$ 6,460,000	Value After the Acquisition
\$ 38,000	
\$ 38,000	Market Value of the Acquisition
\$ 9,400	TCE

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Cooper Realty Investments, Inc., an Arkansas corporation; Burger Investments, LLC, an Arkansas limited liability company; and IWS Shelby, LLC, a Mississippi limited liability company,** hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation,** hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2016-23356)

Lot 2-A, Cobb & Westphal Commercial Subdivision, to the City of Fayetteville, Washington County, Arkansas, being a, Lot Split of Lot 2 as shown in Document No.2005-32442 and also being described as a. part of the SE 1/4 of the NW 1/4 of Section 19, Township 16 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas and being described as follows: Commencing at an aluminum cap found for the SE corner of the SE 1/4 of the NW 1/4 of Section 19, Township 16 North, Range 30 West; thence N 86°55'53" W 43.03 feet and N 03°06'28" E 169.01 feet to the true point of beginning; said point being a found iron pin on the West right of way line of Finger Road; thence N 87°41'11" W 163.23 feet to a found iron pin; thence S70°10'27" W 173.27 feet to a found iron pin; thence N 86°49'46" W 265.22 feet to a found iron pin; thence N87°40'39" W 48.71 feet to a found PK nail set in the asphalt of an existing fire lane to Lowe's Home Improvement Center; thence N 02°18'39" E 372.42 feet to a set cotton spindle; thence S 87°46'50"E 116.34 feet to a set cotton spindle; thence N 71°55'16"E 171.01 feet to a set cotton spindle; thence S88°14'35" E 75.94 feet to a set cotton spindle; thence N 02°48'54" E 20.00 feet to a found iron pin; thence S87°10'12"E 290.31 feet to a set Mag Nail drilled into the concrete of an existing drive located in an access easement as shown. under Land Document Number.2003 42898, said mag nail being on the West right of way line of Finger Road; thence along the West right of way line of finger Road, S 03°06'28" W 389.04 feet to the true point of beginning, containing 5.886 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

A 25.00' wide easement over part of Lot 2A, Cobb & Westphal Lot Split, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Northeast corner of said Lot 2A; thence along the East line of said Lot S03°05'45"W 12.50'; thence N87°10'12"W 50.00' to the West line of an existing 20' utility easement (filed for record as Document #2005-00014956) and the Point of Beginning; thence continuing N87°10'12"W 240.25' to the East line of an existing access and utility easement (filed for record as Document #2003-00042901) and the Point of Termination, containing 6,017 square feet or 0.14 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

Part of Lot 2A, Cobb & Westphal Lot Split, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Lot 2A; thence along the East line of said Lot S03°05'45"W 12.50'; thence N87°10'12"W 50.00' to the West line of an existing 20' utility easement (filed for record as Document #2005-00014956); thence along said West easement line S03°05'45"W 12.50' to the Point of Beginning; thence continuing along said West easement line S03°05'45"W 50.00'; thence N87°10'12"W 70.00'; thence N03°05'45"E 40.00'; thence N87°10'12"W 170.14' to the East line of an existing access and utility easement (filed for record as Document #2003-00042901); thence along said East easement line N02°45'53"E 10.00' to the South line of the above described permanent easement; thence along said South line S87°10'12"E 240.19' to the Point of Termination, containing 5,202 square feet or 0.12 acres more less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

COOPER REALTY INVESTMENTS, INC., an Arkansas corporation

BY: Michael Kent Burger, President

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Michael Kent Burger**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **President of Cooper Realty Investments, Inc., an Arkansas corporation**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

BURGER INVESTMENTS, LLC, an Arkansas limited liability company

BY: Michael Kent Burger, Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Michael Kent Burger**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **Manager of Burger Investments, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

IWS SHELBY, LLC, a Mississippi limited liability company

BY: _____
William A. Leatherman, Jr., Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS)
 }
COUNTY OF WASHINGTON) ss.

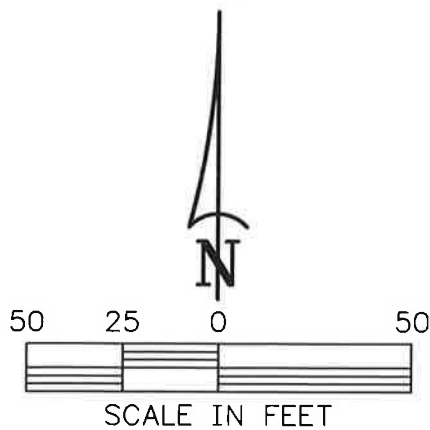
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **William A. Leatherman, Jr.**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **Manager** of **IWS Shelby, LLC, a Mississippi limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\KG EDITS\TRACT 16.DWG, 8/19/2024 9:11 AM, ANDREW MCCOLLUM, LAYOUT1



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)

R/W

R/W

SOUTH FINGER ROAD

ACCESS EASEMENT
DOC. #2003-00042898

25' WATER AND SANITARY
SEWER EASEMENT
TEMPORARY
CONSTRUCTION EASEMENT

765-22967-000
COOPER REALTY INVESTMENTS INC.
3049 W MARTIN LUTHER KING BLVD

20' UTILITY EASEMENT
DOC. #2005-00014956

UTILITY EASEMENT
BK. 92 PG. 51295

R/W

HW **HAWKINS WEIR**
ENGINEERS, INC.

Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 16 - COOPER REALTY INVESTMENTS INC.
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 08/16/2024

SCALE: 1"=50'

JOB NO. 2022129

Tract No. 17

Wal-Mart Real Estate Business Trust



January 31, 2025

Wal-Mart Real Estate Business Trust
c/o Amy Corritori
c/o Wal-Mart Property Tax Dept 4516
PO Box 8050, Attn: 0555
Bentonville, AR 72712

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14654-000
2875 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Notification Letter)

Dear Ms. Corritori:

As previously indicated, the City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

Because this utility relocation project is being done as part of the ARDOT roadway widening, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

The City of Fayetteville previously offered you \$226,000.00 for the rights associated with the permanent easement (32,564 square feet) and \$28,000.00 for the rights associated with the temporary construction and grading easement (11,626 square feet), for a total of **\$254,000.00**. This offer was based on an appraisal of your property and a summary sheet was provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement previously provided should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 was provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosure

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 254,783 SqFt bank on 26.49 acres of commercial land. The city is relocating water and sewer easements along this corridor.

10/28/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Wal-Mart Real Estate Business Trust	Property Owner
765-14654-000	Parcel #
Fayetteville	City
AR	State
254,783	SqFt - Gross Building Area
1,153,904	Before the Acquisition SqFt - Land
32,564	Proposed Water and Sewer Easement SqFt - Land
1,121,340	After the Acquisition SqFt - Land (Remainder)
32,564	Remaining Rights (non-permanent surface use) SqFt - Land (Residual)
11,626	Temporary Construction Easements SqFt - Land
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 32,018,000	Value Before the Acquisition
\$ 31,792,000	Value After the Acquisition
\$ 226,000	Market Value of the Acquisition
\$ 28,000	TCE

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Wal-Mart Real Estate Business Trust**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2008-00030449)

TRACT 1

A tract of land in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 19, Township 16 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, and being more particularly described as follows: Beginning at a point that is South 02 degrees 29 minutes 55 seconds West 476.17 feet from the Northwest corner of said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and on the Southerly right-of-way Of U. S. Highway 62; thence along said southerly right-of-way North 75 degrees 31 minutes 50 seconds East 19.32 feet; thence North 69 degrees 22 minutes 00 seconds East 50.66 feet; thence North 73 degrees 46 minutes 48 seconds East 201.61 feet; thence North 71 degrees 56 minutes 01 seconds East 170.68 feet; thence North 71 degrees 05 minutes 12 seconds East 590.56 feet; thence South 60 degrees 07 minutes 05 seconds East 13.29 feet; thence leaving said southerly right-of-way South 03 degrees 07 minutes 30 seconds East 1087.49 feet; thence North 87 degrees 40 minutes 23 seconds West 119.01 feet; thence South 01 degrees 04 minutes 00 seconds West 139.39 feet; thence South 83 degrees 14 minutes 25 seconds West 831.23 feet; thence North 02 degrees 29 minutes 55 seconds East 400.00 feet; thence South 83 degrees 14 minutes .25 seconds West 150.00 feet to the West line of said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence North 02 degrees 29 minutes 55 seconds East along said West line 620.15 feet to the point of beginning and containing 1,093,383.08 square feet or 25.1006 acres, more or less.

AND BEING a portion of the same property conveyed to Wal-Mart Stores, Inc., a Delaware corporation from Commonwealth-Ghosen Theatre Corporation by Warranty Deed dated March 29, 1993 and recorded April 30, 1993 in Instrument No. 93-22836.

TRACT 2:

A tract of land in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 19, Township 16 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, and being more particularly described as follows: Beginning at a point that is South 02 degrees 29 minutes 55 seconds West 1096.32 feet from the Northwest corner of the said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence North 83 degrees 14 minutes 25 seconds East 150.00 feet; thence South 02 degrees 29 minutes 55 seconds West 400.00 feet; thence South 83 degrees 14 minutes 25 seconds West 150.00 feet; thence North 02 degrees 29 minutes 58 seconds East 171.34 feet to the Southwest corner of the said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence North 02 degrees 29 minutes 55 seconds East along the West line of the said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, 228.66 feet to the point of beginning, and containing 59,218.38 square feet or 1.3595 acres, more or less; and, A tract of land in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 19, Township 16 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, being described as follows: Beginning at a point that is South 02 degrees 29 minutes 55 seconds West 171.34 feet from the Northwest corner of said NW $\frac{1}{4}$ of the SE $\frac{1}{4}$; thence North 83 degrees 14 minutes 25 seconds East for 833.68 feet; thence South 02 degrees 38 minutes 22 seconds West along the Westerly boundary of Finger Park (Book 1073, Page 133) for 118.68 feet; thence South 83 degrees 14 minutes 25 seconds West for 833.39 feet; thence North 02 degrees 29 minutes 55 seconds East for 118.63 feet to the point of beginning, and containing 97,597.43 square feet or 2.2405 acres, more or less; subject to all easements for roads, drains and utilities of record.

AND BEING a portion of the same property conveyed to Wal-Mart Stores, Inc., a corporation from Robert B. Leflar and Charles J.F. Leflar by Warranty Deed dated April 29, 1993 and recorded April 30, 1993 in Instrument No. 93-22840.

LESS AND EXCEPT that portion of property conveyed to City of Fayetteville, a municipal corporation from Wal-Mart Stores, Inc., an Arkansas corporation by Warranty Deed dated November 10, 2004 and recorded November 17, 2004 in Instrument No. 2004-00047288.

Tax Parcel No. 765-14654-000

PERMANENT EASEMENT DESCRIPTION:

Part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter of the Northeast Quarter; thence along the West line of said Quarter-Quarter S02°26'01"W 516.55'; thence S87°37'23"E 54.37' to the East line of an existing 15' water line easement (filed for record as Document #95016618) and the Point of Beginning; thence S87°37'23"E 96.55'; thence N72°16'26"E 467.76'; thence S87°15'13"E 249.61'; thence N69°44'59"E 112.64'; thence N25°17'41"E 54.45'; thence N59°31'00"E 10.10' to the West right-of-way of West Farmers Drive; thence along said West right-of-way S02°24'15"E 13.60' to the intersection of said West right-of-way with the Northwest line of an existing 15' City of Fayetteville sewer easement (filed for record in Book 93 Page 61512); thence along said Northwest easement line S25°17'41"W 74.22'; thence S69°44'59"W 109.38'; thence N87°15'13"W 250.19'; thence S72°16'26"W 432.14'; thence S02°41'06"W 265.96'; thence N87°17'51"W 106.79' to the East right-of-way of South Finger Road (Per ARDOT Job 040846); thence along said East right-of-way N02°08'40"E 19.00'; thence continuing along said East right-of-way N42°13'36"W 8.46'; thence S87°16'05"E 87.98'; thence N02°41'33"E 228.76'; thence N87°16'05"W 109.41' to the East line of an existing 15' water line easement (filed for record as Document #95016618); thence along said East easement line N02°29'55"E 24.22' to the Point of Beginning, containing 32,564 square feet or 0.75 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 10.00' wide easement lying parallel and adjacent to the South and East line of the above-described permanent easement, containing 11,626 square feet or 0.27 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

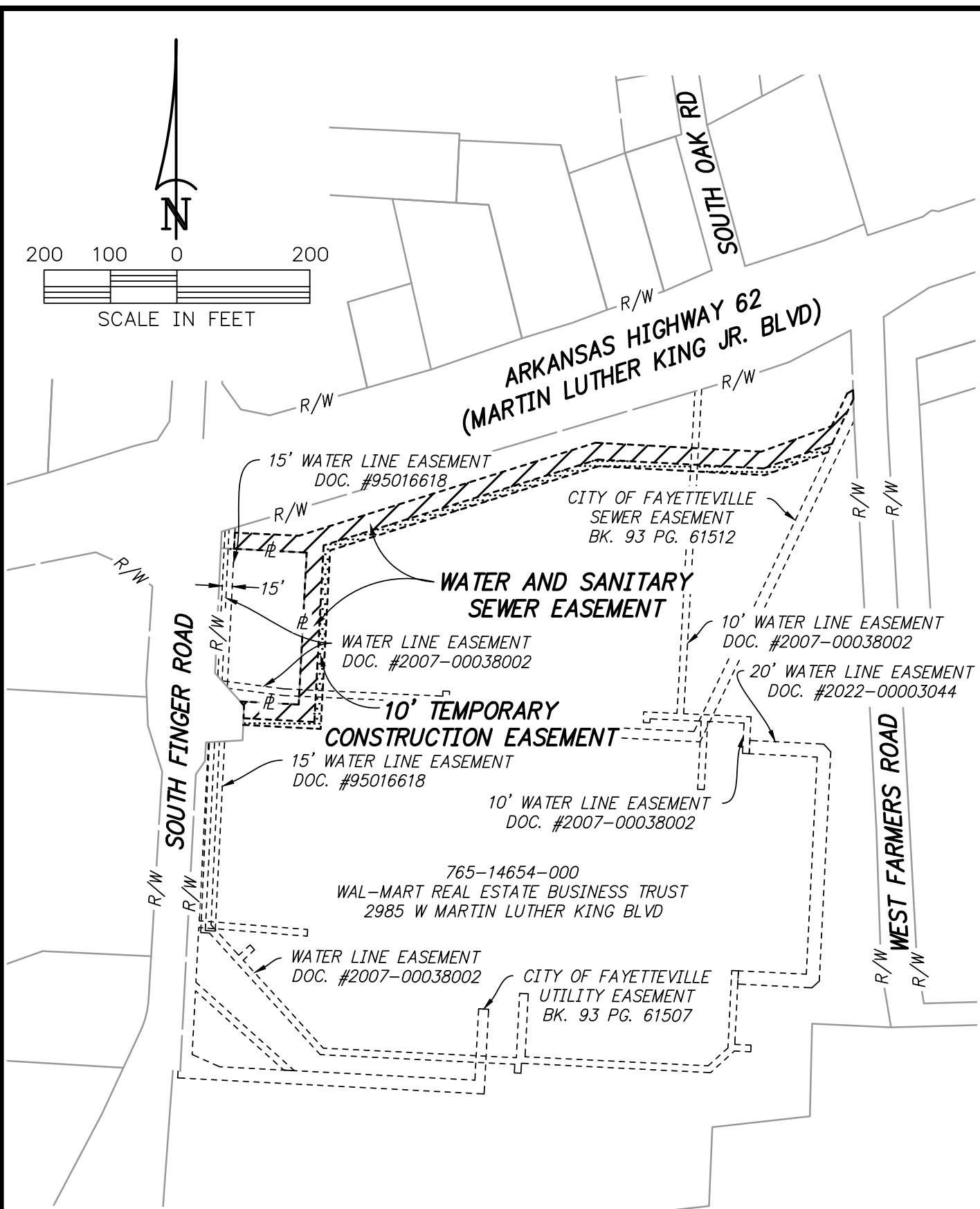
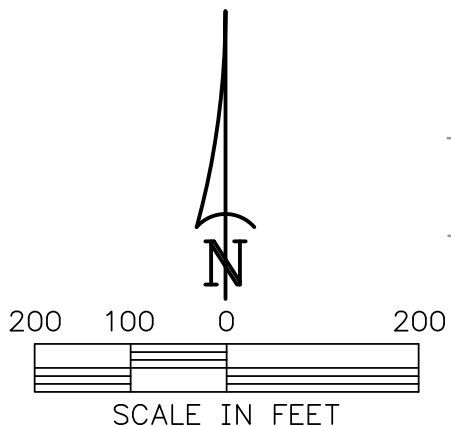
The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

Notary Public



Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 17 - WAL-MART REAL ESTATE BUSINESS TRUST
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 08/16/2024

SCALE: 1"=200'

JOB NO. 2022129

Tract No. 19

Inreit Fayetteville, LLC



December 16, 2024

Mr. Dave Perkins
Inreit Fayetteville, LLC
PO Box 2108
Fargo, ND 58107

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14709-000, 765-14709-001, 765-14703-000
2964 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Perkins:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

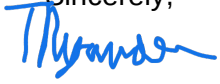
In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$25,000.00 for the rights associated with the permanent easement (3,533 square feet), and \$18,000.00 for damages, for a total of **\$43,000.00**. Damages include the loss of professionally landscaped trees and shrubs, monument sign, and temporary loss of parking. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 13,448 SqFt retail pharmacy on 1.85 acres of commercial land. The city is relocating water and sewer easements along this corridor.

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

12/12/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Inreit Fayetteville, LLC	Property Owner
765-14709-000, 765-14709-001, 765-14703-000	Parcel #
Fayetteville	City
AR	State
13,448	SqFt - Gross Building Area
80,586	SqFt - Land
3,533	SqFt - Land (Acquisition Area)
77,053	SqFt - Land (Remainder)
3,533	SqFt - Land (Residual)
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 2,200,000	Value Before the Acquisition
\$ 2,175,000	Value After the Acquisition
\$ 25,000	Market Value of the Acquisition
\$ 1,000	Temporary Damages
\$ 17,000	Damages

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: Damages include the loss of professionally landscaped trees and shrubs, monument sign, and temporary loss of parking.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Inreit Fayetteville, LLC, a North Dakota limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2009-00022543)

Part of the SW 1/4 of the NE 1/4 of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows: Beginning at a found iron pin on the East side of One Mile Road as shown on Plat Records 2004-24333 and DR3-153, that is S 02°15'33" W 1312.88 feet from the aluminum monument marking the North Quarter corner of said Section 19; thence S 86°17'35" E 120.52 feet to a found iron pin; thence S 87°05'00" E 146.60 feet to a 2 inch metal fence post; thence S 13°02'49" E 129.40 feet; thence S 73° 06' 12" W 100 feet; thence S 13° 02' 49" E 150.00 feet to the North right-of-way of U.S. Highway Number 62; thence along said North right-of-way the following Two courses: thence S 73°06'12" W 241.76 feet to an "X" scribed in concrete; thence N 61°32'09" W 13.01 feet to a found iron pin on the East right-of-way of One Mile Road; thence along said East right-of-way N 02°20'29" E 268.28 feet to a found iron pin; thence leaving said East right-of-way N 87°45'10" W 6.87 feet; thence N 02°20'29" E 112.34 feet to the point of beginning, containing 1.97 acres, more or less.

Less and except that portion of the above described property which was previously deeded to the city of Fayetteville, Arkansas on a warranty deed filed December 14, 2007 as Document No. 2007-00045757, and being more particularly described as follows:

Part of the SW 1/4 of the NE 1/4 of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Beginning at a found iron pin on the East side of One Mile Road as shown on Plat Records 2004-24333 and DR3-153, that is S 02°15'33" W, 1312.88 feet from the aluminum monument marking the North Quarter corner on said Section 19; thence along the North line of Plat Record 2006-18071 as recorded in the official records for Washington County, Arkansas, S 86°17'35" E, 7.33 feet to a point on the proposed East right-of-way line of One Mile Road that is 25 feet Easterly of the existing centerline of said road; thence leaving the North line of said Plat Record 2006-18071 and continuing along said proposed East right-of-way line S 02°00'27" W, 338.81 feet; thence 47.30 feet along a curve to the left said curve having a radius of 25.00 feet and a long chord of S 52°11'38" E, 40.55 feet to a point on the proposed North right-of-way line of US Highway 62 that is 55 feet Northerly from the centerline of said Highway; thence along said proposed North right-of-way line N 73°36' 18" E, 212.33 feet to the Easterly line of said Plat Record 2006-18071; thence leaving the proposed North right-of-way line of US Highway 62 and continuing along said Easterly line S 13°02'49" E, 12.83 feet to the existing North right-of-way line of US Highway 62 as shown on said Plat Record 2006-18071; thence leaving the Easterly line of said Plat Record 2006-18071 and continuing along said existing North right-of-way line S 73 06'12" W, 241.76 feet; thence N 61°32'09" W, 13.01 feet to the existing East right-of-way line of One Mile Road as shown on said Plat Record 2006-18071; thence along said existing East right-of-way line N 02°20'29" E, 268.28 feet; thence leaving the existing East right-of-way line of One Mile Road and continuing along the Westerly line of said Plat Record 2006-18071 N 87°45'10" W, 6.87 feet; thence N 02°20'29" E, 112.34 feet to the point of beginning, containing 0.12 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

Part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter of the Northeast Quarter; thence along the North line of said Quarter-Quarter S86°48'31"E 266.81'; thence S13°06'57"E 129.97'; thence S73°06'54"W 99.86'; thence S13°03'44"E 108.25' to the Point of Beginning; thence continuing S13°03'44"E 7.01' to the North line of an existing City of Fayetteville water and sewer easement (filed for record in Book 861 Page 100); thence along said North easement line S73°19'54"W 182.84' to the East right-of-way of South One Mile Road (Per ARDOT Job 040846); thence along said East right-of-way the following three (3) courses: N78°56'28"W 11.31';

thence N35°51'40"W 48.00'; thence N00°39'20"W 11.60'; thence N89°46'57"E 30.58'; thence S57°01'19"E 60.47'; thence N73°19'54"E 137.38' to the Point of Beginning, containing 3,533 square feet or 0.08 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct pipelines and/or make repairs to lines within the above-described easement at any time in the future and agrees to pay for or repair any damages as a result of such future construction and/or repairs as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2025.

INREIT FAYETTEVILLE, LLC, a North Dakota limited liability company

By its sole member: Sterling Properties, LLLP, a North Dakota limited liability limited partnership

By its general partner: Sterling Real Estate Trust

BY: _____
Luke B. Swenson, Chief Investment Officer

ACKNOWLEDGMENT

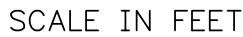
STATE OF _____)
COUNTY OF _____) ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Luke B. Swenson**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **Chief Investment Officer of Sterling Real Estate Trust, the general partner of Sterling Properties, LLLP, a North Dakota limited liability limited partnership, the sole member of Inreit Fayetteville, LLC, a North Dakota limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said limited liability company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



JOB NO. 2022129

Tract No. 20

Vasiliki Investments, LLC



November 22, 2024

Mr. Chris Drosopoulos
Vasiliki Investments, LLC
2607 Towson Avenue
Fort Smith, AR 72901

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14710-000
2920 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Drosopoulos:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$3,000.00 for the rights associated with the permanent easement (517 square feet) and \$400.00 for damages, for a total of **\$3,400.00**. Damages include temporary loss of parking. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 2,800 SqFt professional office on 0.29 acres of commercial land. The city is relocating water and sewer easements along this corridor.

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

10/31/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Vasiliki Investments, LLC	Property Owner
765-14710-000	Parcel #
Fayetteville	City
AR	State
2,800	SqFt - Gross Building Area
Before the Acquisition	
12.632	SqFt - Land
Proposed Water and Sewer Easement	
517	SqFt - Land (Acquisition Area)
After the Acquisition	
12.115	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
517	SqFt - Land (Residual)
2-2: Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 291,000	Value Before the Acquisition
\$ 288,000	Value After the Acquisition
\$ 3,000	Market Value of the Acquisition
\$ 400	Temporary Damages

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: Temporary loss of parking.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Vasiliki Investments, LLC, an Arkansas Limited Liability Company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2014-00012400)

A part of the SW1/4 of the NE1/4 of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, and being more particularly described as follows: Commencing at the Northwest corner of the above SW1/4 of the NE1/4 from which a found railroad spike bears S80°55'03"W, a distance of 11.35 feet; thence S86°19'39"E, a distance of 120.52 feet; thence S87°07'04"E, a distance of 146.60 feet to a point from which a found 1" open pipe bears S87°19'05"E, a distance of 10.08 feet; thence S13°04'53"E, a distance of 129.40 feet to the True Point of Beginning being a found 5/8" rebar w/cap (PS 931); thence S13°04'53"E, a distance of 150.00 feet to a set 5/8" rebar w/cap (PS 1496) on the Northerly right-of-way line of U.S. Highway 62; thence S73°04'08"W, along the above said Northerly right-of-way line, a distance of 100.00 feet to a set 5/8" rebar w/cap (PS 1496); thence N13°04'53"W, leaving the above said Northerly right-of-way line, a distance of 150.00 feet to a set 5/8" rebar w/cap (PS 1496); thence N73°04'08"E, a distance of 100 feet to the Point of Beginning and containing 14,966 square feet or 0.34 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

Part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter of the Northeast Quarter; thence along the North line of said Quarter-Quarter S86°48'31"E 266.81'; thence S13°06'57"E 129.97'; thence S73°06'54"W 99.86'; thence S13°03'44"E 108.25' to the Point of Beginning; thence N73°19'54"E 0.67'; thence S15°22'58"E 2.21'; thence N75°44'48"E 2.95'; thence N14°44'34"W 2.34'; thence N73°19'54"E 71.24' to the West line of an existing 25' utility easement (filed for record in Book 1077 Page 530); thence along said West easement line S13°06'57"E 7.01' to the intersection of the North line of an existing City of Fayetteville water and sewer easement (filed for record in Book 1031 Page 536); thence along said North easement line S73°19'54"W 74.89'; thence N13°03'44"W 7.01' to the Point of Beginning, containing 517 square feet or 0.01 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct pipelines and/or make repairs to lines within the above-described easement at any time in the future and agrees to pay for or repair any damages as a result of such future construction and/or repairs as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

VASILIKI INVESTMENTS, LLC, an Arkansas limited liability company

BY: _____
Vasso Drosopoulos, Member

BY: _____
Effie Drosopoulos, Member

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

)
) ss.

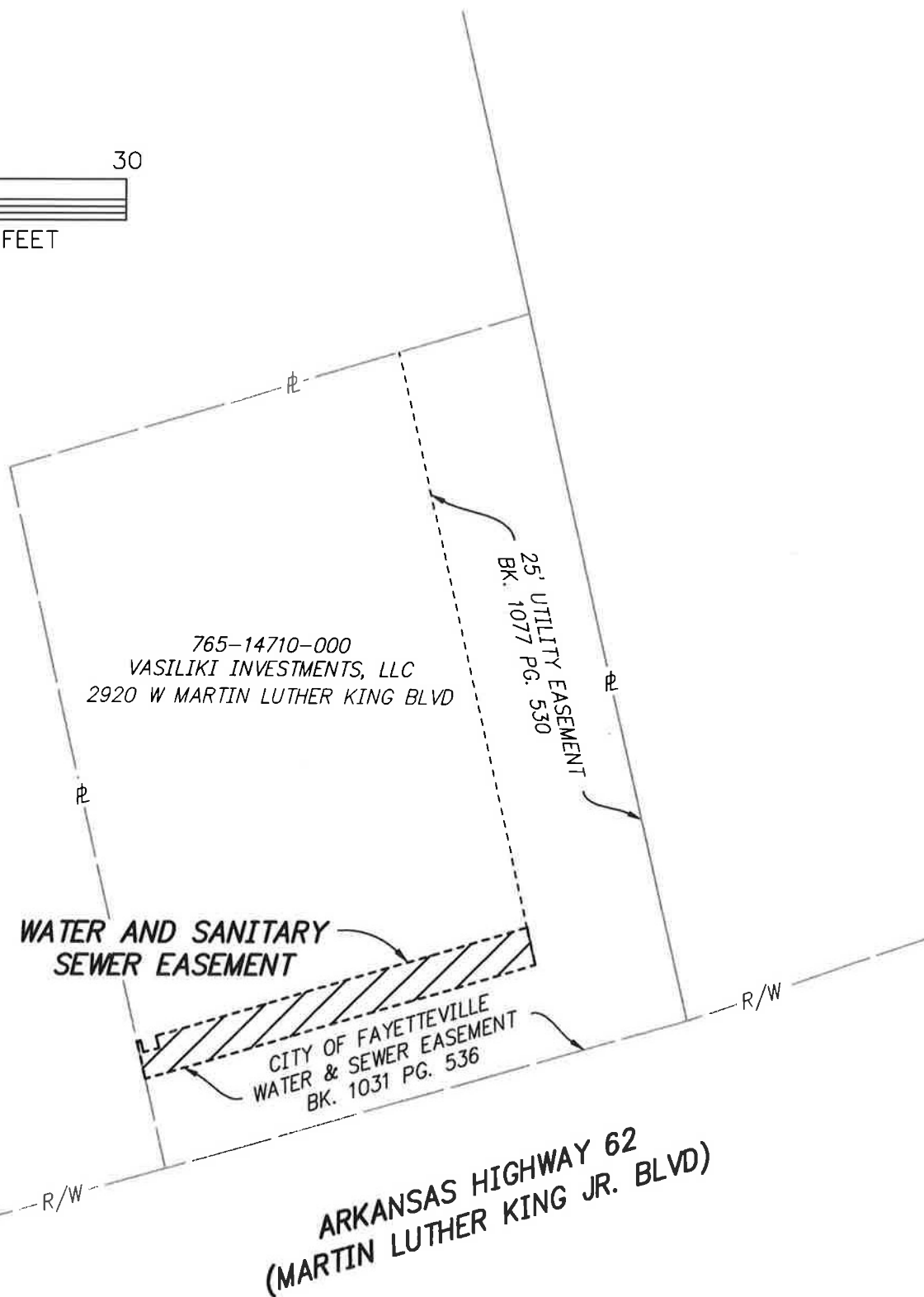
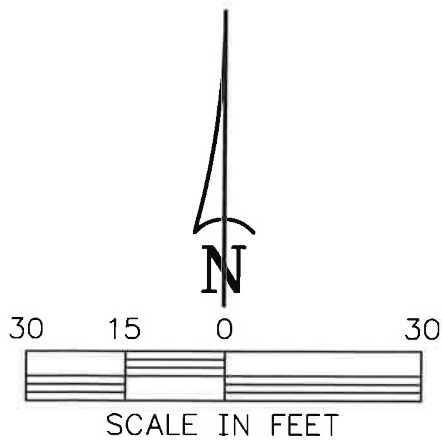
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Vasso Drosopoulos and Effie Drosopoulos**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are Members of **Vasiliki Investments, LLC, an Arkansas limited liability company**, and are duly authorized in their 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 instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK TRACT 20.DWG, 7/17/2024 2:16 PM, JOSH NICHOLS, LAYOUT1



HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

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EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 20 - VASILIKI INVESTMENTS, LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 07/12/2024

SCALE: 1"=30'

JOB NO. 2022129

Tract No. 24

Gregory S. Long and Lesa Long



November 22, 2024

Gregory S. Long
PO Box 66
Prairie Grove, AR 72753

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14705-000
2818 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Long:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

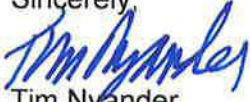
In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$1,000.00 for the rights associated with the permanent easement (105 square feet) and \$2,700.00 for the rights associated with the temporary construction and grading easement (905 square feet), for a total of **\$3,700.00**. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 1,916 SqFt retail building on 0.40 acres of commercial land. The city is relocating water and sewer easements along this corridor.

11/12/24	Effective Date
PHYSICAL CHARACTERISTICS	
Gregory S Long	Property Owner
765-14705-000	Parcel #
Fayetteville	City
AR	State
1,916	SqFt - Gross Building Area
	Before the Acquisition
17,424	SqFt - Land
	Proposed Water and Sewer Easement
105	SqFt - Land (Acquisition Area)
	After the Acquisition
17,319	SqFt - Land (Remainder)
	Remaining Rights In the Acquisition Area
105	SqFt - Land (Residual)
	Temporary Construction Easements
905	SqFt - Land
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 402,500	Land Value Before the Acquisition
\$ 401,500	Land Value After the Acquisition
\$ 1,000	Market Value of the Acquisition
\$ 2,700	TCE

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Gregory S. Long and Lesa Long, husband and wife**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2017-00026276)

Part of the W 1/2 of the NE 1/4 of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows, to-wit: Beginning at a point on the North Right-of-Way of U.S. Highway 62, which is West 526.1 feet and S18°08'E 69.0 feet, and S68°42'W 130.1 feet of the SE corner of the NW 1/4 of the NE 1/4 of said Section 19, and running thence N18°08'W 232.2 feet, thence S68°42'W 90.0 feet, thence S18°08'E 232.2 feet, thence N68°42'E 90 feet to the Point of Beginning.

LESS & EXCEPT

Part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a State Monument being used as the Quarter corner of said Sections 18 and 19; thence South 02°15'32" West a distance of 1,312.90 feet to the Northwest corner of the Southwest Quarter of the Northeast Quarter of said Section 19; thence South 86°48'31" East along the North line of the Southwest Quarter of the Northeast Quarter of said Section 19 a distance of 727.17 feet to a point on the Southwesterly right of way line of Oak Drive; thence South 15°31'16" East along said right of way line a distance of 107.11 feet to a point on the Northwesterly right of way line of U.S. Highway 62 (M.L.K. Jr. Blvd.) as shown on a Plat filed May 26, 2005 as 2005-00022724; thence South 71°02'40" West along said right of way line a distance of 77.86 feet to the POINT OF BEGINNING; thence continuing South 71°02'40" West along said right of way line of U.S. Highway 62 (M.L.K. Jr. Blvd.) as established by ARDOT Job 040846; thence North 71°43'02" East along said right of way line a distance of 89.96 feet to a point; thence South 16°03'30" East a distance of 18.19 feet to the POINT OF BEGINNING and containing 0.04 acres (1,683 square feet) more or less, as shown on plans referenced as ARDOT Job 040846.

PERMANENT EASEMENT DESCRIPTION:

Part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter of the Northeast Quarter; thence along the North line of said Quarter-Quarter S86°48'31"E 643.74'; thence S16°03'30"E 95.79' to the Point of Beginning; thence continuing S16°03'30"E 6.84' to the North line of an existing City of Fayetteville water and sewer easement (filed for record in Book 861 Page 101); thence along said North easement line S71°07'30"W 30.62'; thence N58°41'19"E 31.70' to the Point of Beginning, containing 105 square feet or 0.002 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 10.00' wide easement lying parallel and adjacent to the North line of the above-described permanent easement, containing 905 square feet or 0.02 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct pipelines and/or make repairs to lines within the above-described easement at any time in the future and agrees to pay for or repair any damages as a result of such future construction and/or repairs as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

GREGORY S. LONG

LESA LONG

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF WASHINGTON) SS.

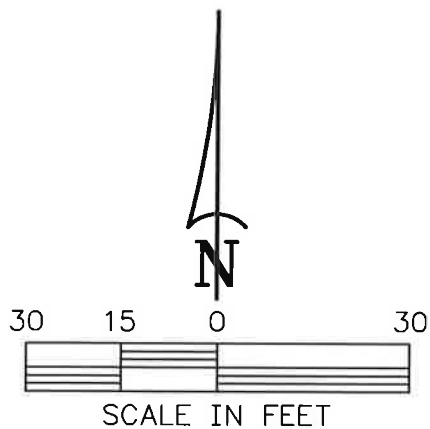
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally **Gregory S. Long and Lesa Long, husband and wife**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\TRACT 24.DWG, 10/28/2024 9:48 AM, ANDREW MCCOLLUM, LAYOUT1



765-14705-000
LONG, GREGORY S.
2818 W MARTIN LUTHER KING BLVD

**10' TEMPORARY
CONSTRUCTION EASEMENT**
**WATER AND SANITARY
SEWER EASEMENT**

CITY OF FAYETTEVILLE
WATER & SEWER EASEMENT
BK. 861 PG. 101

**ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)**

HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren (479) 474-1227 | Fort Smith (479) 242-4685 | Fayetteville (479) 455-2206 | Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 24 - GREGORY S. LONG
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 10/28/2024

SCALE: 1"=30'

JOB NO. 2022129

Tract No. 25

Hultquist Investments, LLC



November 22, 2024

Mr. Mike Hultquist
Hultquist Investments, LLC
7201 W Shadow Valley Road
Rogers, AR 72758

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14706-000
2804 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Hultquist:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

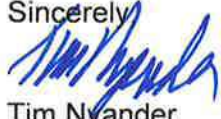
In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$9,000.00 for the rights associated with the permanent easement (1,416 square feet) and \$1,100.00 for damages, for a total of **\$10,100.00**. Damages include the loss of professionally landscaped shrubs and temporary loss of parking. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 3,224 SqFt retail building on 0.40 acres of commercial land. The city is relocating water and sewer easements along this corridor.

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

1/13/24	Effective Date
PHYSICAL CHARACTERISTICS	
Hultquist Investments, LLC	Property Owner
765-14706-000	Parcel #
Fayetteville	City
AR	State
3,224	SqFt - Gross Building Area
17,424	SqFt - Land
1,416	SqFt - Land (Acquisition Area)
16,008	SqFt - Land (Remainder)
1,416	SqFt - Land (Residual)
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 438,000	Land Value Before the Acquisition
\$ 429,000	Land Value After the Acquisition
\$ 9,000	Market Value of the Acquisition
\$ 700	Temporary Damages
\$ 400	Damages

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: Damages include the loss of professionally landscaped shrubs and temporary loss of parking.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Hultquist Investments, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2012-00039650)

Part of the W/2 of the NE/4 of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the SE Corner of the NW/4 of the NE/4 of said Section 19; thence North 89 degrees 16'18" West 569.52 feet to the Point of Beginning; and running thence South 18 degrees 08'00" East 96.53 feet to the Northerly Right of Way of U.S. Highway 62; thence South 68 degrees 00'54" West along said Right of Way 90.0 feet; thence leaving said Right of Way North 18 degrees 09'11" West 233.44 feet to an existing iron pipe, being the SW corner of Lot 9 of Rutledge Subdivision in the City of Fayetteville, Arkansas as per Plat thereof on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas; thence North 68 degrees 35' 10" East 90.03 feet to an existing iron pipe being the SE Corner of said Lot 9; thence South 18 degrees 08' East 136.02 feet to the Point of Beginning and containing 0.48 acres, more or less.

LESS & EXCEPT

Part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, Washington county, Arkansas, more particularly described as follows: Commencing at a State Monument being used as the Quarter corner of said Sections 18 and 19; thence South 02°15'3" West a distance of 1,312.90 feet to the Northwest corner of the Southwest Quarter of the Northeast Quarter of said Section 19; thence South 86°48'31" East along the North line of the Southwest Quarter of the Northeast Quarter of said Section 19 a distance of 727.17 feet to a point on the Southwesterly right of way line of Oak Drive; thence South 15°31'16" East along said right of way line a distance of 81.95 feet to the POINT OF BEGINNING; thence continuing South 15°31'16" East along said right of way line a distance of 25.16 feet to a point on the Northwesterly right of way line of U.S. Highway 62 (M.L.K. Jr. Blvd.) as shown on a Plat filed May 26, 2005 at 2005-00022734; thence South 71°02'40" West along said right of way line a distance of 77.86 feet to a point; thence North 16°03'30" West a distance of 18.19 feet to a point on the Northwesterly right of way line of U.S. Highway 62 (M.L.K. Jr. Blvd.) as established by ARDOT job 040846; thence North 65°58'51" East a distance of 78.76 feet to the POINT OF BEGINNING and containing 0.04 acres (1,687 square feet) more or less, as shown on plans referenced as ARDOT Job 040846.

PERMANENT EASEMENT DESCRIPTION:

Part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter of the Northeast Quarter; thence along the North line of said Quarter-Quarter S86°48'31"E 737.73 to the Southwest right-of-way of South Oak Road; thence along said Southwest right-of-way S15°28'18"E 45.92' to the Point of Beginning; thence continuing along said Southwest right-of-way S15°28'18"E 21.50' to the North line of an existing City of Fayetteville water and sewer easement (filed for record in Book 856 Page 724); thence along said North easement line S71°11'32"W 88.14'; thence N16°03'30"W 6.84'; thence N58°41'19"E 67.58'; thence N71°10'47"E 23.09' to the Point of Beginning, containing 1,416 square feet or 0.03 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

HULTQUIST INVESTMENTS, LLC, an Arkansas limited liability company

BY: Mike Hultquist, President

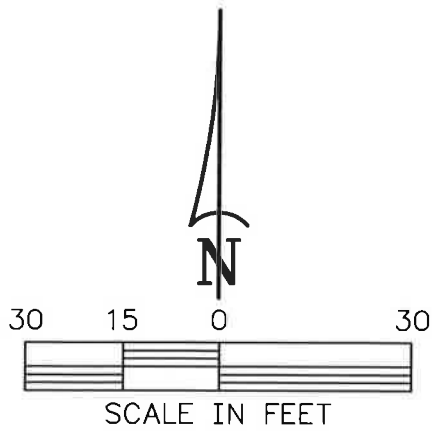
STATE OF ARKANSAS
COUNTY OF WASHINGTON

)
)
) SS.

WITNESS my hand and seal on this _____ day of _____, 2024.

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\TRACT 25.DWG, 9/23/2024 9:48 AM, ANDREW MCCOLLUM, LAYOUT1



765-14706-000
HULTQUIST INVESTMENTS, LLC
2804 W MARTIN LUTHER KING BLVD

CITY OF FAYETTEVILLE
ACCESS EASEMENT
DOC. #2014-00028701

WATER AND SANITARY
SEWER EASEMENT

CITY OF FAYETTEVILLE
WATER & SEWER EASEMENT
BK. 856 PG. 724

ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



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EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 25 - HULTQUIST INVESTMENTS, LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 09/23/2024

SCALE: 1"=30'

JOB NO. 2022129

Tract No. 26

Bird Cold Storage Company



November 22, 2024

Mr. Robert A. Vogel
Bird Cold Storage Company
C/O Auto Zone Inc. #3856
PO Box 2198 Dept 8700
Memphis, TN 38101

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14711-000
2790 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Vogel:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$12,000.00 for the rights associated with the permanent easement (1,777 square feet), \$3,200.00 for the rights associated with the temporary construction and grading easement (1,079 square feet), and \$500.00 for damages, for a total of **\$15,700.00**. Damages include the loss of a professionally landscaped tree. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the

documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 7,360 SqFt retail building on 0.90 acres of commercial land. The city is relocating water and sewer easements along this corridor.

11/15/24 Effective Date	
PHYSICAL CHARACTERISTICS	
Bird Cold Storage Company	Property Owner
765-14711-000	Parcel #
Fayetteville	City
AR	State
7,360	SqFt - Gross Building Area
39,204	SqFt - Land Before the Acquisition
1,777	SqFt - Land (Acquisition Area) Proposed Water and Sewer Easement
37,427	SqFt - Land (Remainder) After the Acquisition
1,777	SqFt - Land (Residual) Remaining Rights In the Acquisition Area
1,079	SqFt - Land Temporary Construction Easements
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 1,063,000	Land Value Before the Acquisition
\$ 1,051,000	Land Value After the Acquisition
\$ 12,000	Market Value of the Acquisition
\$ 3,200	TCE
\$ 500	Damages

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: Damages include the loss of a professionally landscaped tree.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Bird Cold Storage Company, an Arkansas general partnership**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2006-00036735)

Part of the West 1/2 of the NE 1/4 of Section 19, Township 16 North, Range 30 West, being more particularly described as follows: Commencing at the SE corner of the NW 1/4 of the NE 1/4 of said Section 19; thence West 214.92 feet (record 221 feet) to a point in the center of US Highway 62; thence South 68° 27' 59" West 103.66 feet (record, South 78° 48' West 104 feet) to a point in said centerline; thence North 19° 46' 10" West 40.13 feet to an existing iron rebar on the North right of way line of said Highway 62 for the true point of beginning, said point being the SW corner of a tract of land recorded in land record 2000-73345; thence South 68° 27' 59" West 190.42 feet to a set 1/2" iron rebar at the intersection of the North right of way line of said Highway 62 with the East right of way line of Oak Road; thence leaving the North right of way line of said Highway 62, North 18° 08' 01" West 233.33 feet along the East right of way line of Oak Road to an existing iron pipe; thence leaving the East right of way line of Oak Road, North 59° 17' 46" East 187.06 feet along the South line of the Rutledge Subdivision to the City of Fayetteville, Arkansas, to an existing iron rebar; thence leaving the South line of said subdivision, South 19° 46' 10" East 262.85 feet along the West line of a tract of land recorded in land document 2000-73345 to the point of beginning, containing 1.06 acres, more or less, Fayetteville, Washington County, Arkansas. The above described 1.06 acre tract being subject to a 30 foot wide utility easement, said easement lying North of and being adjacent to and parallel with the South boundary.

LESS AND EXCEPT:

Part of the West 1/2 of the NE 1/4 of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the SE corner of the NW 1/4 of the NE 1/4; thence along the South line of said Forty, North 87° 23' 35" West 214.92 feet; thence leaving said South line, South 71° 04' 24" West 103.66 feet; thence North 17° 09' 45" West 40.13 feet to an existing 1/2 inch rebar on the North right of way line of US Highway 62 and the point of beginning; thence along said right of way line, South 71° 04' 24" West 190.41 feet to an existing 1/2 inch rebar on the East right of way line of Oak Road; thence along said right of way line, North 15° 31' 36" West 15.11 feet to a point; thence leaving said right of way line, North 71° 47' 09" East 125.39 feet to a point; thence North 67° 32' 32" East 64.80 feet to a point; thence South 17° 09' 45" East 17.52 feet to the point of beginning, containing 0.06 acres, more or less, and being the same lands as conveyed to the City of Fayetteville, Arkansas, a municipal corporation, by Warranty Deed filed for record March 7, 2006, as land document number 2006-9306, records of Washington County, Arkansas.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northwest Quarter of the Northeast Quarter and part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

Commencing at the Southeast corner of said Northwest Quarter of the Northeast Quarter; thence along the South line of said Quarter-Quarter N86°48'31"W 349.92' to the intersection of said South Quarter-Quarter line with the Northern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence along said Northern right-of-way N70°48'38"E 20.11'; thence N17°08'01"W 17.91' to the North line of an existing utility easement (filed for record as Document #023A-00000206) and the Point of Beginning; thence along said North easement line S67°30'48"W 65.93'; thence continuing along said North easement line S71°45'25"W 98.01' to the East line of an existing 20' utility easement (filed for record as Document #023A-00000206); thence along said East easement line N13°59'03"W 22.49'; thence N80°13'33"E 110.25'; thence N70°34'19"E 53.10'; thence S17°08'01"E 2.41' to the Point of Beginning, containing 1,777 square feet or 0.04 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

Part of the Northwest Quarter of the Northeast Quarter and part of the Southwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

Commencing at the Southeast corner of said Northwest Quarter of the Northeast Quarter; thence along the South line of said Quarter-Quarter N86°48'31"W 349.92' to the intersection of said South Quarter-Quarter line with the Northern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence along said Northern right-of-way N70°48'38"E 20.11'; thence N17°08'01"W 20.56' to the North line of the above described permanent easement and the Point of Beginning; thence along said North line S74°39'24"W 52.91'; thence continuing along said North line S80°13'33"W 110.34'; thence N15°44'32"W 6.03'; thence N80°13'33"E 110.46'; thence N70°34'19"E 52.66'; thence S17°08'01"E 9.78' to the Point of Beginning, containing 1,079 square feet or 0.02 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

BIRD COLD STORAGE COMPANY, an Arkansas general partnership

By: Robert A. Vogel Management, LLC, general partner

BY:

Robert A. Vogel, Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

}
}
}

ss.

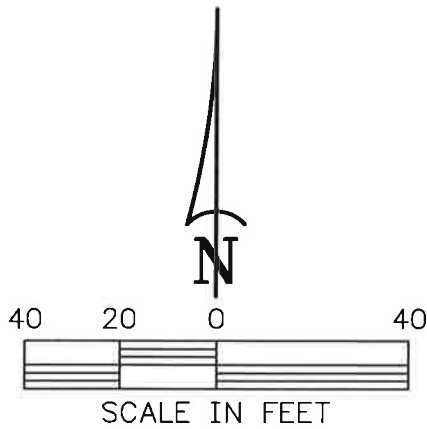
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Robert A. Vogel**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **Manager of Robert A. Vogel Management, LLC, a general partner of Bird Cold Storage Company, an Arkansas general partnership**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\TRACT 26.DWG, 10/28/2024 10:36 AM, ANDREW MCCOLLUM, LAYOUT1



SOUTH OAK ROAD

765-14711-000
BIRD COLD STORAGE COMPANY
2790 W MARTIN LUTHER KING BLVD

TEMPORARY
CONSTRUCTION EASEMENT

WATER AND SANITARY
SEWER EASEMENT

20' UTILITY EASEMENT
DOC. #023A-00000206

UTILITY EASEMENT
DOC. #023A-00000206

ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

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EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 26 - BIRD COLD STORAGE COMPANY
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 10/28/2024

SCALE: 1"=40'

JOB NO. 2022129

Tract No. 28

RPC Land Holdings, LLC



November 22, 2024

Mr. Ronald W. Connolly
RPC Land Holdings, LLC
16670 Sugar Creek Road
Garfield, AR 72732

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14700-000
2724 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Connolly:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

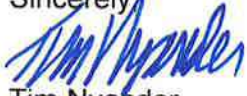
In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$31,000.00 for the rights associated with the permanent easement (4,289 square feet) and \$8,600.00 for the rights associated with the temporary construction and grading easement (2,883 square feet), for a total of **\$39,600.00**. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 4,335 SqFt automotive dealership on 1.30 acres of commercial land. The city is relocating water and sewer easements along this corridor.

- 11/18/24 Effective Date	
PHYSICAL CHARACTERISTICS	
RPC Land Holdings, LLC	Property Owner
765-14700-000	Parcel #
Fayetteville	City
AR	State
4,335	SqFt - Gross Building Area
56,628	SqFt - Land
4,289	SqFt - Land (Acquisition Area)
52,339	SqFt - Land (Remainder)
4,289	SqFt - Land (Residual)
2,880	SqFt - Land
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 1,657,000	Land Value Before the Acquisition
\$ 1,626,000	Land Value After the Acquisition
\$ 31,000	Market Value of the Acquisition
\$ 8,600	TCE

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **RPC Land Holdings, LLC**, an Arkansas limited liability company, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2021-00000129)

Part of the NW of the NE of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, described as follows, to-wit: Beginning at a point on the North line of the right of way of U.S. Highway No. 62, which is N39°W of a point on the North line of the former right of way of the O & C.C. (Frisco) Railroad, which is 50 feet North of the SE corner of said 40 acre tract; thence N39°W, with an old fence line, 264 feet to the corner with new fence; thence Westerly with said new fence line, 210 feet; thence South bearing East with new fence line 256 feet to the North line of the right of way of U.S. Highway No. 62; thence in an Easterly direction with the North line of said Highway, 298 feet to the beginning point, containing 1.5 acres, more or less.

LESS AND EXCEPT

That portion deeded to the Arkansas State Highway Commission in Deed 1060 at Page 478 described as part of the NW of the NE of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Starting at the SE corner of the NW of the NE of Section 19; thence N02°06'E along the East line a distance of 130.1 feet to a point on the Northerly existing right of way line of U.S. Highway 62; thence S70°45'W along said existing right of way line a distance of 236.3 feet for the point of beginning; thence continue S70°45'W along said existing right of way line a distance of 25.0 feet to a point on the Northerly proposed right of way line of U.S. Highway 62; thence N52°19'E along said proposed right of way line a distance of 15.8 feet to a point; thence S82°41'E along said proposed right of way line a distance of 11.2 feet to the point of beginning and containing 62 square feet, more or less.

LESS AND EXCEPT

Part of the SW/4 of the NE/4 and part of the NW/4 of the NE/4 of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a State Monument being used as the Quarter corner of said Sections 18 and 19; thence South 02°15'32" West a distance of 1,312.90 feet to the Northwest corner of the SW/4 of the NE/4 of said Section 19; thence South 86°48'31" East along the North line of the SW/4 of the NE/4 of said Section 19 a distance of 980.21 feet to a point on the Northeasterly right of way line of U.S. Highway 62 (M.L.K. Jr. Blvd.) for the POINT OF BEGINNING; thence North 17°08'01" West along said right of way line a distance of 8.16 feet to a point on the Northeasterly right of way line of U.S. Highway 62 (M.L.K. Jr. Blvd.) as established by ARDOT Job 040846; thence North 70°48'38" East along said right of way line a distance of 271.69 feet to a point; thence North 34°04'27" East along said right of way line a distance of 24.92 feet to a point; thence South 35°10'44" East a distance of 37.27 feet to a point on the Northeasterly right of way line of U.S. Highway 62 (M.L.K. Jr. Blvd.) as established by AHTD Job 4705-2; thence South 71°02'40" West along said right of way line a distance of 302.63 feet to a point; thence North 17°08'01" West a distance of 11.53 feet to the POINT OF BEGINNING and containing 0.14 acres (6,255 square feet) more or less, as shown on plans referenced as ARDOT Job 040846.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northwest Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

Commencing at the Southeast corner of said Northwest Quarter of the Northeast Quarter; thence along the South line of said Quarter-Quarter N86°48'31"W 349.92' to the intersection of said South Quarter-Quarter line with the Northern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence along said Northern right-of-way N70°48'38"E 20.11'; thence N17°08'01"W 5.31' to the North line of an existing City of Fayetteville water and sewer easement (filed for record in Book 829 Page 868) and the Point of Beginning; thence continuing N17°08'01"W 15.01'; thence N71°02'36"E 289.72'; thence S35°10'44"E 4.40' to said Northern right-of-way; thence along said Northern right-of-way S34°04'27"W 17.93' to said North easement line; thence

along said North easement line S71°02'40"W 277.10' to the Point of Beginning, containing 4,289 square feet or 0.10 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 10.00' wide easement lying parallel and adjacent to the North line of the above-described permanent easement, containing 2,880 square feet or 0.07 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

RPC LAND HOLDINGS, LLC, an Arkansas limited liability company

BY: _____
Ronald W. Connolly, Managing Member

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF _____

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)
)

ss.

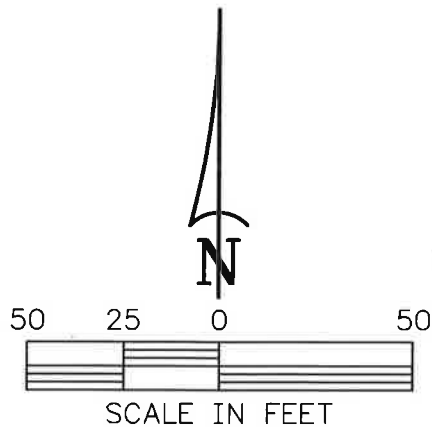
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared, **Ronald W. Connolly**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is a **Managing Member of RPC Land Holdings, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\TRACT 28.DWG, 11/15/2024 3:09 PM, ANDREW MCCOLLUM, LAYOUT1



765-14700-000
RPC LAND HOLDINGS LLC
2724 W MARTIN LUTHER KING BLVD

CITY OF FAYETTEVILLE
WATER & SEWER EASEMENT
BK. 829 PG. 868

**10' TEMPORARY
CONSTRUCTION EASEMENT**
**WATER AND SANITARY
SEWER EASEMENT**

**ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)**



Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 28 - RPC LAND HOLDINGS, LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 11/15/2024

SCALE: 1"=50'

JOB NO. 2022129

Tract No. 32

Halbert Properties, LLC



November 22, 2024

Ms. Ida Carolyn Halbert
Halbert Properties, LLC
1228 Reed Valley Road
Fayetteville, AR 72704

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14670-000
2675 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Ms. Halbert:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$7,000.00 for the rights associated with the permanent easement (3,474 square feet) and \$2,000.00 for damages, for a total of **\$9,000.00**. The construction-related damages will result in a partial and temporary restriction of parking access at the entrance point. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 4,000 SqFt retail shop on 0.72 acres of commercial land. Most of the site is in the flood plain and floodway.

11/20/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Halbert Properties LLC	Property Owner
765-14670-000 &	Parcel #
Fayetteville	City
AR	State
4,000	SqFt GBA
	Before the Acquisition
31,363	SqFt - Land
	Proposed Water and Sewer Easement
3,474	SqFt - Land (Acquisition Area)
	After the Acquisition
27,889	SqFt - Land (Remainder)
	Remaining Rights In the Acquisition Area
3,474	SqFt - Land (Residual)
C-2: Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 420,000	Land Value Before the Acquisition
\$ 413,000	Land Value After the Acquisition
\$ 7,000	Market Value of the Acquisition
\$ 2,000	Temporary Damages

The city is relocating water and sewer easements along this corridor. See mapping for specific locations.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city.

The building appears to be unaffected by the acquisition. While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

Damages: The construction will partially and temporarily restrict and limit the parking lot at the entrance point.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Halbert Properties, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2013-00011513)

Part of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of Section Nineteen (19), Township Sixteen (16) North, Range Thirty (30) West, more particularly described as follows, to-wit: Beginning at a point 145.05 feet East of the Southwest corner of said 40-acres tract, and running, thence East 132.45 feet; thence North 191.00 feet to the center line of U.S. Highway No. 62; thence South 69°15' West along the center line of said Highway 140.00 feet; thence South to the place of beginning. Except that portion contained in Highway 62, along the North side thereof. Less and Except: Part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a point being used as the Northeast Sixteenth Corner of Section 19; thence South 86°54'56" East along the South line of the Northeast Quarter of the Northeast Quarter of Section 19 a distance of 32.53 feet to a point on the Easterly right of way line of East Farmers Drive established by City of Fayetteville Master Street Plan; thence North 01°26'35" West along said right of way line a distance of 38.31 feet to a point on the Southerly right of way line of U.S. Highway 62 as established by AHTD Job 4705 Sec. 2; thence North 52°36'34" East along said right of way line a distance of 9.33 feet to a point; thence North 71°02'40" East along said right of way line a distance of 68.00 feet to a point; thence North 71°49'46" East along said right of way line a distance of 49.37 feet to the POINT OF BEGINNING; thence continue North 71°49'46" East along said right of way line a distance of 106.38 feet to a point; thence North 73°41'46" East along said right of way line a distance of 30.95 feet to a point; thence North 72°15'53" East along said right of way line a distance of 4.79 feet to a point; thence South 03°27'43" West a distance of 13.66 feet to a point on the Southerly right of way line of U.S. Highway 62 as established by AHTD Job 040485; thence South 74°29'05" West along said right of way line a distance of 140.09 feet to a point; thence North 03°27'43" East a distance of 7.80 feet to the point of beginning and containing 0.03 acres more or less (1,475 sq. ft. more or less) as shown on plans prepared by the AHTD referenced as Job 040485. Less and Except: A part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Starting at the Southwest Corner of the Northeast Quarter of the Northeast Quarter of Section 19; thence North 02°06' East along the West line of the Northeast Quarter of the Northeast Quarter of Section 19 a distance of 54.9 feet to a point on the existing Southerly right of way line of U.S. Highway 62; thence North 70°45' East along said existing right of way line a distance of 99.1 feet to a point; thence in a Northeasterly direction along said existing right of way line on a curve right having a radius of 5699.58 feet a distance of 57.06 feet to a point for the point of beginning; thence continue in a Northeasterly direction along said existing right of way line on a curve to the right having a radius of 5599.58 feet a distance of 141.60 feet to a point; thence South 02°13' West a distance of 16.5 feet to a point on the proposed Southerly right of way line of said U.S. Highway 62; thence South 73°19' West along said proposed right of way line a distance of 36.9 feet to a point; thence South 71°32' West along said proposed right of way line a distance of 105.3 feet to a point; thence North 03°53' East a distance of 16.8 feet to the point of beginning and containing 0.05 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Southwest corner of said Northeast Quarter of the Northeast Quarter; thence along the South line of said Quarter-Quarter S86°55'08"E 145.05'; thence N03°31'38"E 31.87' to the Point of Beginning; thence N03°31'38"E 26.27' to the Southern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence along said Southern right-of-way N75°42'15"E 139.07'; thence S03°33'48"W 26.21'; thence S75°40'45"W 139.07' to the Point of Beginning, containing 3,474 square feet or 0.08 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantee shall have the right to construct pipelines and/or make repairs to lines within the above-described easement at any time in the future and agrees to pay for or repair any damages as a result of such future construction and/or repairs as set out in this easement.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2024.

**By its sole member: Ida Carolyn Halbert Revocable Trust
Under Declaration dated October 20, 2015**

BY: Ida Carolyn Halbert, Trustee and Manager

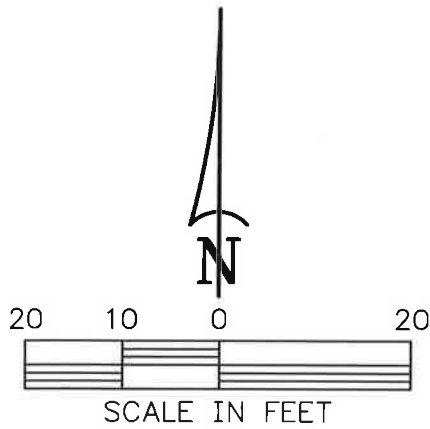
STATE OF ARKANSAS
COUNTY OF WASHINGTON

SS.

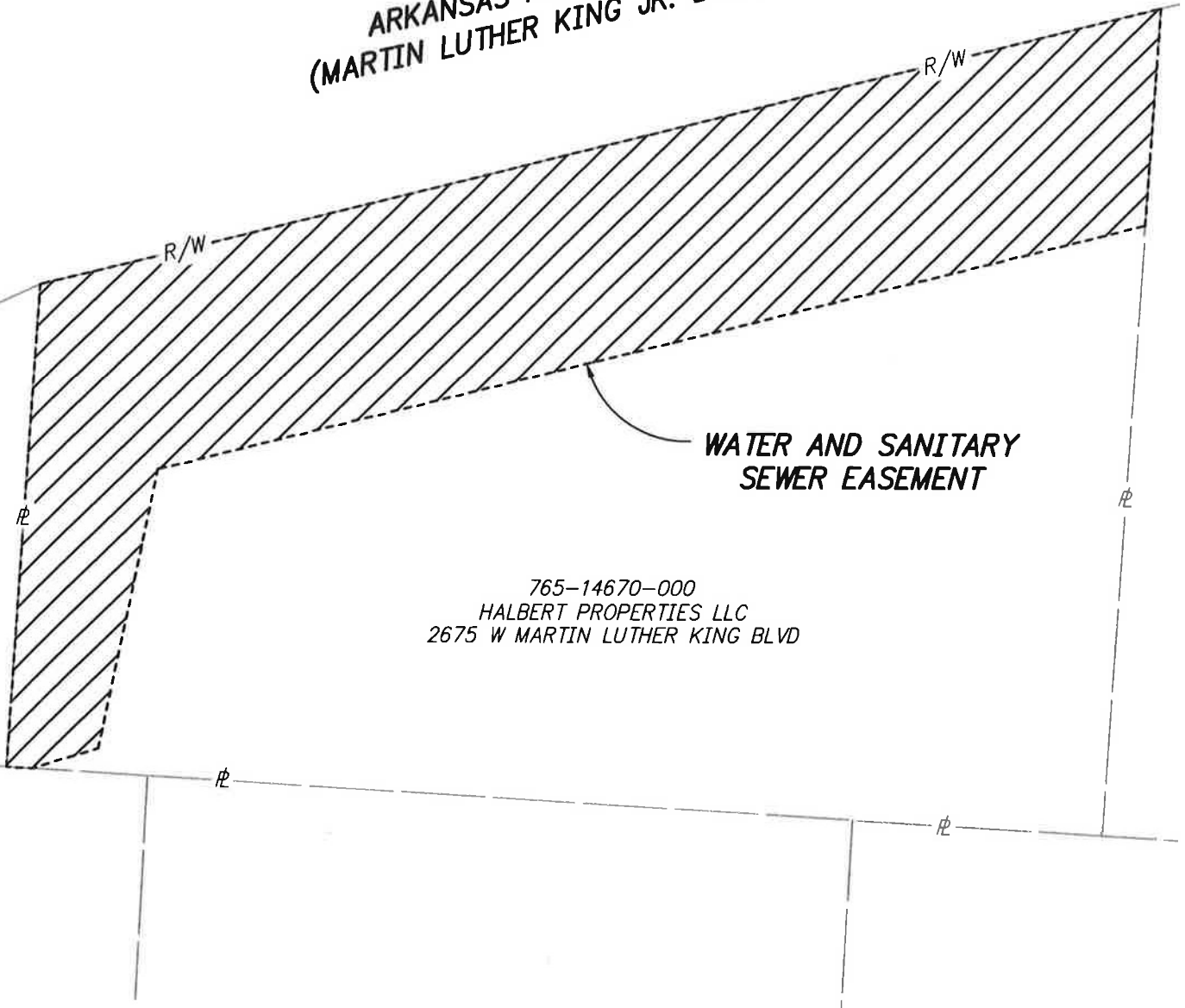
WITNESS my hand and seal on this _____ day of _____, 2024.

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\NEW FOLDER\TRACT 32.DWG, 7/8/2024 1:11 PM, ANDREW MCCOLLUM, LAYOUT1



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

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EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 32 - HALBERT PROPERTIES LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 07/12/2024

SCALE: 1"=20'

JOB NO. 2022129

Tract No. 35

University Square, LLC



November 22, 2024

Mr. Narry Krushiker
University Square, LLC
PO Box 7479
Springdale, AR 72766

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14685-000
2612 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Krushiker:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$21,000.00** for the rights associated with the permanent easement (2,502 square feet). This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a +/-44,641 SqFt in three detached buildings on 3.90 acres of commercial land. The buildings include 2 neighborhood shopping centers totaling +/-43,341 SqFt and +/-1,300 SqFt retail building. The city is relocating water and sewer easements along this corridor.

11/18/2024	Effective Date
PHYSICAL CHARACTERISTICS	
University Square, LLC	Property Owner
765-14685-000	Parcel #
Fayetteville	City
AR	State
44,641	SqFt - Gross Building Area
169,884	SqFt - Land
2,502	SqFt - Land (Acquisition Area)
167,382	SqFt - Land (Remainder)
2,502	SqFt - Land (Residual)
C-2: Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 5,647,000	Land Value Before the Acquisition
\$ 5,626,000	Land Value After the Acquisition
\$ 21,000	Market Value of the Acquisition

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **University Square, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2002-00104293)

A PART OF THE NE 1/4 OF SECTION 19, T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE CENTER OF THE RIGHT-OF-WAY OF HIGHWAY 62 WHICH POINT IS 742.50 FEET WEST OF THE EAST LINE OF NW 1/4 OF THE NE 1/4 OF SAID SECTION 19, THENCE NORTH 676.00 FEET, THENCE WEST 300.01 FEET, THENCE SOUTH 774.44 FEET TO THE CENTER OF THE RIGHT-OF-WAY OF SAID HIGHWAY 62, THENCE N 71°50' E, WITH THE CENTERLINE OF SAID RIGHT-OF-WAY, 315.74 FEET TO THE POINT OF BEGINNING, CONTAINING 4.99 ACRES, MORE OR LESS.

LESS & EXCEPT: A 0.17 ACRE TRACT CONVEYED TO THE ARKANSAS STATE HIGHWAY COMMISSION BY A WARRANTY DEED RECORDED DECEMBER 20, 1979, IN DEED RECORD BOOK 1007, AT PAGE 606.

ALSO, LESS & EXCEPT: A 0.336 ACRE TRACT CONVEYED TO THE ARKANSAS STATE HIGHWAY COMMISSION BY A QUITCLAIM DEED RECORDED AS LAND DOCUMENT #2000100196.

THE ABOVE DESCRIBED 4. 484 ACRE TRACT NOW BEING MORE ACCURATELY DESCRIBED BY A PLAT OF SURVEY BY ALAN REID & ASSOCIATES; DATED OCTOBER 9, 2000, DESIGNATED AS JOB #00442, AS FOLLOWS:

A PART OF THE NE 1/4 OF THE NE 1/4 OF SECTION 19, T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING IRON REBAR: THENCE N 87°04'58" W, ALONG THE NORTH LINE OF SAID 40 ACRE TRACT 806.23 FEET: THENCE S 02°55'02" W, 365.65 FEET TO AN EXISTING IRON REBAR ON THE WESTERLY RIGHT-OF-WAY OF U.S. HIGHWAY #540 FOR THE TRUE POINT OF BEGINNING: THENCE S 12°01'05" E, ALONG SAID RIGHT-OF-WAY 139.06 FEET TO AN EXISTING RIGHT-OF-WAY MONUMENT; THENCE S 22°03'25" E, ALONG SAID RIGHT-OF-WAY 72.63 FEET TO AN EXISTING IRON AT THE NW CORNER OF LAND PARCEL #765-14664-000, RECORDED IN DEED BOOK 1324 AT PAGES 186 THRU 190: THENCE LEAVING SAID RIGHT-OF-WAY S 02°49'01" W, ALONG THE WEST LINE OF THE ABOVE REFERENCED PARCEL 410.03 FEET TO AN EXISTING IRON ON THE NORTH RIGHT-OF-WAY OF U.S. HIGHWAY #62 AT THE SW CORNER OF THE ABOVE REFERENCED PARCEL; THENCE S 71°06'14" W, ALONG SAID NORTH RIGHT-OF-WAY 162.08 TO AN EXISTING PIPE; THENCE S 72°35'24" W, ALONG SAID NORTH RIGHT-OF-WAY 154.29 FEET TO AN EXISTING RIGHT-OF-WAY MONUMENT; THENCE S 76°45'42" W, ALONG SAID NORTH RIGHT-OF-WAY, 3.16 FEET TO AN EXISTING IRON, THENCE LEAVING SAID NORTH RIGHT-OF-WAY N 02°41'55" E, 724.20 FEET TO A POINT FROM WHICH AN EXISTING IRON BEARS S 02°41'55" W, .60 FEET; THENCE S 87°15'47" E, 233.74 FEET TO THE POINT OF BEGINNING, CONTAINING 4.418 ACRES, MORE OR LESS.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Northeast Quarter of the Northeast Quarter; thence N86°22'20"W 733.50'; thence S03°37'40"W 557.13' to the West right-of-way of South Shiloh Drive; thence S02°48'59"W 368.78' to the Point of Beginning; thence continuing S02°48'59"W 17.24' to the North line of an existing City of Fayetteville water and sewer easement (filed for record in Book 829 Page 865); thence along said North easement line S70°52'19"W 40.67'; thence continuing along said North easement line S70°02'15"W 41.47' to the intersection of the North line of an existing 20.00' utility easement (filed for record as Document #2002-

118059); thence along the North line of said 20.00' utility easement S74°22'23"W 261.42' to the East line of an existing 15.00' utility easement (filed for record as Document #2002-118059); thence along the East line of said 15.00' utility easement N18°05'14"W 2.11'; thence N72°40'08"E 314.15'; thence N32°01'45"E 9.57'; thence N59°56'49"E 22.22'; thence N87°26'06"E 6.42' to the Point of Beginning, containing 2,502 square feet or 0.06 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct pipelines and/or make repairs to lines within the above-described easement at any time in the future and agrees to pay for or repair any damages as a result of such future construction and/or repairs as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

UNIVERSITY SQUARE, LLC, an Arkansas limited liability company

BY: _____
Narry Krushiker, Member

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
)
) ss.

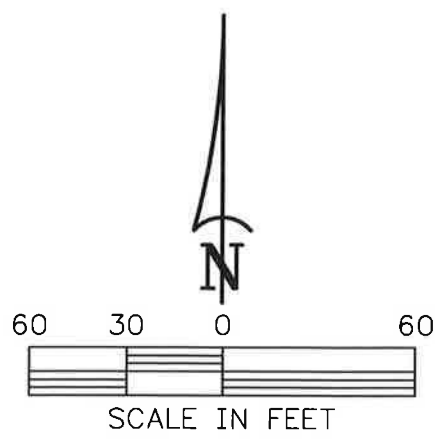
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared, **Narry Krushiker**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is a **Member of University Square, LLC**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

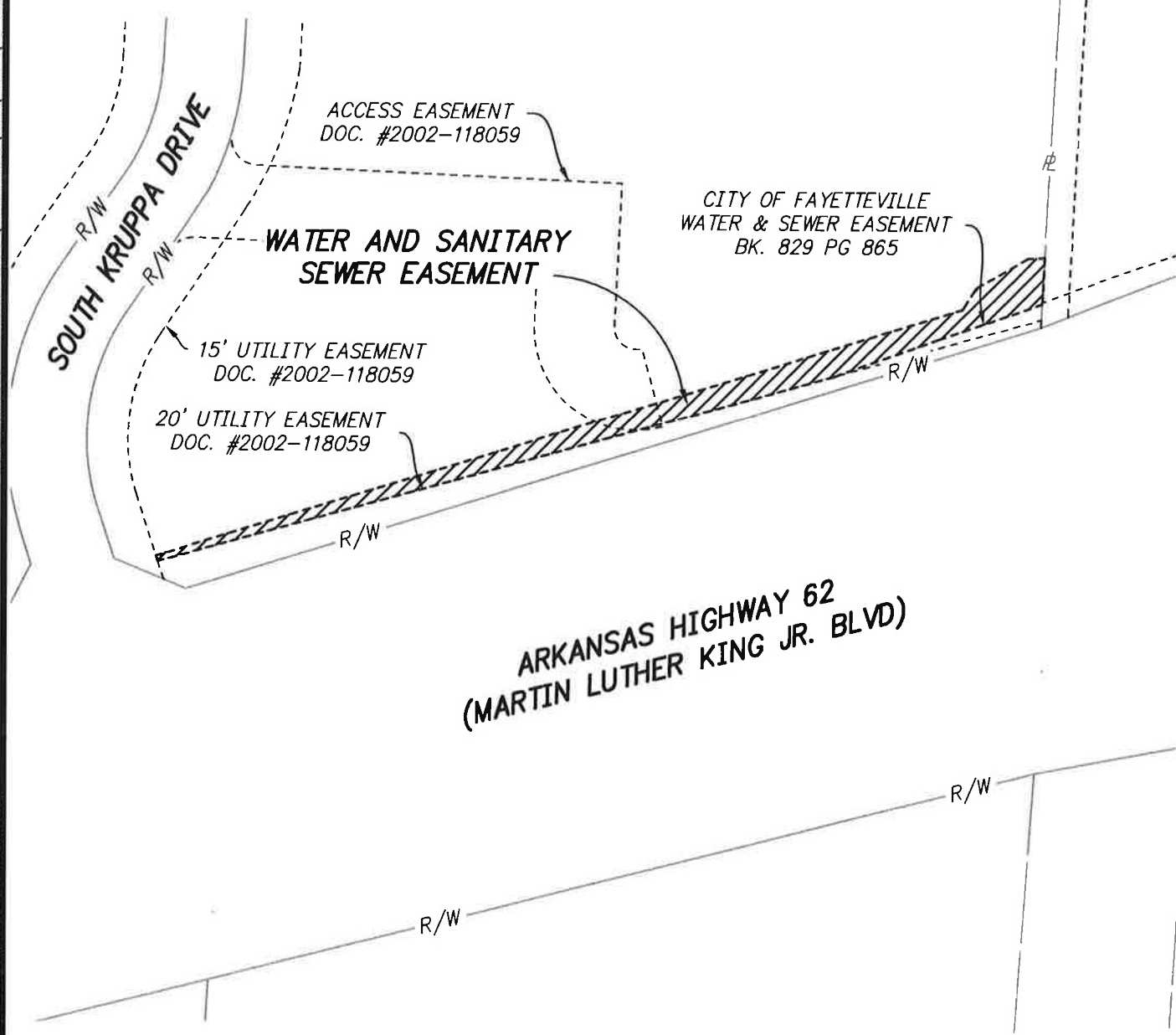
MY COMMISSION EXPIRES:

Notary Public

\\HWET-VB\HAWKINS-WEIR\LOCAL\PROJECTS\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\FINAL\KG EDITS\TRACT 35.DWG, 8/1/2024 11:35 AM, KELLI GREGG



765-14685-000
UNIVERSITY SQUARE, LLC
W MARTIN LUTHER KING BLVD



Van Buren (479) 474-1227	Fort Smith (479) 242-4685	Fayetteville (479) 455-2206	Little Rock (501) 374-4846
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EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 35 - UNIVERSITY SQUARE, LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 07/12/2024	SCALE: 1"=60'	JOB NO. 2022129
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Tract No. 36

Western Park, LLC



December 13, 2024

Mr. Lou Bitove
Western Park, LLC
31200 Northwestern Hwy
Farmington Hills, MI 48334

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14743-000
2575 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Bitove:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$4,000.00 for the rights associated with the permanent easement (4,484 square feet). This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property is the entrance driveway of a 16.94 acre mobile home park. The city is relocating water and sewer easements along this corridor. See mapping for specific locations.

12/12/2024	Effective Date
PHYSICAL CHARACTERISTICS	
Western Park LLC	Property Owner
765-14743-000	Parcel #
Fayetteville	City
AR	State
Before the Acquisition	
737,776	SqFt - Land
Proposed Water and Sewer Easement	
4,484	SqFt - Land (Acquisition Area)
After the Acquisition	
733,292	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
4,484	SqFt - Land (Residual)
Not Zoned	Zoning
CONCLUSIONS	
\$ 6,243,000	Land Value Before the Acquisition
\$ 6,239,000	Land Value After the Acquisition
\$ 4,000	Market Value of the Acquisition

Due to the narrow driveway and floodway and floodplain, the acquisition area is effectively unbuildable and only useful as driveways, green space or signage.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the mobile home park and driveway do not appear to be permanently damaged by the new easements.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Western Park, LLC, a Delaware limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2012-00038333)

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) AND A PART OF THE NORTHEAST QUARTER (NE1/4) OF THE NORTHEAST QUARTER (NE1/4) ALL IN SECTION NINETEEN (19), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, IN THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION NINETEEN (19); THENCE SOUTH 89° 41' 04" WEST ALONG THE NORTH LINE OF SAID 40 ACRE TRACT 476.40 FEET; THENCE SOUTH 00° 00' 19" EAST 237.94 FEET TO AN EXISTING IRON FOR THE TRUE POINT OF BEGINNING; THENCE SOUTH 00° 00' 40" WEST 1091.01 FEET TO AN EXISTING IRON; THENCE NORTH 85° 57' 53" WEST 201.18 FEET TO AN EXISTING IRON; THENCE SOUTH 89° 38' 00" WEST 395.21 FEET TO AN EXISTING IRON; THENCE NORTH 00° 01' 44" EAST 162.45 FEET TO AN EXISTING IRON; THENCE SOUTH 89° 41' 54" EAST 12.99 FEET TO AN EXISTING IRON; THENCE 329.64 FEET TO A CHISELED "X"; THENCE NORTH 00° 38' 26" EAST 231.51 FEET TO AN EXISTING IRON OF THE SOUTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY #62; THENCE NORTH 75° 12' 30" EAST ALONG SAID RIGHT-OF-WAY LINE 62.20 FEET TO AN EXISTING IRON; THENCE LEAVING SAID RIGHT-OF-WAY LINE SOUTH 00° 38' 52" WEST 247.05 FEET TO AN EXISTING SURVEYORS NAIL; THENCE SOUTH 31° 28' 54" WEST 145.22 FEET TO AN EXISTING IRON; THENCE SOUTH 00° 00' 28" EAST 114.52 FEET TO AN EXISTING CHISELED "X" IN CONCRETE; THENCE NORTH 89° 31' 04" EAST 282.00 FEET TO THE POINT OF BEGINNING. LESS AND EXCEPT ALL THAT PART DEEDED TO THE ARKANSAS STATE HIGHWAY COMMISSION AS SHOWN BY INSTRUMENT NO. 2010-19515, MORE PARTICULARLY DESCRIBED AS FOLLOWS: PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A POINT BEING USED AS THE NORTHEAST SIXTEENTH CORNER OF SECTION 19; THENCE SOUTH 86° 54' 56" EAST ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 19 A DISTANCE OF 32.53 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF EAST FARMERS DRIVE AS ESTABLISHED BY CITY OF FAYETTEVILLE MASTER STREET PLAN PLAT; THENCE NORTH 01° 26' 35" WEST LONG SAID RIGHT OF WAY A DISTANCE OF 38.31 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 62 AS ESTABLISHED BY AHTD JOB 4705 SEC. 2; THENCE NORTH 52° 36' 34" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 9.33 FEET TO A POINT; THENCE NORTH 71° 02' 40" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 68.00 FEET TO A POINT; THENCE NORTH 71° 49' 46" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 155.75 FEET TO A POINT; THENCE NORTH 73° 41' 46" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 30.95 FEET TO A POINT; THENCE NORTH 72° 15' 53" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 192.94 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 62 AS ESTABLISHED BY AHTD JOB 9447; THENCE NORTH 79° 21' 32" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 131.01 FEET TO THE POINT OF BEGINNING; THENCE NORTH 79° 21' 32" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 58.21 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 62 AS ESTABLISHED BY AHTD JOB 040485; THENCE SOUTH 75° 54' 09" WEST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 59.21 FEET TO A POINT; THENCE NORTH 03° 27' 43" EAST A DISTANCE OF 3.68 FEET TO THE POINT OF BEGINNING AND CONTAINING 104 SQ. FT., MORE OR LESS AS SHOWN ON PLANS PREPARED BY THE AHTD REFERENCED AS JOB 04085. 12/21/09 REV. JB 01104/10.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Southeast corner of said Northeast Quarter of the Northeast Quarter; thence along the South line of said Quarter-Quarter N86°55'08"W 678.38'; thence N03°27'56"E 74.06' to the Point of Beginning; thence N89°24'50"W 58.43'; thence N04°07'29"E 122.92' to the Southern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence along said Southern right-of-way N79°24'24"E 15.50'; thence S02°24'38"W 100.74'; thence S89°24'50"E 40.10'; thence S03°27'43"W 4.45'; thence S03°27'56"W 20.58' to the Point of Beginning, containing 3,099 square feet or 0.07 acres more or less.

ALSO

Part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Southeast corner of said Northeast Quarter of the Northeast Quarter; thence along the South line of said Quarter-Quarter N86°55'08"W 678.38'; thence N03°27'56"E 94.65'; thence N03°27'43"E 20.64' to the Point of Beginning; thence N16°43'54"W 90.74' to the Southern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence along said Southern right-of-way N79°24'24"E 25.14'; thence S16°43'54"E 20.08'; thence S03°27'43"W 72.42' to the Point of Beginning, containing 1,385 square feet or 0.03 acres more or less.

Containing a net total of 4,484 square feet or 0.10 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct pipelines and/or make repairs to lines within the above-described easement at any time in the future and agrees to pay for or repair any damages as a result of such future construction and/or repairs as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

WESTERN PARK, LLC, a Delaware limited liability company

BY: _____
Joel Brown, Director

ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) ss.

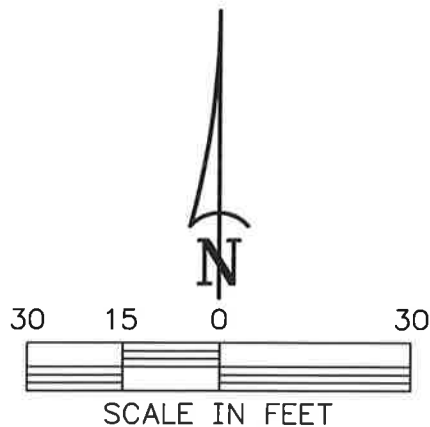
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared, **Joel Brown**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is a **Director of Western Park, LLC**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

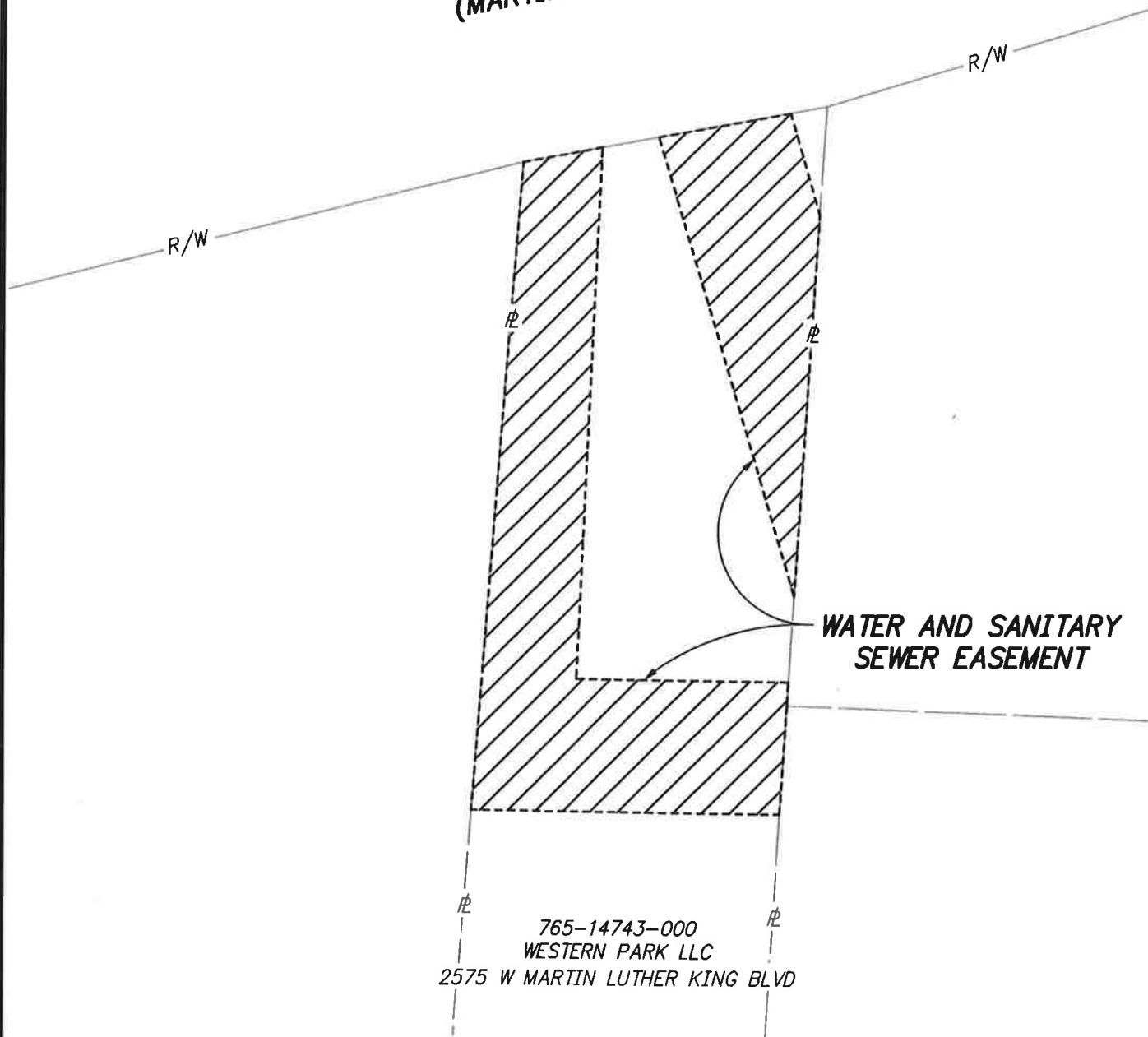
MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\NEW FOLDER\TRACT 36.DWG, 7/8/2024 2:00 PM, ANDREW MCCOLLUM, LAYOUT1



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



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EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 36 - WESTERN PARK LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 07/12/2024

SCALE: 1"=30'

JOB NO. 2022129

Tract No. 39

LLEJ Shiloh, LLC



November 22, 2024

Mr. Leonard Boen
LLEJ Shiloh, LLC
1 Remington Drive, Suite 100
Little Rock, AR 72221

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14674-000
1255 S SHILOH, Fayetteville, AR
(Offer Letter)

Dear Mr. Boen:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$2,000.00** for the rights associated with the permanent easement (1,373 square feet). This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

11/14/2024	Effective Date
PHYSICAL CHARACTERISTICS	
LLEJ Shiloh LLC	Property Owner
765-14674-000	Parcel #
Fayetteville	City
AR	State
Before the Acquisition	
13,504	SqFt - Land
Proposed Water and Sewer Easement	
1,373	SqFt - Land (Acquisition Area)
After the Acquisition	
12,131	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
1,373	SqFt - Land (Residual)
C-2: Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 144,000	Land Value Before the Acquisition
\$ 142,000	Land Value After the Acquisition
\$ 2,000	Market Value of the Acquisition

Before the acquisition, the subject property consists of 0.31 acres of vacant commercial land. Due to floodway and floodplain, it is effectively an unbuildable parcel only useful as green space or signage. The city is relocating water and sewer easements along this corridor. See mapping for specific locations.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city.

There is a paved driveway and a sign that are not in the easement area and appear unaffected.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **LLEJ Shiloh, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2020-00012196)

A tract of land located In the NE of the NE of Section 19, Township 16 North, Range 30 West of the 5th PM, Washington County, Arkansas, more particularly described as follows: Commencing at the Southeast corner of the NE of the NE of said Section 19, and run along the South line of said NE of the NE S88°51'W 403.37 feet to a point on the Westerly right of way line of the lands deeded to the Arkansas State Highway Commission In Warranty Deed Volume 1002, Page 528, for the point of beginning; thence continuing along said South line S88°51'W 128.74 feet; thence leaving said South line N 268.28 feet to said Westerly right of way line; thence along said right of way line the following courses: S56°23'55"E 96.72 feet; thence S13°06'W 32.0 feet; thence S25°34'E 75.0 feet; thence S56°32'E 29.2 feet; thence S32°42'E 74.1 feet to the point of beginning, containing 0.33 acres, more or less.

LESS and EXCEPT

That portion of the above described property conveyed to the Arkansas State Highway Commission in Warranty Deed filed for record as File No. 2010-00012108, Records of Washington County, Arkansas, being more particularly described as follows: Part of the NE of the NE of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a point being used as the Northeast Sixteenth Corner of Section 19; thence S86°54'56"E along the South line of the NE of the NE of Section 19 a distance of 32.53 feet to a point on the Easterly right of way line of East Farmers Drive as established by the City of Fayetteville Master Street Plan; thence N01°26'35"W along said right of way line 38.31 feet to a point on the Southerly right of way line of US Highway 62 as established by AHTD Job 4705 Sec. 2; thence N52°36'34"E along said right of way line 9.33 feet; thence N71°02'40"E along said right of way line 68.00 feet; thence N71°49'46"E along said right of way line 155.75 feet; thence N73°41'46"E along said right of way line 30.95 feet; thence N72°15'53"E along said right of way line 192.94 feet to a point on the Southerly right of way line of US Highway 62 as established by AHTD Job 9447; thence N79°21'32"E along said right of way line 338.68 feet to a point on the Westerly right of way line of I-540 as established by AHTD Job 4706 Sec. 3; thence S20°19'18"E along said right of way line 0.92 feet to the Point of Beginning; thence continue S20°19'18"E along said right of way line 113.13 feet; thence S16°40'48"W along said right of way line 10.99 feet to a point on the Westerly right of way line of I-540 as established by AHTD Job 040485; thence N 23°49'54"W along said right of way line 92.06 feet; thence N01°52'36"E 32.43 feet to the point of beginning, containing 0.02 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Southeast corner of said Northeast Quarter of the Northeast Quarter; thence along the South line of said Quarter-Quarter N86°55'08"W 525.37'; thence N01°59'12"E 73.65' to the Point of Beginning; thence N01°59'12"E 24.09'; thence N01°52'36"E 17.89'; thence S71°01'52"E 26.61' to the West line of an existing City of Fayetteville water and sewer easement (filed for record in Book 1016 Page 507); thence along said West easement line S21°52'38"E 41.30'; thence N88°42'42"W 36.03'; thence N54°40'50"W 7.29' to the Point of Beginning, containing 1,373 square feet or 0.03 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct pipelines and/or make repairs to lines within the above-described easement at any time in the future and agrees to pay for or repair any damages as a result of such future construction and/or repairs as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

LLEJ SHILOH, LLC, an Arkansas limited liability company

BY:

Leonard Boen, Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
)
)

ss.

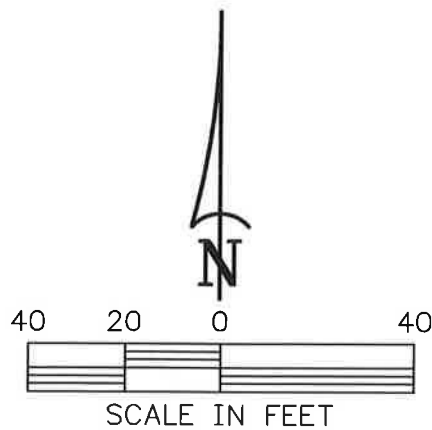
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared, **Leonard Boen**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **Manager of LLEJ Shiloh, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

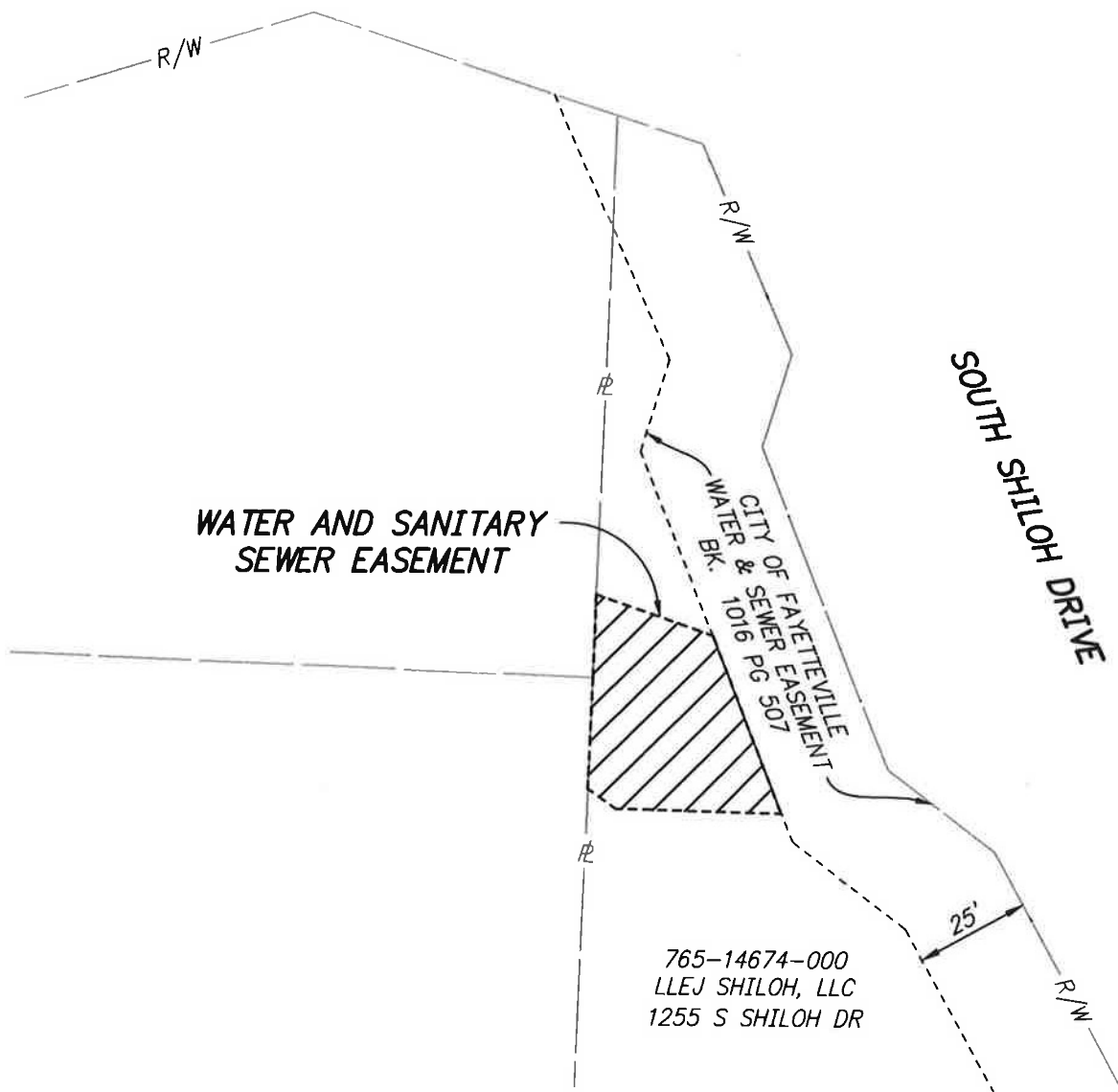
MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\TRACT 39.DWG, 7/15/2024 4:41 PM, JOSH NICHOLS, LAYOUT1



ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)



Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

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EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 39 - LLEJ SHILOH, LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 07/12/2024

SCALE: 1"=40'

JOB NO. 2022129

Tract No. 40

Wal-Mart Stores, Inc.



November 22, 2024

Mr. Wynne Lucas
Wal-Mart Stores, Inc. now known as Walmart Inc.
c/o Wal-Mart Property Tax Dept
PO Box 8050, MS 0555
Bentonville, AR 72712

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14859-000
2346 W MARTIN LUTHER KING JR BLVD, Fayetteville, AR
(Offer Letter)

Dear Mr. Lucas:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$2,000.00 for the rights associated with the permanent easement (194 square feet) and \$800.00 for the rights associated with the temporary construction and grading easement (230 square feet), for a total of **\$2,800.00**. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 8,701 SqFt office building on 2.12 acres of commercial land. The city is relocating water and sewer easements along this corridor.

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

11/8/2024	Effective Date
PHYSICAL CHARACTERISTICS	
WalMart Properties Inc.	Property Owner
765-14859-000	Parcel #
Fayetteville	City
AR	State
8,701	SqFt - Gross Building Area
92,391	Before the Acquisition SqFt - Land
194	Proposed Water and Sewer Easement SqFt - Land (Acquisition Area)
92,197	After the Acquisition SqFt - Land (Remainder)
194	Remaining Rights In the Acquisition Area SqFt - Land (Residual)
230	Temporary Construction Easements SqFt - Land
IPZD: Industrial Planned Zoning	Zoning
CONCLUSIONS	
\$ 2,122,000	Land Value Before the Acquisition
\$ 2,120,000	Land Value After the Acquisition
\$ 2,000	Market Value of the Acquisition
\$ 800	TCE

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Wal-Mart Stores, Inc. now known as Walmart Inc., a Delaware corporation**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2003-00025563)

TRACT II:

A PART OF THE NW 1/4 OF THE NW 1/4 OF SECTION 20, TOWNSHIP 16 NORTH, RANGE 30 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHWEST CORNER OF THE NW 1/4 OF SECTION 20, THENCE S 02° 51' 14" W 5.00 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A SET IRON PIN; THENCE ALONG THE SOUTH RIGHT-OF-WAY OF OLD FARMINGTON ROAD, SAID LINE BEING A PERPENDICULAR DISTANCE OF 5.00 FEET SOUTH AND PARALLEL WITH THE NORTH BOUNDARY OF SAID SECTION 20, S 86°46' 00" E 172.42 FEET TO A SET IRON PIN; THENCE S 02° 36' 44" W 446.95 FEET TO A FOUND IRON PIN; THENCE S 02° 33' 52" W 210.06 FEET TO A FOUND IRON PIN ON THE NORTH RIGHT-OF-WAY OF U.S. HIGHWAY 62; THENCE ALONG SAID RIGHT-OF-WAY S 87° 27' 32" W 7.44 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF FUTURALL DRIVE, SAID POINT BEING A RIGHT-OF-WAY MARKER AND FOUND IRON PIN; THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY N 29° 46' 37" W 311.47 FEET TO A POINT ON THE WEST LINE OF SAID SECTION, SAID POINT BEING A SET IRON PIN; THENCE ALONG SAID SECTION LINE N 02° 51' 14" E 396.54 FEET TO THE POINT OF BEGINNING, CONTAINING 2.121 ACRES, MORE OR LESS, CITY OF FAYETTEVILLE, ARKANSAS.

PERMANENT EASEMENT DESCRIPTION:

A 10.00' wide easement over part of the Northwest Quarter of the Northwest Quarter of Section 20, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Northwest corner of said Northwest Quarter of the Northwest Quarter; thence along the West line of said Quarter-Quarter S02°51'24"W 401.84' to the Eastern right-of-way of Interstate 49/Futtrall Drive; thence along said Eastern right-of-way S29°45'28"E 284.66' to the Northern right-of-way of Martin Luther King Jr Boulevard (Per ARDOT Job 040846); thence along said Northern right-of-way S77°18'19"E 22.16'; thence N02°35'09"E 25.52' to a point 5.00' Northeast of an existing 25' City of Fayetteville public utility easement (filed for record in Book 1029 Page 720) and the Point of Beginning; thence continuing 5.00' Northeast of and parallel to said existing easement N29°40'56"W 19.45' to the Point of Termination, containing 194 square feet or 0.004 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 10.00' wide easement lying parallel and adjacent to the North and East lines of the above-described permanent easement, containing 230 square feet or 0.005 acres more or less.

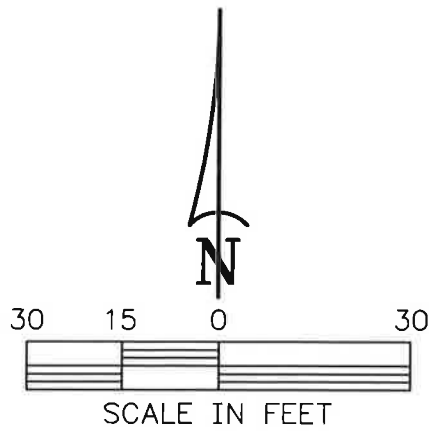
Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\KG EDITS\TRACT 40.DWG, 8/19/2024 1:39 PM, ANDREW MCCOLLUM, LAYOUT1



FUTRALL DRIVE

765-14859-000
WAL-MART STORES, INC.
2346 W MARTIN LUTHER KING BLVD

25' CITY OF FAYETTEVILLE
PUBLIC UTILITY EASEMENT
BK. 1029 PG. 720

15' UTILITY EASEMENT
DOC. #0024-00000377

10' TEMPORARY
CONSTRUCTION EASEMENT

10' WATER AND SANITARY
SEWER EASEMENT

ARKANSAS HIGHWAY 62
(MARTIN LUTHER KING JR. BLVD)

HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 40 - WAL-MART STORES, INC.
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 08/16/2024

SCALE: 1"=30'

JOB NO. 2022129

Tract No. 45

Tract 2 Holdings, LLC



November 22, 2024

Mr. Leonard Boen
Tract 2 Holdings, LLC
1 Remington Drive, Suite 100
Little Rock, AR 72204

RE: Martin Luther King, Jr. and Interstate 49 Interchange Project
Parcel No. 765-14734-000
1255 S SHILOH DR, Fayetteville, AR
(Offer Letter)

Dear Mr. Boen:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on improvements to Martin Luther King, Jr. Boulevard and the I-49 interchange. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines and/or sewer lines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction, less any necessary tree or landscape removal. Access to your property will be provided at all times during construction. A temporary construction and grading easement may also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$40,000.00 for the rights associated with the permanent easement (9,011 square feet) and \$7,000.00 for the rights associated with the temporary construction and grading easement (4,939 square feet), for a total of **\$47,000.00**. This offer is based on an appraisal of your property and a summary sheet is provided for your review.

Should you elect to accept this offer, the Water/Sewer Easement contained herein should be executed by all parties with current ownership interest in the particular property. The easement should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the easement if you will advise our office accordingly. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so we can process your payment. A blank W-9 is provided for this purpose. Upon receipt of the documents, a check will be requested, and you will be paid the amount indicated in this offer letter.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of 4.172 acres of commercial land. The city is relocating water and sewer easements along this corridor.

[illegible]

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city.

While the WSE restricts permanent construction above the easement area, it defines parking and driveways as non-permanent. It expressly restricts building wireless communication facilities.

APPRAISERS:

Zach | Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Tract 2 Holdings, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2019-00029736)

Part of the SE1/4, of the NE1/4, of Section 19, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at the NE corner of the SE1/4, of the NE1/4, of said Section 19; thence N87°55'30"W 401.80 feet to a point on the West Right-of-Way Line of US Highway No. 71 frontage Road (S. Shiloh Drive); thence along said Right-of-Way Line, S29°07'22"E 127.40 feet; thence S41°14'12"E 106.00 feet; thence S47°46'12"E 222.20 feet; thence S38°54'12"E 42.80 feet; thence S31°04'12"E 10.82 feet to the point of beginning; thence continuing S31°04'12"E 69.88 feet; thence S08°44'18"E 36.86 feet; thence S02°32'24"W 260.00 feet; thence S00°48'30"E 102.23 feet; thence leaving said Right-of-Way Line, N86°57'30"W 476.46 feet; thence N02°46'39"E 306.47 feet; thence N73°34'44"E 422.79 feet; thence N42°54'55"E 34.59 feet to the point of beginning, containing 4.172 acres more or less.

PERMANENT EASEMENT DESCRIPTION:

Part of the Southeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northeast Quarter; thence along the East line of said Quarter-Quarter S02°51'24"W 822.77' to the intersection of said East Quarter-Quarter line with the West right-of-way of South Shiloh Drive; thence along said West right-of-way N40°30'35"W 30.88' to the West line of an existing City of Fayetteville water and sewer easement (filed for record as Document #2021-00049240) and the Point of Beginning; thence along said West easement line S04°05'56"W 20.29' to the North line of an existing 15' utility easement (filed for record in Book 1165 Page 617); thence along said North easement line N86°53'29"W 7.94'; thence N40°30'35"W 45.96'; thence N02°26'50"E 342.72'; thence N88°22'27"W 5.03'; thence S68°12'51"W 3.91'; thence N19°48'48"W 24.16'; thence N70°30'43"E 13.80'; thence N02°27'18"E 14.80'; thence N11°53'25"W 16.25'; thence N42°54'55"E 6.55' to the Southwest line of an existing utility easement (filed for record as Document #2019-00008609); thence along said Southwest easement line S47°35'07"E 6.84' to the intersection of the Southwest line of an existing utility easement (filed for record in Book 1015 Page 679); thence along said Southwest easement line S31°04'37"E 35.28' to the West right-of-way of South Shiloh Drive; thence along said West right-of-way S02°26'53"W 362.41'; thence continuing along said West right-of-way S40°30'35"E 29.13' to the Point of Beginning, containing 9,011 square feet or 0.21 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

Part of the Southeast Quarter of the Northeast Quarter of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter of the Northeast Quarter; thence along the East line of said Quarter-Quarter S02°51'24"W 822.77' to the intersection of said East Quarter-Quarter line with the West right-of-way of South Shiloh Drive; thence along said West right-of-way N40°30'35"W 2.85' to the North line of an existing 15' utility easement (filed for record in Book 1165 Page 617); thence along said North easement line N86°53'29"W 27.63' to the West line of the above described permanent easement and the Point of Beginning; thence continuing along said North easement line N86°53'29"W 13.81'; thence N40°30'35"W 40.37'; thence N02°25'31"E 337.14'; thence N88°43'07"W 16.75'; thence N19°30'56"W 39.44'; thence N73°17'08"E 38.83' to the West line of the above described permanent easement; thence along said West line the following seven (7) courses: S02°27'18"W 13.64'; thence S70°30'43"W 13.80'; thence S19°48'48"E 24.16'; thence N68°12'51"E 3.91'; thence S88°22'27"E 5.03'; thence S02°26'50"W 342.72'; thence S40°30'35"E 45.96' to the Point of Beginning, containing 4,939 square feet or 0.11 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. Driveways and parking lots will not be considered permanent structures. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines upon the above-described easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

It is further understood that Grantee's easement shall be exclusive and that Grantor or its successors and assigns shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

WITNESS the execution hereof on this _____ day of _____, 2024.

TRACT 2 HOLDINGS, LLC, an Arkansas limited liability company

BY:

Leonard Boen, Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

}
}
ss.

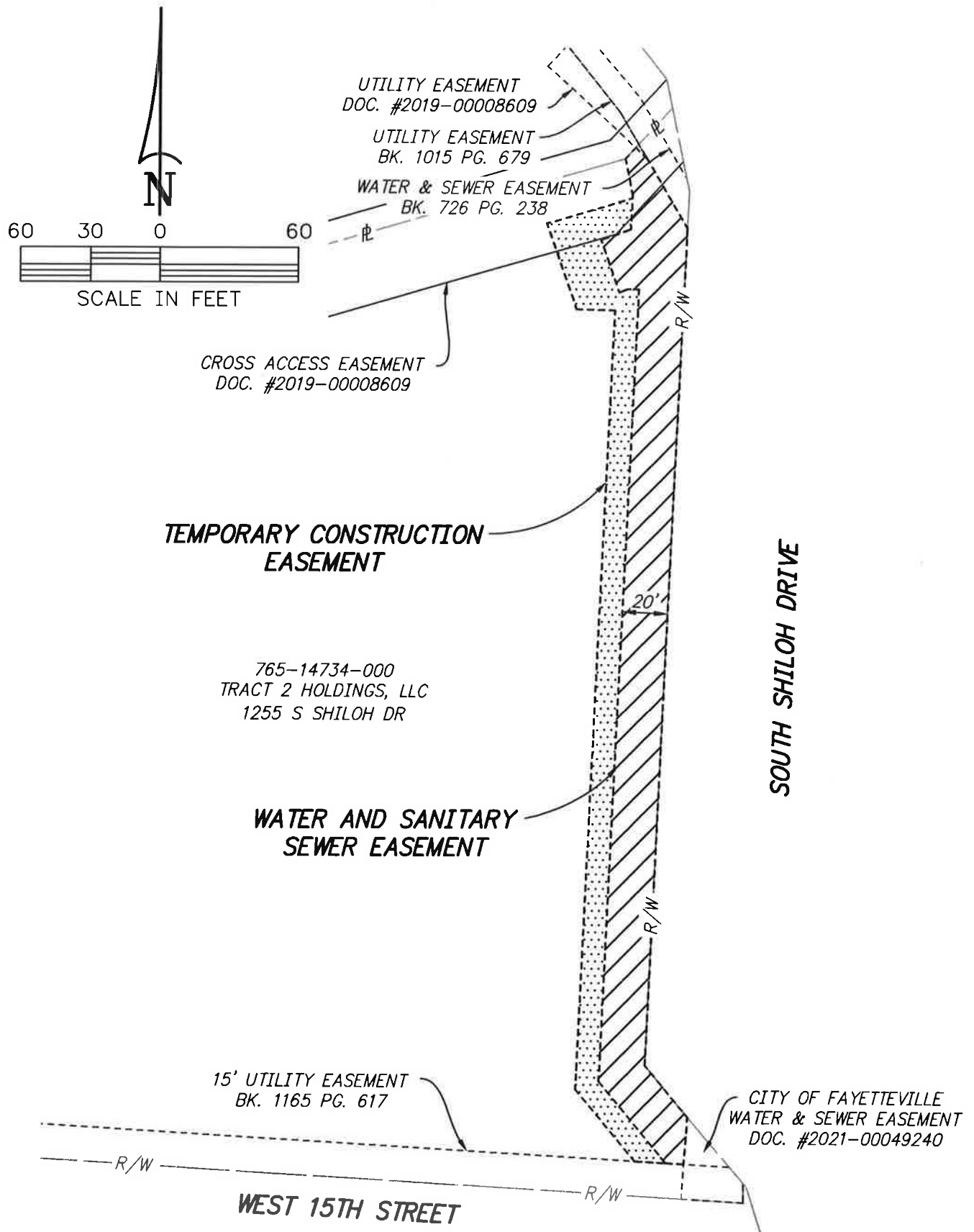
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared, **Leonard Boen**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the **Manager of Tract 2 Holdings, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

Z:\22\2022129 UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE - FAYETTEVILLE\EASEMENTS\MLK\KG EDITS\TRACT 45.DWG, 8/19/2024 3:15 PM, ANDREW MCCOLLUM, LAYOUT1



HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
UTILITY RELOCATIONS FOR I-49 MLK INTERCHANGE
TRACT 45 - TRACT 2 HOLDINGS, LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 08/16/2024

SCALE: 1"=60'

JOB NO. 2022129



MEETING OF MARCH 11, 2025

TO: Mayor Rawn and City Council
THRU: Keith Macedo, Interim Chief of Staff
FROM: Tim Nyander, Utilities Director
SUBJECT: **HIGHWAY 112 EASEMENT CONDEMNATIONS (UTILITY RELOCATIONS):**

RECOMMENDATION:

Staff recommends City Council approval of a Resolution authorizing the City Attorney to seek condemnation and orders of possession for the remaining easements necessary for the Highway 112 Utility Relocations Project and approval of a budget adjustment.

BACKGROUND:

The Arkansas Department of Transportation has requested utility relocations to prepare for the widening of Highway 112 from Truckers Drive to Howard Nickell Road. To expedite the overall roadway schedule, ARDOT is incorporating the City's utility relocations into the overall ARDOT project via amendments to the Second Supplemental Agreement of Understanding between ARDOT, NWARP, and the City of Fayetteville (Res. 218-19). These amendments were made via non-agenda mayoral approvals authorized by the original agreement.

The utility relocation scope, including all engineering and easements, is 90.74% ARDOT and 9.26% City financial responsibility. Final costs will be finalized once all project expenses are complete and reconciled. The utility relocation work will bid soon, based on ARDOT's schedule for the roadway bid.

DISCUSSION:

In order to meet the City's obligations for contractor site access, all easements for this project must be acquired or court ordered possessory rights obtained by May 2025 so that the State's contractor can begin work. This corridor consists of 22 necessary easements. To-date 8 of these easements have been fully acquired and recorded. In order to give the City Attorney's office adequate time to make these filings, approval by the City Council at the March 18th meeting is necessary.

Even if a condemnation must be filed on a particular property, we prefer reaching fair settlements with every landowner and the city will continue negotiating with property owners to obtain easements without having to go to trial.

BUDGET/STAFF IMPACT:

The payment for land acquisition will be made from the Water & Sewer Relocations project. The agenda item staff review form indicates \$432,120.00 as the cost of this request. It should be noted that this is an estimate, based on the appraised value of the properties, and that the final cost is subject to negotiation with the property owners or court order. The appraised value will be deposited into the Registry of the Circuit Court as just compensation when the condemnation complaint is filed for the property so the city will be able take immediate

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

possession of the easements.

ATTACHMENTS: Updated SRF (#3), BA (#4), Updated Highway 112 Easement Tracts for Condemnation (#5), Initial SRF (#6) , Highway 112 Easement Tracts for Condemnation (#6)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2025-303

HIGHWAY 112 EASEMENT CONDEMNATIONS (UTILITY RELOCATIONS):

A RESOLUTION TO AUTHORIZE THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY INDIVIDUALS NEEDED FOR THE HIGHWAY 112 UTILITY RELOCATIONS PROJECT, AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, the City of Fayetteville has been unable to negotiate the acquisition of easements on 14 properties needed to complete the Highway 112 Utility Relocations Project; and

WHEREAS, the City of Fayetteville needs to gain possession of these needed properties promptly to begin work on this public improvement and to not delay construction of the project.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway 112 Utility Relocations Project and owned by Thomas E. Simmons and Candace Simmons that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$8,200.00.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway 112 Utility Relocations Project and owned by BFT Rental, LLC, an Arkansas limited liability company, that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$123,000.00.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway 112 Utility Relocations Project and owned by Fellowship Bible Church of Northwest Arkansas that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$30,800.00.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway 112 Utility Relocations Project and owned by One Twelve Village, LLC, an Arkansas limited liability company, that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$50,000.00.

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway 112 Utility Relocations Project and owned by Transport Realty, Inc., an Arkansas corporation, that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$19,000.00.

Section 6: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway 112 Utility Relocations Project and owned by Sam's Real Estate Business Trust, a Delaware statutory trust, that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$4,800.00.

Section 7: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway 112 Utility Relocations Project and owned by CL Partners, LLC and D Briggs 112 Exchange, LLC that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$169,000.00.

Section 8: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway 112 Utility Relocations Project and owned by McBryde Family Limited Partnership, an Arkansas limited partnership, that is needed for a water/sewer easement and a general utility easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$20,400.00.

Section 9: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway 112 Utility Relocations Project and owned by Kubald Ventures, LLC that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$6,000.00.

Section 10: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway 112 Utility Relocations Project and owned by Jason Purdy and Marleah Purdy that is needed for a temporary construction and grading easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$420.00.

Section 11: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway 112 Utility Relocations Project and owned by Jamal Abdin and Maria Abdin that is needed for a water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$6,500.00.

Section 12: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution.

City of Fayetteville Staff Review Form

2025-303

Item ID

3/18/2025

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Tim Nyander

2/27/2025

WATER SEWER (720)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends City Council approval of a Resolution authorizing the City Attorney to seek condemnation and orders of possession for the remaining easements necessary for the Highway 112 Utility Relocations Project and approval of a budget adjustment.

Budget Impact:

5400.720.5600-5810.00

Water & Sewer

Account Number

Fund

11011.2101

Water & Sewer Relocations - I-49 & MLK
Interchange

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 9,781,598.00

Expenses (Actual+Encum)

\$ 9,588,467.37

Available Budget

\$ 193,130.63

Does item have a direct cost? Yes

Item Cost

\$ 432,120.00

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 250,000.00

Remaining Budget

\$ 11,010.63

V20221130

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:

Budget Year	Division	Adjustment Number
2025	WATER SEWER (720)	
	Requestor: Cheryl Partain	

Staff recommends City Council approval of a Resolution authorizing the City Attorney to seek condemnation and orders of possession for the remaining easements necessary for the Highway 112 Utility Relocations Project and approval of a budget adjustment. A budget adjustment is needed in the Water and Sewer Relocations project to cover the cost of the remaining easements. Budget funds will be transferred from Water System Rehabilitation/Replacement project to cover the cost.

	COUNCIL DATE:	3/18/2025
	ITEM ID#:	2025-303
	Holly Black	
	2/28/2025 11:59 AM	
	Budget Division	Date
	D - (City Council)	
	TYPE:	
	JOURNAL #:	
	GLDATE:	
	CHKD/POSTED:	/
RESOLUTION/ORDINANCE		

v.2025211

Tract No.	First Owner Name	Appraised Value of PUE*	Appraised Value of TCE**	Damages	Total Value of Easements
1	Thomas E. Simmons and Candace Simmons	\$5,000.00		\$3,200.00	\$8,200.00
3	Arkansas State Highway Commission				\$0.00
6	BFT Rental, LLC, an Arkansas limited liability company	\$123,000.00			\$123,000.00
10	Fellowship Bible Church of Northwest Arkansas	\$28,000.00		\$2,800.00	\$30,800.00
11	One Twelve Village, LLC, an Arkansas limited liability company	\$50,000.00			\$50,000.00
12	Transport Realty, Inc., an Arkansas corporation	\$19,000.00	\$0.00		\$19,000.00
13	Sam's Real Estate Business Trust, a Delaware Statutory Trust	\$0.00	\$4,800.00		\$4,800.00
15a	CL Partners, LLC, an undivided 57.5% interest, and D Briggs 112 Exchange, LLC, an undivided 42.5% interest	\$169,000.00	\$0.00		\$169,000.00
17	McBryde Family Limited Partnership, an Arkansas limited partnership (GUE \$0)	\$18,000.00	\$1,500.00	\$900.00	\$20,400.00
18	Arkansas State Highway Commission				\$0.00
32	Jason and Marleah Purdy		\$420.00		\$420.00
47	Jamal Abdin and Maria Abdin, husband and wife	\$4,000.00		\$2,500.00	\$6,500.00
		\$416,000.00	\$6,720.00	\$9,400.00	\$432,120.00

*PUE = Permanent Utility Easement

**TCE = Temporary Construction Easement

Tract No. 1

Thomas E. Simmons & Candace Simmons



February 21, 2025

Thomas and Candace Simmons
2607 W. Howard Nickell Road
Fayetteville, AR 72704

RE: Highway 112 Widening Project
Parcel No. 516-02443-000
2607 W. Howard Nickell Road, Fayetteville, AR
(*Notification Letter*)

Dear Mr. and Mrs. Simmons:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction.

The City of Fayetteville hereby offers \$5,000.00 for the rights associated with the permanent easement (3,404 square feet) and \$3,200.00 for damages, for a total of **\$8,200.00**. Damages include the loss of a mature oak tree. This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a home on 1.66 acres. The city is relocating water and sewer easements along this corridor.

2/19/2025	Effective Date
PHYSICAL CHARACTERISTICS	
Thomas E. & Candace Simmons	Property Owner
516-02443-000	Parcel #
Fayetteville	City
AR	State
Before the Acquisition	
72,310	SqFt - Land
Proposed Water and Sewer Easement	
3,404	SqFt - Land (Acquisition Area)
After the Acquisition	
68,906	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
3,404	SqFt - Land (Residual)
No Zoning	Zoning
CONCLUSIONS	
\$ 189,000	Land Value Before the Acquisition
\$ 184,000	Land Value After the Acquisition
\$ 5,000	Market Value of the Acquisition
\$ 3,200	Damages

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn, fencing, sprinklers) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the home does not appear to be affected by the permanent easement, and the client assures us that owners will continue to have access and use of the parking and home during construction.

The WSE restricts permanent structures above the easement area.

Damages: Damages include the loss of a mature oak tree.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT WE, **Thomas E. Simmons and Candace Simmons, husband and wife**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 2019-13961)

Lot Number One (1) of the Twin Oaks Subdivision as recorded in Book 5 at Page 33 of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

PERMANENT EASEMENT DESCRIPTION:

Part of Lot 1, Twin Oaks Addition (filed for record October 14, 1971), City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Beginning at the Northwest corner of said Lot 1, said corner being on the South right-of-way line of West Howard Nickell Road; thence along said South right-of-way line S86°46'40"E 12.19 feet to the West line of the West Howard Nickell Road ARDOT right-of-way (per ARDOT Job #040746); thence along said West right-of-way S03°24'30"W 3.45 feet to the South line of said ARDOT right-of-way; thence along said South right-of-way S78°34'28"E 143.40 feet; thence continuing along said South right-of-way S73°55'34"E 36.99 feet to the West right-of-way line of North Pin Oak Street; thence along said West right-of-way S02°54'08"W 17.97 feet; thence parallel to and 17.50 feet South of said ARDOT right-of-way the following two courses: N73°55'34"W 40.38 feet; thence N78°34'28"W 152.37 feet to the West line of said Lot 1; thence along said West line N02°54'08"E 19.39 feet to the Point of Beginning, containing 3,404 square feet or 0.08 acre more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipelines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2025.

Thomas E. Simmons

Candace Simmons

ACKNOWLEDGMENT

STATE OF ARKANSAS

)

SS.

COUNTY OF WASHINGTON

)

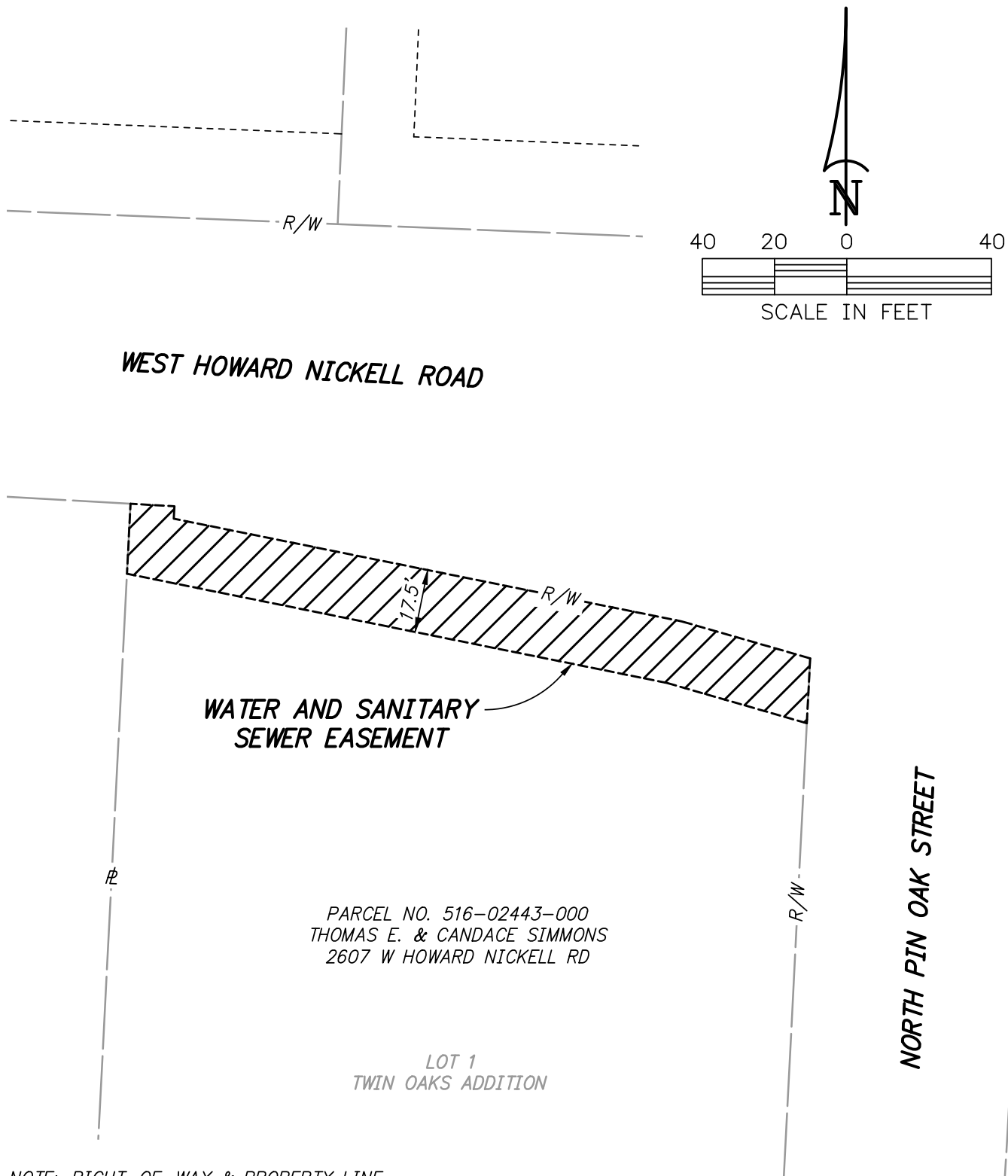
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Thomas E. Simmons and Candace Simmons, husband and wife**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\1 - THOMAS E. & CANDACE SIMMONS.DWG, 12/16/2024 4:37 PM, ANDREW MCCOLLUM, LAYOUT1



NOTE: RIGHT-OF-WAY & PROPERTY LINE
INFORMATION BASED ON ARDOT JOB #040746.
NO INDEPENDENT BOUNDARY SURVEY WAS
PERFORMED AS PART OF THIS PROJECT.



Van Buren (479) 474-1227 | Fort Smith (479) 242-4685 | Fayetteville (479) 455-2206 | Little Rock (501) 374-4846

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EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 1 - THOMAS E. & CANDACE SIMMONS
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/16/2024

SCALE: 1"=40'

JOB NO. 2021048

Tract No. 6, 7, & 9

BFT Rental, LLC



February 21, 2025

Mr. Dale L. Benedict
BFT Rental, LLC
PO Box 1927
Fayetteville, AR 72702

RE: Highway 112 Widening Project
Parcel No. 765-15832-000, 765-15830-001 & 765-15830-003
N. Deane Solomon Road, Fayetteville, AR
(*Notification Letter*)

Dear Mr. Benedict:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement will also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$123,000.00** for the rights associated with the permanent easement (36,002 square feet). This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of 65.33 acres of land with multiple zonings and multiple structures. The city is relocating water and sewer easements along this corridor.

2/20/2025	Effective Date
PHYSICAL CHARACTERISTICS	
BFT Rental LLC	Property Owner
765-15832-000; 765-15830-003; 765-15830-001	Parcel #
Fayetteville	City
AR	State
Before the Acquisition	
2,845,644	SqFt - Land
Proposed Water and Sewer Easement	
36,002	SqFt - Land (Acquisition Area)
After the Acquisition	
2,809,642	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
36,002	SqFt - Land (Residual)
Multiple	Zoning
CONCLUSIONS	
\$ 63,000	Market Value of the Acquisition A
\$ 60,000	Market Value of the Acquisition B & C
\$ 123,000	Total WSE Acquisitions

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the buildings does not appear to be affected by the permanent easements, and the client assures us that owners and customers will continue to have access and use of the parking and buildings during construction.

The WSE restricts permanent structures above the easement area.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **BFT Rental LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 2016-14655)

A part of the W ½ of the SW ¼ of Section 28, T-17-N, R-30-W, Washington County, Arkansas being more particularly described as follows: Beginning at the intersection of the South right-of-way of Arkansas State Highway No. 112 and the East right-of-way of a gravel dirt road, said point lying S 85°39'30" E, 460.60 feet from the NW Corner of said 80.00 acres tract and running thence S 89°51'00" E, 858.70 feet with the South right-of-way line of Highway No. 112 to the East line of said 80.00 acres tract; thence S 00°07'00" E with said East line 1,300.60 feet to a point N 00°07'00" W, 1,303.60 feet from the SE Corner of said 80.00 acre tract; thence West 600.60 feet to the East right-of-way line of the previously mentioned gravel road; thence N 08°06'00" E with said East line 321.00 feet; thence N 10°39'00" W with said East line 284.30 feet; thence N 28°25'00" W with said East line 166.10 feet; thence N 17°19'00" W with said East line 586.00 feet to the point of beginning, containing 20.00 acres, more or less.

Now, more accurately described by a plat of survey by Milholland Company dated May 10, 2004 and designated as drawing no. E-688 as follows: A part of the West Half (W1/2) of the Southwest Quarter (SW1/4) of Section Twenty-Eight (28), Township Seventeen (17) North, Range Thirty (30) West, described as follows: Commencing at the Northwest corner of the SW1/4 of said Section 28-17-30, thence S87°14'29"E 1320.14 feet to a point on the East line of the West Half (W1/2), Southwest Quarter (SW1/4) of said Section, thence S02°31'02"W, 34.99 feet along said East line to the Southern right-of-way of Arkansas Highway No. 112 and the point of beginning, thence continuing along said East line S02°31'02"W, 1298.63 feet; thence N87°16'08"W 600.60 feet to the East right-of-way of Washington County Road No. 890, thence along said right-of-way N10°49'52"E 321.00 feet, thence with said right-of-way N07°55'08"W, 284.30 feet, thence with said right-of-way N25°41'08"W, 166.10 feet, thence with said right-of-way N14°35'08"W 576.59 feet to the southern right-of-way of Arkansas Highway No. 12, thence along said right-of-way S87°35'48"E 853.78 feet to the point of beginning, all located in Fayetteville, Washington County, Arkansas and containing 19.860 acres, more or less.

AND

A part of the NE1/4 of the SW1/4 of Section 28, Township 17 North, Range 30 West, being more particularly described as follows: Commencing at the Northwest corner of said 40 acre tract, said point being in Arkansas Highway #112; thence S01°21'02"W along the West line of said 40 acre tract 60.40 feet to an existing iron on the South Right-of-Way line of said highway for the true point of beginning; thence S88°44'20"E along said right of way 636.06 feet to an existing iron; thence leaving said right of way S00°40'42"E 565.86 feet to an existing iron; thence S01°01'05"W 179.25 feet to an existing iron at a fence corner; thence S01°01'50"W 161.92 feet to a set ½" iron rebar on the proposed North Right-of-Way line of an undeveloped street as shown on the master street plat for Fayetteville, Arkansas; thence N88°33'19"W along said proposed right of way line 658.07 feet to a set ½" iron rebar on the West line of said 40 acre tract; thence N01°21'02"E 904.60 feet to the point of beginning, containing 13.52 acres, more or less.

AND (Deed Reference 2016-17689)

Part of the NE1/4 of the SW1/4 and part of the NW1/4 of the SE1/4 of Section 28, Township 17 North, Range 30 West of the 5th Principal Meridian, all in Washington County, Arkansas, more particularly described as follows, to-wit: Commencing at the Northwest corner of the NE ¼ of the SW ¼ of said Section 28, Township 17 North, Range 30 West, thence along the centerline of Highway 112, South 89°35'26" East 941.81 feet to the POINT OF BEGINNING, thence along the centerline of Highway 112 South 89°35'36" East 1704.36 feet, thence along the centerline of Highway 112 South 801.84 feet, thence North 89°28'28" West 1984.09 feet, thence North 179.25 feet, thence along an existing fence North 02°04'03" West 154.99 feet; thence along an existing fence which is the South property line of the Sandlin property North 89°42'25" East 299.39 feet, thence along an existing fence which is the East property line of the Sandlin property North 01°45'19" West 460.28 feet to the POINT OF BEGINNING, containing 33.397 acres, more or less.

PERMANENT EASEMENT DESCRIPTION "A":

Part of the North Half of the Southwest Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of the Southwest Quarter; thence along the East line of said Quarter-Quarter S02°37'26"W 157.13' to the South line of the Highway 112 ARDOT right-of-way (per ARDOT Job #040746) and the Point of Beginning; thence along said South right-of-way S88°26'10"E 52.86'; thence S02°21'17"W 20.00'; thence N88°26'10"W 92.85'; thence N68°18'00"W 106.91'; thence N88°19'27"W 499.66'; thence S01°28'45"W 8.78'; thence S51°21'40"E 138.33'; thence S38°38'20"W 20.00'; thence N51°21'40"W 148.27'; thence N01°28'45"E 18.79'; thence N88°19'27"W 99.62' thence S70°37'29"W 57.32' to the East right-of-way of North Deane Solomon Road; thence along said East right-of-way N14°34'18"W 48.22' to said South ARDOT right-of-way; thence along said South right-of-way the following five courses: N83°37'27"E 78.76'; thence S79°34'36"E 110.03'; thence S88°19'27"E 503.06'; thence S68°18'00"E 106.89'; thence S88°26'10"E 36.71' to the Point of Beginning, containing 23,165 square feet or 0.53 acre more or less.

PERMANENT EASEMENT DESCRIPTION "B":

Part of the Northeast Quarter of the Southwest Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northeast corner of said Northeast Quarter of the Southwest Quarter; thence along the North line of said Quarter-Quarter N87°14'29"W 116.30'; thence S02°35'30"W 150.10' to the South line of the ARDOT Highway 112 right-of-way (per ARDOT Job #040746) and the Point of Beginning; thence continuing S02°35'30"W 77.10'; thence S08°57'44"E 97.29'; thence S81°02'16"W 15.00'; thence N08°57'44"W 148.74'; thence N02°35'30"E 30.00' to the South line of said ARDOT right-of-way; thence along said South right-of-way S86°42'52"E 25.00' to the Point of Beginning, containing 3,184 square feet or 0.07 acres more or less.

PERMANENT EASEMENT DESCRIPTION "C":

Part of the Northwest Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northeast corner of said Northwest Quarter of the Southeast Quarter; thence along the East line of said Quarter-Quarter S02°35'18"W 806.01'; thence N87°11'34"W 99.62' to the West line of the ARDOT Highway 112 right-of-way (per ARDOT Job #040746) and the Point of Beginning; thence N87°11'34"W 82.49'; thence N02°50'45"E 62.00'; thence S87°11'34"E 41.01' to a point 30.00 West of said West right-of-way; thence continuing 30.00' West of and parallel to said right-of-way N22°01'58"W 150.02'; thence N67°58'02"E 30.00' to said West right-of-way; thence along said West right-of-way the following two courses: S22°01'58"E 173.78'; thence S01°44'58"E 53.20' to the Point of Beginning, containing 9,653 square feet or 0.22 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipelines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is further understood that Grantee's easement shall be exclusive and that Grantor and/or Grantor's successors shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2025.

BFT RENTAL, LLC, an Arkansas limited liability company

By: _____
Dale L. Benedict, Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dale L. Benedict**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Manager of **BFT Rental, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\6 - BFT RENTAL LLC.DWG, 12/2/2024 9:41 AM, ANDREW MCCOLLUM, LAYOUT1

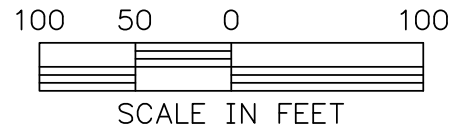
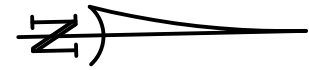
R/W
NORTH DEANE SOLOMAN ROAD
R/W

30' OZARK ELECTRIC COOPERATIVE
RIGHT OF WAY
DOC. #2014-00025143

**WATER AND SANITARY
SEWER EASEMENT "A"**

PARCEL NO. 765-15832-000 &
765-15830-000
BFT RENTAL LLC
N DEANE SOLOMAN RD

30' OZARK ELECTRIC COOPERATIVE
RIGHT OF WAY
DOC. #2014-00025143



WEST HIGHWAY 112

LOT 57
BELCLAIRE ESTATES

N. PROMENADE LNK.

LOT 16

LOT 15

LOT 14

NOTE: RIGHT-OF-WAY & PROPERTY LINE
INFORMATION BASED ON ARDOT JOB #040746.
NO INDEPENDENT BOUNDARY SURVEY WAS
PERFORMED AS PART OF THIS PROJECT.

HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

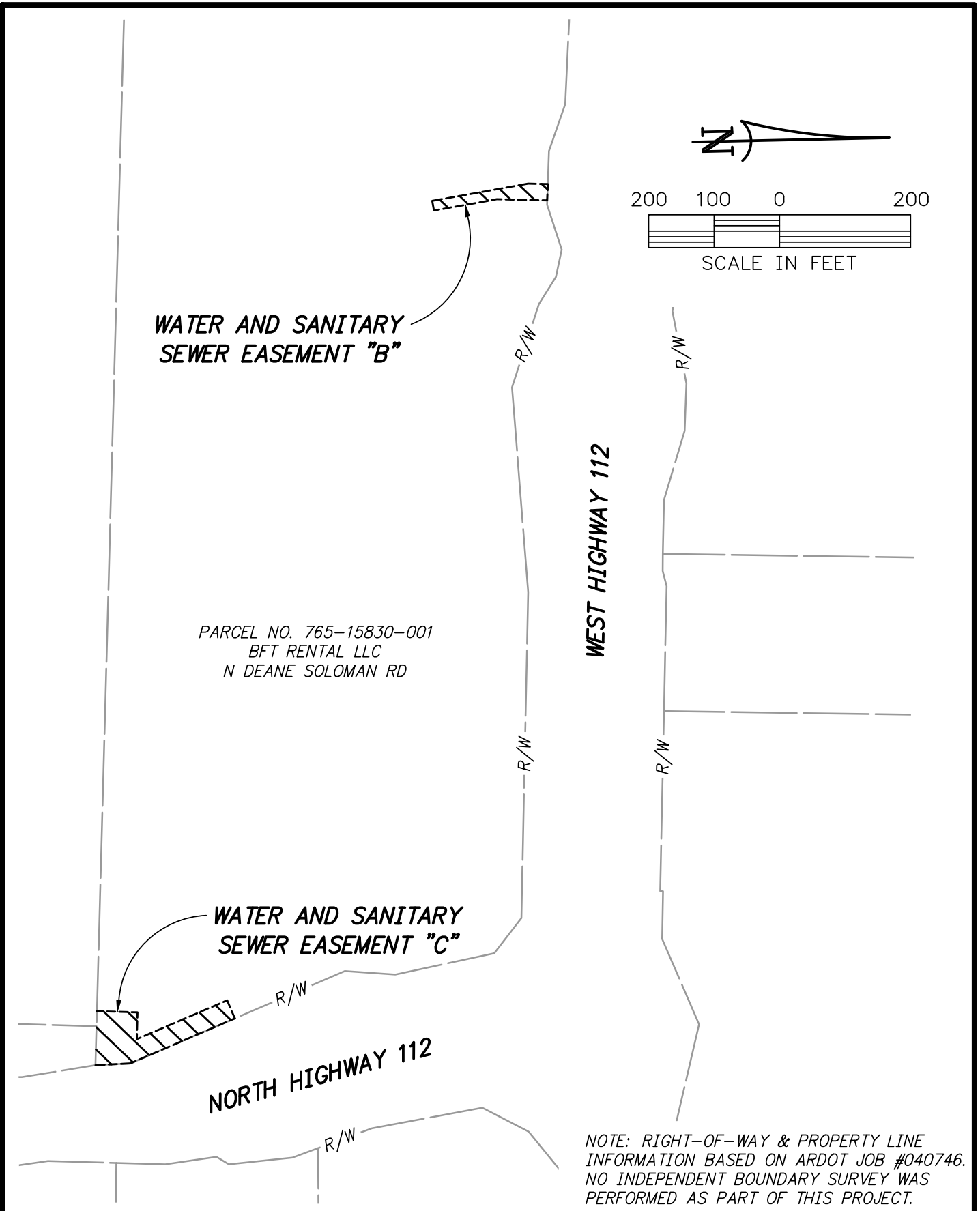
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EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACTS 6, 7 & 9 - BFT RENTAL LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/02/2024

SCALE: 1"=100'

JOB NO. 2021048



Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "B"
HIGHWAY 112 UTILITY RELOCATIONS
TRACTS 6, 7 & 9 - BFT RENTAL LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/02/2024

SCALE: 1"=200'

JOB NO. 2021048

Tract No. 10

Fellowship Bible Church
of Northwest Arkansas



February 6, 2025

Mr. John Marquette
Fellowship Bible Church of Northwest Arkansas
1051 W. Pleasant Grove Road
Rogers, AR 72758

RE: Highway 112 Widening Project
Parcel No. 765-15830-004
3447 N. Hwy 112, Fayetteville, AR
(Notification Letter)

Dear Mr. Marquette:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement will also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$28,000.00 for the rights associated with the permanent easement (13,131 square feet) and \$2,800.00 for damages, for a total of **\$30,800.00**. Damages include the loss of professionally landscaped trees and shrubs. This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a church on 22.42 acres of commercial land. The city is relocating water and sewer easements along this corridor.

[illegible]

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

The WSE restricts permanent structures above the easement area.

Damages: Damages include the loss of professionally landscaped trees and shrubs.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Fellowship Bible Church of Northwest Arkansas, an Arkansas non-profit corporation**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 2018-4064)

A part of the Northwest Quarter of the Southeast Quarter and a part of the Northeast Quarter of the Southwest Quarter all in Section twenty-eight (28), Township Seventeen (17) North, Range Thirty (30) West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows:

Commence at the Northwest corner of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4) of said Section 28 being a found magnail in asphalt roadway; thence S87°34'31"E a distance of 631.02 feet to a point; thence S00°23'08"W a distance of 628.16 feet to a found steel fence post; thence S02°10'40"W a distance of 178.19 feet to a found ½ inch iron pin and the Point of Beginning; thence S87°11'04"E a distance of 1926.85 feet to a found ½ inch iron pin and the western right of way for U.S. Highway 112 being fifty-five (55) feet west of centerline; thence along said western right of way, S02°43'18"W a distance of 474.95 feet to a set iron pin with cap "PLS 1439"; thence leaving said western right of way, N87°19'58"W a distance of 2582.01 feet to a set iron pin with cap "PLS 1439" and the west boundary of the East Half (E1/2) of the SW ¼, N02°34'52"E a distance of 318.11 feet to a set iron pin with cap "PLS 1439"; thence leaving said west boundary, S87°13'55"E a distance of 656.51 feet to a set iron pin with cap "PLS 1439"; thence N02°31'13"E a distance of 162.98 feet to the point of beginning.

Said tract or parcel of land containing 25.90 acres (1,138,075 square feet), more or less.

Subject to easements, right-of-ways, and protective covenants of record, if any, subject to all prior mineral reservations and oil and gas leases, if any.

PERMANENT EASEMENT DESCRIPTION:

A 30.00' wide easement over part of the Northwest Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Southwest corner of said Northwest Quarter of the Southeast Quarter; thence along the South line of said Quarter-Quarter S87°15'04"E 1,186.30' to the Point of Beginning; thence N02°01'19"E 71.96'; thence N11°20'46"E 22.14'; thence N22°55'37"E 119.27'; thence N01°16'12"E 155.97'; thence N07°56'41"W 115.29' to the Point of Termination, containing 14,539 square feet or 0.33 acres more or less.

Less and Except those portions contained in existing utility easements, being 1,408 square feet or 0.03 acres more or less. Containing a net total of 13,131 square feet or 0.30 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipelines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is further understood that Grantee's easement shall be exclusive and that Grantor and/or Grantor's successors shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2025.

**FELLOWSHIP BIBLE CHURCH OF NORTHWEST ARKANSAS,
an Arkansas non-profit corporation**

By: _____
John Marquette, Secretary

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss.

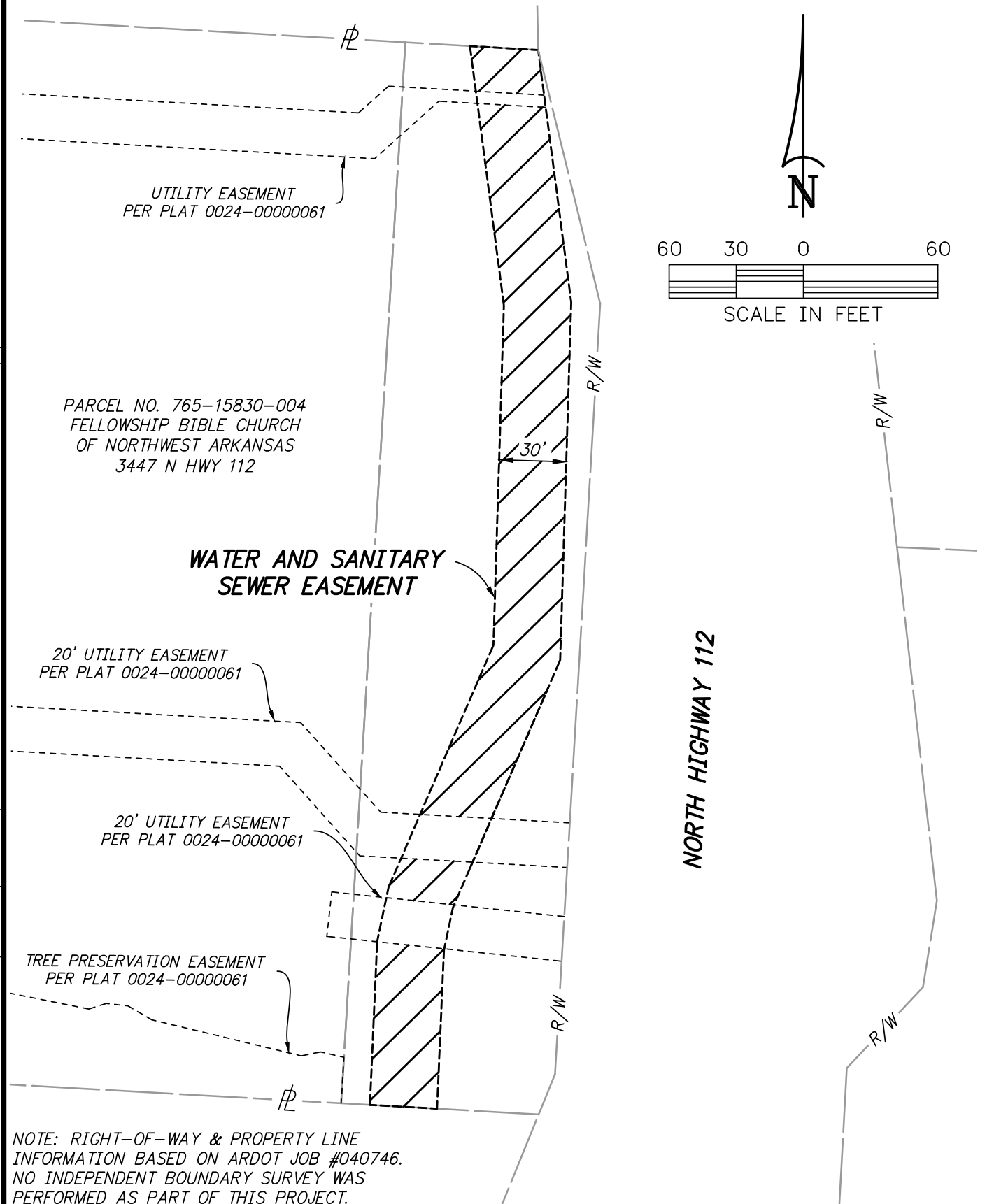
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **John Marquette**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Secretary of **Fellowship Bible Church of Northwest Arkansas, an Arkansas non-profit corporation**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\10 - FELLOWSHIP BIBLE CHURCH OF NORTHWEST ARKANSAS.DWG, 12/2/2024 1:27 PM, ANDREW MCCOLLUM, LAYOUT1



NOTE: RIGHT-OF-WAY & PROPERTY LINE
INFORMATION BASED ON ARDOT JOB #040746.
NO INDEPENDENT BOUNDARY SURVEY WAS
PERFORMED AS PART OF THIS PROJECT.

HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 10 - FELLOWSHIP BIBLE CHURCH OF NORTHWEST ARKANSAS
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/02/2024

SCALE: 1"=60'

JOB NO. 2021048

Tract No. 11

One Twelve Village, LLC



January 30, 2025

Mr. David R. Evans
One Twelve Village, LLC, an Arkansas limited liability company
3768 E. Leawood Way
Fayetteville, AR 72703

RE: Highway 112 Widening Project
Parcel No. 765-15830-000
N Hwy 112, Fayetteville, AR
(Notification Letter)

Dear Mr. Evans:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement will also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$50,000.00** for the rights associated with the permanent easement (36,251 square feet). This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of 39.43 acres of residential land. The city is relocating water and sewer easements along this corridor.

[illegible]

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access during construction.

The WSE restricts permanent structures above the easement area.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **One Twelve Village, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 2017-7010)

A PART OF THE WEST HALF (W 1/2) OF THE SOUTHEAST QUARTER (SE1/4), ALL IN SECTION TWENTY-EIGHT (28), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS; COMMENCING AT THE NORTHWEST CORNER OF THE NE 1/4 OF THE SW 1/4 OF SAID SECTION 28 BEING A FOUND COTTON PICKER SPINDLE IN ASPHALT ROADWAY; THENCE ALONG THE WEST LINE OF SAID NE 1/4 OF THE SW 1/4, S02°34'52"W A DISTANCE OF 1283.11 FEET TO A FOUND IRON PIN WITH CAP "PLS 1439"; THENCE LEAVING SAID WEST LINE, 87°19'58"E A DISTANCE OF 1315.10 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A SET IRON PIN WITH CAP "PLS 1156"; THENCE S87°19'58"E A DISTANCE OF 1266.91 FEET TO THE WESTERLY RIGHT OF WAY LINE OF HIGHWAY 112 THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE THE FOLLOWING EIGHT (8) CALLS, S02°43'18"W A DISTANCE OF 978.38 FEET TO A POINT; THENCE S02°02'26"W A DISTANCE OF 63.14 FEET TO A POINT; THENCE S00°11'50"W A DISTANCE OF 51.97 FEET TO A POINT; THENCE S03°04'07"E A DISTANCE OF 40.08 FEET TO A POINT; THENCE S07°04'04"E A DISTANCE OF 55.68 FEET TO A POINT; THENCE S11°50'44"E A DISTANCE OF 58.74 FEET TO A POINT; THENCE S15°34'53"E A DISTANCE OF 71.32 FEET TO A POINT; THENCE S18°13'53"E A DISTANCE OF 15.95 FEET TO A POINT; THENCE LEAVING SAID RIGHT OF WAY, S02°32'54"W A DISTANCE OF 26.08 FEET TO A FOUND 3 INCH ALUMINUM CAP AT THE SOUTHEAST CORNER OF THE SW 1/4 OF THE SE 1/4 OF SAID SECTION 28; THENCE ALONG THE SOUTH LINE OF SAID SW 1/4 OF THE SE 1/4, N87°08'52"W A DISTANCE OF 1322.12 FEET TO A FOUND IRON PIN WITH CAP "PLS 1439", BEING THE SOUTH QUARTER CORNER OF SAID SECTION 28; THENCE LEAVING SAID SOUTH LINE, N02°32'22"E A DISTANCE OF 1349.51 FEET TO THE POINT OF BEGINNING. SAID TRACT OR PARCEL OF LAND CONTAINING 39.43 ACRES (1,717,256 SQUARE FEET), MORE OR LESS, AND BEING DEPICTED AS NEW TRACT 1 ON THAT CERTAIN PROPERTY LINE ADJUSTMENT SURVEY FILED FOR RECORD FEBRUARY 1, 2017, AS LAND DOCUMENT 2017-00003176, OF THE RECORDS OF WASHINGTON COUNTY, ARKANSAS.

PERMANENT EASEMENT DESCRIPTION:

A 30.00' wide easement over part of the Southwest Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

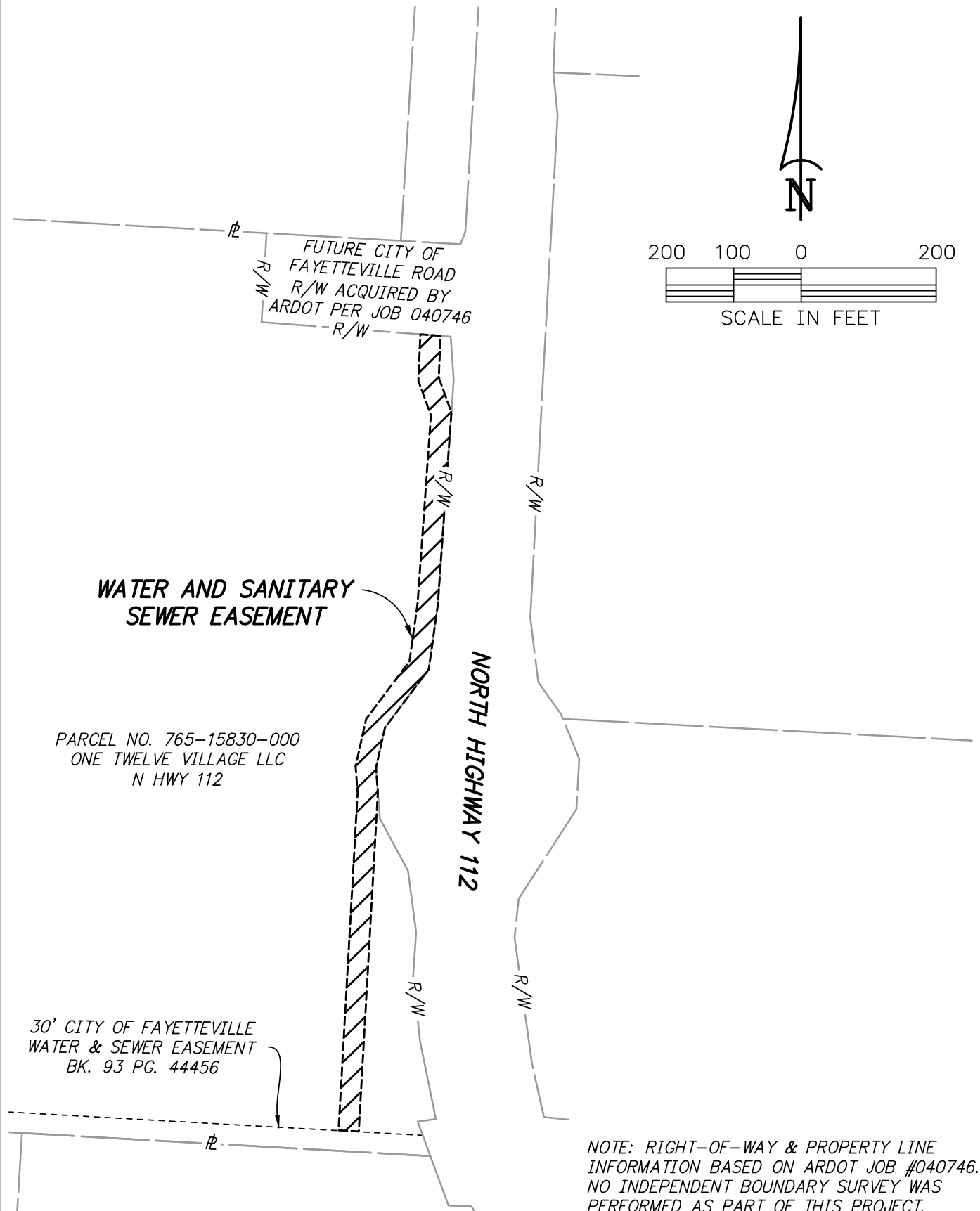
Commencing at the Southeast corner of said Southwest Quarter of the Southeast Quarter; thence along the South line of said Quarter-Quarter N87°15'19"W 168.81 feet; thence N02°44'10"E 30.00 feet to the North line of an existing City of Fayetteville water and sewer easement (Filed for Record in Book 93 Page 44456) and the Point of Beginning; thence N02°44'10"E 502.63 feet to a point 15.00 feet West of the West right-of-way of Highway 112 (Per ARDOT Job 040746); thence continuing 15.00 feet West of and parallel to said West right-of-way the following five (5) courses: N04°53'33"W 38.08 feet; thence N12°09'52"E 66.30 feet; thence N36°23'32"E 107.52 feet; thence N07°30'57"E 90.96 feet; thence N03°33'26"E 283.44 feet; thence N20°35'09"W 54.50 feet; thence N02°03'04"E 65.43 feet to the South right-of-way of a future City of Fayetteville road (Acquired by ARDOT Per ARDOT Job 040746) and the Point of Termination, containing 36,251 square feet or 0.83 acre more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\11 - ONE TWELVE VILLAGE LLC.DWG, 1/21/2025 10:49 AM, ANDREW MCCOLLUM, LAYOUT1



HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 11 - ONE TWELVE VILLAGE LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 01/21/2025

SCALE: 1"=200'

JOB NO. 2021048

Tract No. 12

Transport Realty, Inc.



January 30, 2025

Mr. Walter J. Echols
Transport Realty, Inc., an Arkansas corporation
PO Box 10048
Fort Smith, AR 72917

RE: Highway 112 Widening Project
Parcel No. 765-15856-000
1550 W. Truckers Drive, Fayetteville, AR
(Notification Letter)

Dear Mr. Echols:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement will also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$19,000.00** for the rights associated with the permanent easement (10,540 square feet). This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 9,334 SqFt freight business on 7.75 acres of commercial land. The city is relocating water and sewer easements along this corridor.

1/16/2025	Effective Date
PHYSICAL CHARACTERISTICS	
Transport Realty Inc	Property Owner
765-15856-000	Parcel #
Fayetteville	City
AR	State
9,334	SqFt - Gross Building Area
337,590	SqFt - Land
10,540	SqFt - Land (Acquisition Area)
327,050	SqFt - Land (Remainder)
10,540	SqFt - Land (Residual)
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 2,431,000	Land Value Before the Acquisition
\$ 2,412,000	Land Value After the Acquisition
\$ 19,000	Market Value of the Acquisition

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction. The WSE restricts permanent construction above the easement area.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Transport Realty, Inc., an Arkansas corporation (formerly known as ABC-Treadco, Inc., formerly known as Arkansas Bandag Corporation)**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 99-84977)

Part of the N1/2 of the NE1/4 of Section 33, T-17-N, R-30-W, and being more particularly described as follows: Beginning at a point one hundred sixty-five feet east of the Northwest corner of the Northeast quarter of the Northeast quarter of said section, township, and range, and running thence West eight hundred nineteen and seventy six hundredths feet; thence South four hundred seventeen and seventy four hundredths feet to the North line of a fifty foot roadway; thence east with the North line of said roadway eight hundred nineteen and seventy six hundredths feet to center line of State Highway No. 112; thence North four hundred seventeen and seventy four hundredths feet to the point of beginning, containing seven and eighty three hundredths acres, more or less. LESS AND EXCEPT that part embraced in State Highway No. 112 and that portion which is east of the center line of said Highway, in the Northeast corner, LESS AND EXCEPT all public roads and rights-of-way.

PERMANENT EASEMENT DESCRIPTION:

Part of the North Half of the Northeast Quarter of Section 33, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter; thence along the North line of said Northeast Quarter S87°15'19"E 1,245.30' to the Point of Beginning; thence continuing along said North line S87°15'19"E 30.82' to the West right-of-way of Highway 112 (per ARDOT Job #040746); thence along said West right-of-way the following three (3) courses: S20°38'38"E 78.06'; thence S88°35'04"E 34.18'; thence S30°08'39"E 34.90' to the West line of an existing City of Fayetteville utility easement (filed in Book 1023 Page 498); thence along said West easement line the following three courses S18°39'08"E 85.09'; thence S13°28'15"E 89.40'; thence S02°54'25"E 64.42' to said West right-of-way of Highway 112; thence along said West right-of-way S35°52'33"W 46.23'; thence continuing along said West right-of-way S10°48'29"W 8.84' to the Northwest line of an existing City of Fayetteville water and sewer easement (filed as Document #2016-00015682); thence along said Northwest easement line S47°33'15"W 4.91'; thence continuing along said Northwest easement line S02°33'15"W 10.76' to the North line of an existing City of Fayetteville utility easement (filed in Book 1023 Page 498); thence along said North easement line N87°43'41"W 25.69'; thence N01°48'31"E 22.74'; thence N35°46'15"E 75.89'; thence N15°42'54"W 203.46'; thence N60°32'55"W 61.91'; thence N24°18'02"W 94.39' to the Point of Beginning, containing 10,540 square feet or 0.24 acre more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipelines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2025.

**TRANSPORT REALTY, INC., AN ARKANSAS CORPORATION
(FORMERLY KNOWN AS ABC-TREADCO, INC., FORMERLY
KNOWN AS ARKANSAS BANDAG CORPORATION)**

By: _____
Walter J. Echols, Vice President, Real Estate

ATTEST:

Shaun McCaffrey, Director, Real Estate
ArcBest Corp.

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss.

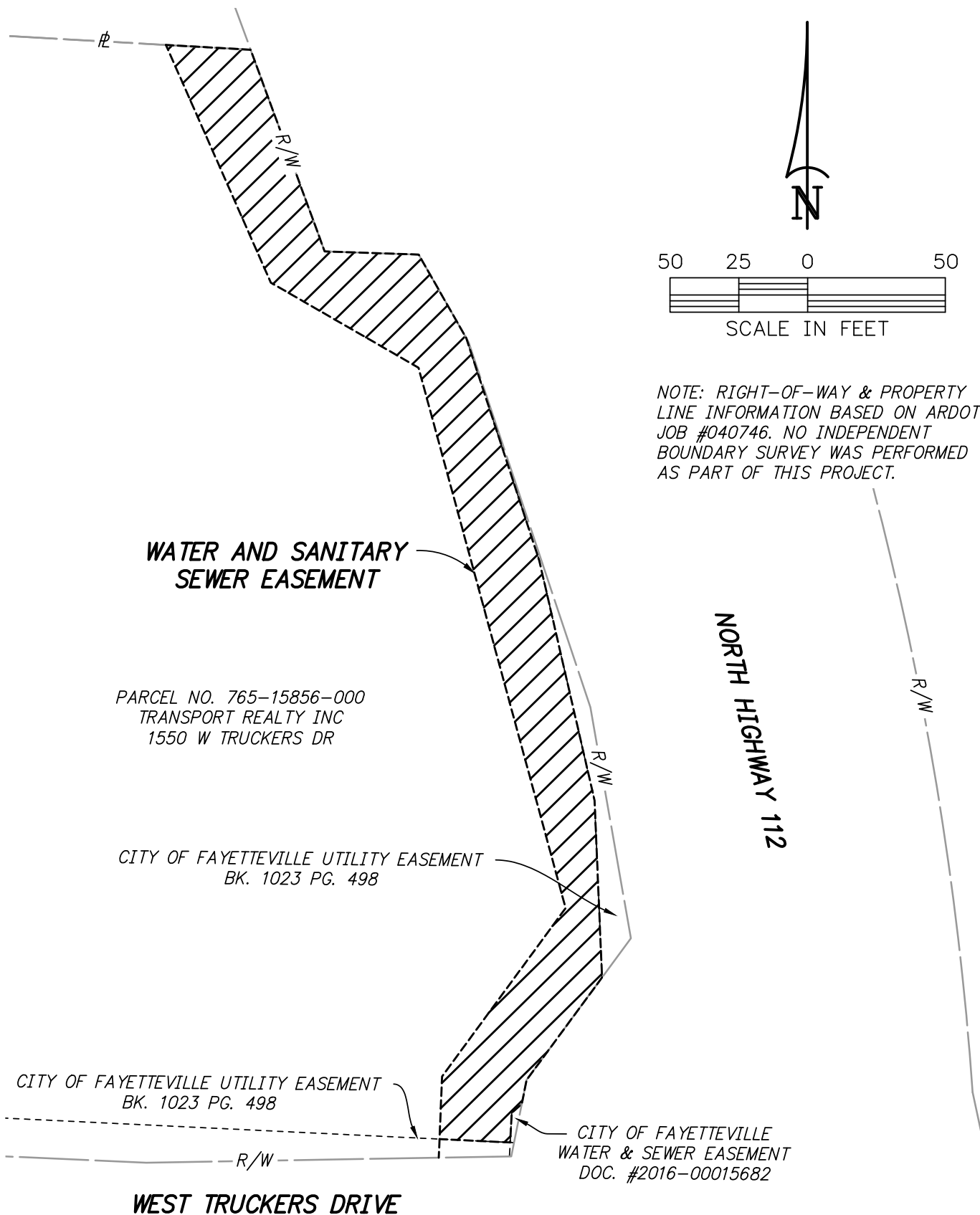
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Walter J. Echols and Shaun McCaffrey**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the Vice President and Director of Real Estate for ArcBest Corp., respectively, of **TRANSPORT REALTY, INC., AN ARKANSAS CORPORATION (FORMERLY KNOWN AS ABC-TREADCO, INC., FORMERLY KNOWN AS ARKANSAS BANDAG CORPORATION)**, and are 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 instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\12 - TRANSPORT REALTY INC.DWG, 12/3/2024 2:00 PM, ANDREW MCCOLLUM, LAYOUT1



Van Buren (479) 474-1227 | Fort Smith (479) 242-4685 | Fayetteville (479) 455-2206 | Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 12 - TRANSPORT REALTY INC.
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/02/2024

SCALE: 1"=50'

JOB NO. 2021048

Tract No. 13

Sam's Real Estate Business Trust



January 30, 2025

Mr. Thomas H. Wait
Sam's Real Estate Business Trust, a Delaware Statutory Trust
Walmart Property Tax Dept 8013, PO Box 8050
Bentonville, AR 72712

RE: Highway 112 Widening Project
Parcel No. 765-15855-000
3075 N. Hwy 112, Fayetteville, AR
(Notification Letter)

Dear Mr. Wait:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement will also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$4,800.00** for the rights associated with the temporary construction and grading easement (1,600 square feet). This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

1/13/2025	Effective Date
PHYSICAL CHARACTERISTICS	
Sam's Real Estate Business Trust	Property Owner
Fayetteville	City
AR	State
Before the Acquisition	
681,278	SqFt - Land
After the Acquisition	
681,278	SqFt - Land (Remainder)
Temporary Construction Easements	
1,600	SqFt - Land
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$	4,800 TCE

Before the acquisition, the subject property consists of a 147,774 SqFt retail store on 15.64 acres of commercial land. The city is relocating water and sewer easements along this corridor, and they will use a portion of the frontage of this lot for a temporary construction easement.

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

APPRAISERS:

Zach J Holland, AR CG 2911

TEMPORARY CONSTRUCTION AND GRADING EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Sam's Real Estate Business Trust, a Delaware statutory trust**, hereinafter called GRANTORS, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a temporary construction and grading easement on, over, and through the following described land situated in the County of Washington, State of Arkansas, for the sole purposes necessary for construction of ??? Street, to-wit:

PROPERTY DESCRIPTION: (Deed Ref: 99-84977)

Property located in Washington County, AR Lot 7 Springwoods, an addition to the City of Fayetteville, and other lands all located in the NE1/4 NW1/4, NW1/4 NE1/4 and the NE1/4 NE1/4 Section 33, Township 17 North, Range 30 West, Fayetteville, Washington County, Arkansas, being more particularly described as follows: Commencing at the Northeast corner of the NE1/4 NW1/4 of said Section 33; Thence S 87°12'42" E for 247.42 feet; Thence S 02°27'35" W for 478.05 feet to a rebar and cap and the point of beginning; Thence S 87°53'56" E for 1205.16 feet to a rebar and cap on the Westerly Right of Way line of Arkansas State Highway Number 112; Thence S 2°16'58" W for 344.45 feet along the said Right of Way line to a row disk; Thence N 88°14'29" W for 40.13 feet along said Right of Way line to a rebar and cap; Thence S 03°00'58" W for 210.44 feet along said West Right of Way line to a 5/8" pipe; Thence N 88°14'36" W for 60.11 feet (59.97 feet deed) along said West Right of Way line to a 3/8" rebar; Thence S 27°17'36" W for 9.62 feet (9.72 feet deed) along said West Right of Way line to a "A" rebar; Thence leaving said Right of Way line N 87°17'29" W for 1100.18 (1100.10 deed) feet to a rebar and cap; Thence N 02°29'21" E for 61.97 feet to a rebar and cap; Thence N 84°47'37" W for 63.41 feet (N 84°44'45" W for 63.43 feet plat) to a rebar and cap; Thence S 24°25'48" E for 97.81 feet (S 24°27'56" E for 97.91 feet plat) to a concrete monument and cap; Thence S 15°44'41" W for 256.80 feet (S 15°42'51" W for 256.83 feet plat) to a concrete monument and cap; Thence N 87°05'25" W for 296.07 feet (N 87°03'33" W for 296.13 feet plat) to a rebar and cap; Thence N 74°16'00" W for 43.14 feet (N 74°33'51" W for 43.11 feet plat) to a rebar and cap; Thence S 88°05'35" W for 191.98 feet (S 88°06'58" W for 192.03 feet plat) to a rebar and cap; Thence N 06°46'12" W for 95.32 feet (N 06°46'27" W for 95.47 feet plat) to a rebar and cap; Thence N 88°38'49" W for 95.51 feet (N 88°52'35" W for 95.38 feet plat) to a Conc. Mon. and 3" cap; Thence N 22°25'46" W for 53.94 feet (N 22°28'20" W for 54.13 feet plat) to a rebar and cap; Thence N 64°02'57" E for 696.60 feet (N 64°03'19" E for 696.30 feet plat) to a rebar and cap; Thence along a curve to the right having a radius of 175.00 feet and a chord bearing and distance of N 85°44'08" E for 129.33 feet (N 85°45'19" E for 129.41 feet plat) to a rebar and cap; Thence N 02°29'21" E for 339.31 feet to the point of beginning and containing 884,181 sq. ft. or 20.298 acres, more or less. AND BEING the same property conveyed to Sam's West, Inc., an Arkansas corporation from Springwoods Landholdings, LLC, an Arkansas limited liability company by Warranty Deed dated August 16, 2006 and recorded August 22, 2006 in Instrument No. 2006-00034446. Tax Parcel No. 765-15855-002.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

Part of the Northeast Quarter of Section 33, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northwest corner of the Northwest Quarter of said Section 33; thence along the West line of said Quarter S02°28'26"W 508.24 feet; thence S87°54'20"E 2,884.98 feet to the West line of an existing utility easement (filed as Document #2004-00021856); thence along said West easement line S02°27'35"W 50.00 feet to the South line of said Easement; thence along said South easement line S87°54'20"E 1,095.69 feet to the Point of Beginning; thence continuing along said South easement line S87°54'20"E 80.00 feet to the West line of an existing utility easement (filed in Document #0023-00000259); thence along said West easement line S02°58'58"W 20.00 feet; thence N87°54'20"W 80.00 feet; thence N02°58'58"E 20.00 feet to the Point of Beginning, containing 1,600 square feet or 0.04 acre more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure(s) which may be located or under construction within said temporary construction easement area during the construction of this project.

TO HAVE AND TO HOLD the same unto the said Grantee, its successors and assigns, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The consideration first above recited as being paid to the Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this easement on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2022.

SAM'S REAL ESTATE BUSINESS TRUST, a Delaware statutory trust

By: Thomas H. Wait, Senior Vice President

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF WASHINGTON) ss.

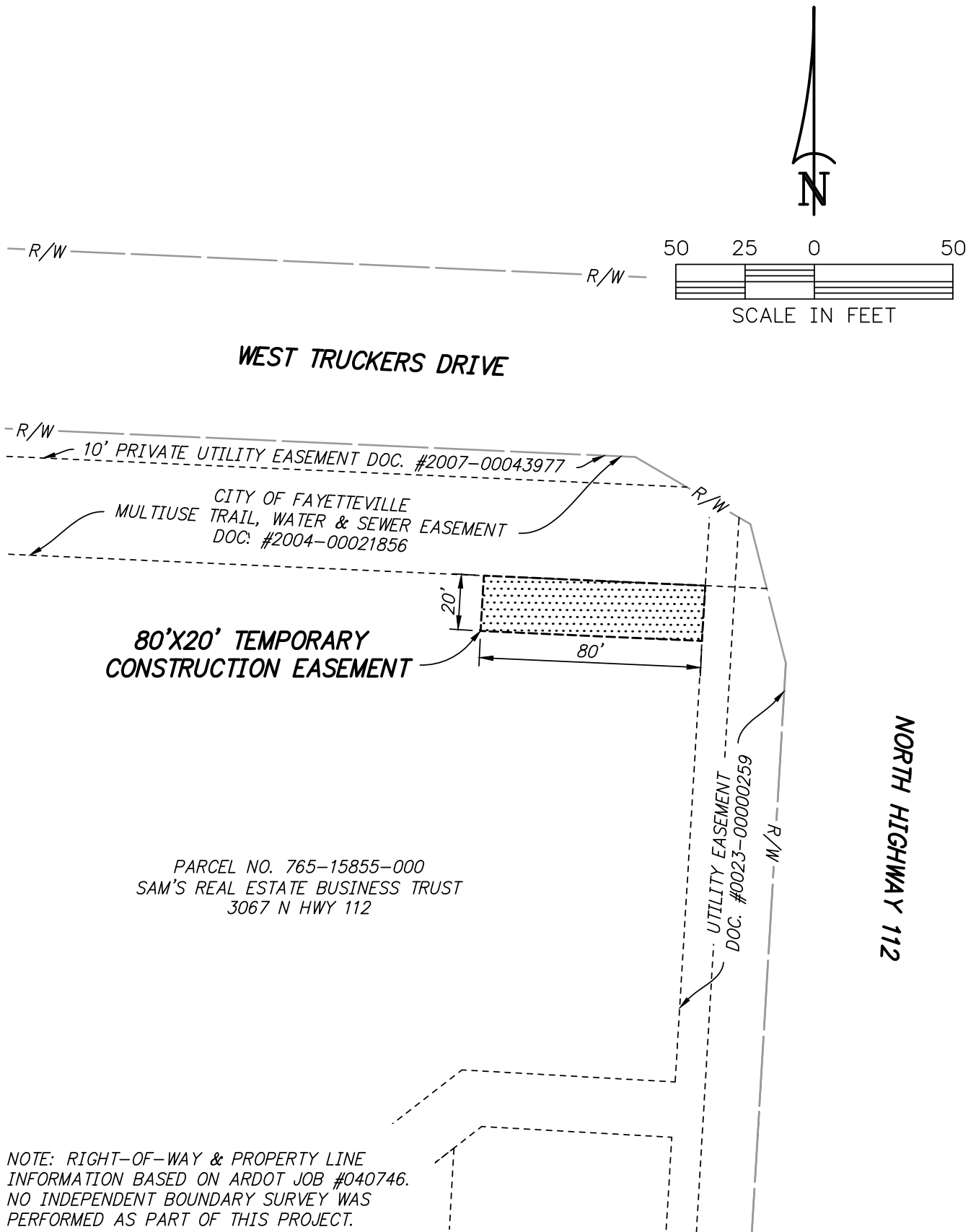
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared Thomas H. Wait, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Senior Vice President of Sam's Real Estate Business Trust, a Delaware statutory trust, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said trust, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2023.

MY COMMISSION EXPIRES:

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\13 - SAM'S REAL ESTATE BUSINESS TRUST.DWG, 12/16/2024 1:03 PM, ANDREW MCCOLLUM, LAYOUT1



Van Buren (479) 474-1227 | Fort Smith (479) 242-4685 | Fayetteville (479) 455-2206 | Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 13 - SAMS REAL ESTATE BUSINESS TRUST
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/16/2024

SCALE: 1"=50'

JOB NO. 2021048

Tract No. 15

CL Partners, LLC



January 30, 2025

Mr. Christopher A. Akbari
CL Partners, LLC and D Briggs 112 Exchange, LLC
PO Box 189
Sedalia, MO 65302

RE: Highway 112 Widening Project
Parcel No. 765-15813-000, 765-15815-000, 765-15816-000,
765-15819-000, 765-15812-000, 765-15811-000
N Hwy 112, Fayetteville, AR
(Notification Letter)

Dear Mr. Akbari:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement will also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$169,000.00** for the rights associated with the permanent easement (57,077 square feet). This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of 36.11 acres of commercial land formerly used for a drive-in theater. The property is intended for a new mixed use housing development, but the plans are on hold. The city is relocating water and sewer easements along this corridor.

1/22/2025	Effective Date
PHYSICAL CHARACTERISTICS	
CL Partners, LLC; D Briggs 112 Exchange LLC	Property Owner
Fayetteville	City
AR	State
Before the Acquisition	
1,572,952	SqFt - Land
Proposed Water and Sewer Easement	
57,077	SqFt - Land (Acquisition Area)
After the Acquisition	
1,515,875	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
57,077	SqFt - Land (Residual)
CONCLUSIONS	
\$ 18,567,000	Land Value Before the Acquisition
\$ 18,398,000	Land Value After the Acquisition
\$ 169,000	Market Value of the Acquisition

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) within the easement construction area will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The WSE restricts permanent construction above the easement area.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **CL Partners, LLC, an Arkansas limited liability company, and D. Briggs 112 Exchange LLC, an Arkansas limited liability company**, hereinafter called GRANTORS, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 2022-29207)

SURVEY DESCRIPTION from ALTA/NSPS Land Title Survey by ESI Consulting Engineers dated August 29, 2022.

Part of the East Half (E 1/2) of the Southeast Quarter (SE '4) of Section Twenty-Eight (28), Township Seventeen (17) North, Range Thirty (30) West of the Fifth Principal Meridian, City of Fayetteville, Washington County, Arkansas, and being more particularly described as follows: COMMENCING at the Southwest Corner of said E 1/2 of the SE '4, said point being a found 3 inch Aluminum Monument; thence along the South line of said E 1/2 of the SE '4, S87°08'52"E a distance of 83.50 feet to the POLNT OF BEGINNING, said point being a set iron pin with cap "PS 1559"; thence leaving said South line, N20°53' 11"W a distance of 48.65 feet; thence along a curve to the right, said curve having a radius of 699.58 feet, an arc length of 290.81 feet, and a chord bearing and distance of N08°58'40"W 288.72 feet; thence NO2°55'51"E a distance of 300.88 feet; thence NO2°45' 12"E a distance of 221.00 feet; thence NO2°38' 37"E a distance of 345.10 feet; thence NO297°44"E a distance of 418.46 feet to a set iron pin with cap "PS 1559"; thence S88°43'56"E a distance of 943.50 feet to a set iron pin with cap "PS 1559"; thence SOO°38'08"W a distance of 1639.87 feet to a set iron pin with cap "PS 1559" on the South line of said E 1/2 of the SE '4; thence along said South line, N87°08'52"W a distance of 924.94 feet to the POINT OF BEGINNING, containing 36.11 acres (1,572,946 square feet), more or less, and subject to all Rights-Of-Way, Easements or Restrictive Covenants of record and fact..

PERMANENT EASEMENT DESCRIPTION:

Part of the Southeast Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Southwest corner of said Southeast Quarter; thence along the South line of said Quarter-Quarter S87°15'19"E 173.14' to the East right-of-way of Highway 112 (per ARDOT Job #040746) and the Point of Beginning; thence along said East right-of-way the following twelve (12) courses: N12°34'40"W 68.06'; thence N84°41'48"W 36.25'; thence N13°05'39"W 82.41'; thence N08°21'32"W 187.26'; thence N05°39'53"E 58.08'; thence N32°21'25"E 157.65'; thence N02°42'08"E 75.00'; thence N22°47'43"W 72.01'; thence N35°57'27"W 57.63'; thence N07°26'36"W 96.51'; thence N02°37'31"E 745.00'; thence N06°15'36"W 64.18'; thence leaving said West right of way S88°04'09"E 39.28'; thence S00°40'26"E 63.28'; thence S02°42'06"W 390.70'; thence S02°32'29"W 352.08'; thence S07°26'36"E 85.24'; thence S35°57'27"E 53.05'; thence S22°47'43"E 83.29'; thence S02°42'08"W 91.20'; thence S32°21'25"W 158.56'; thence S05°39'53"W 46.15'; thence S09°01'37"E 205.70'; thence S45°27'08"E 71.50'; thence S11°42'12"E 86.41' to the South line of said Southeast Quarter; thence along said South line N87°15'19"W 37.24' to the Point of Beginning, containing 57,077 square feet or 1.31 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipelines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2025.

CL PARTNERS, LLC, an Arkansas limited liability company

By: Christopher A. Akbari, Manager

ACKNOWLEDGMENT

STATE OF TEXAS)
COUNTY OF HARRIS) SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Christopher A. Akbari**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is a manager of **CL Partners, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

CL PARTNERS, LLC, an Arkansas limited liability company

By: _____
David Anderson, Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS }
 }
COUNTY OF WASHINGTON } ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **David Anderson**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is a manager of **CL Partners, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

D. BRIGGS 112 EXCHANGE LLC, LLC, an Arkansas limited liability company

By: _____
Dale Briggs, Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS }
 }
COUNTY OF WASHINGTON } ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dale Briggs**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is a manager of **D. Briggs 112 Exchange, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

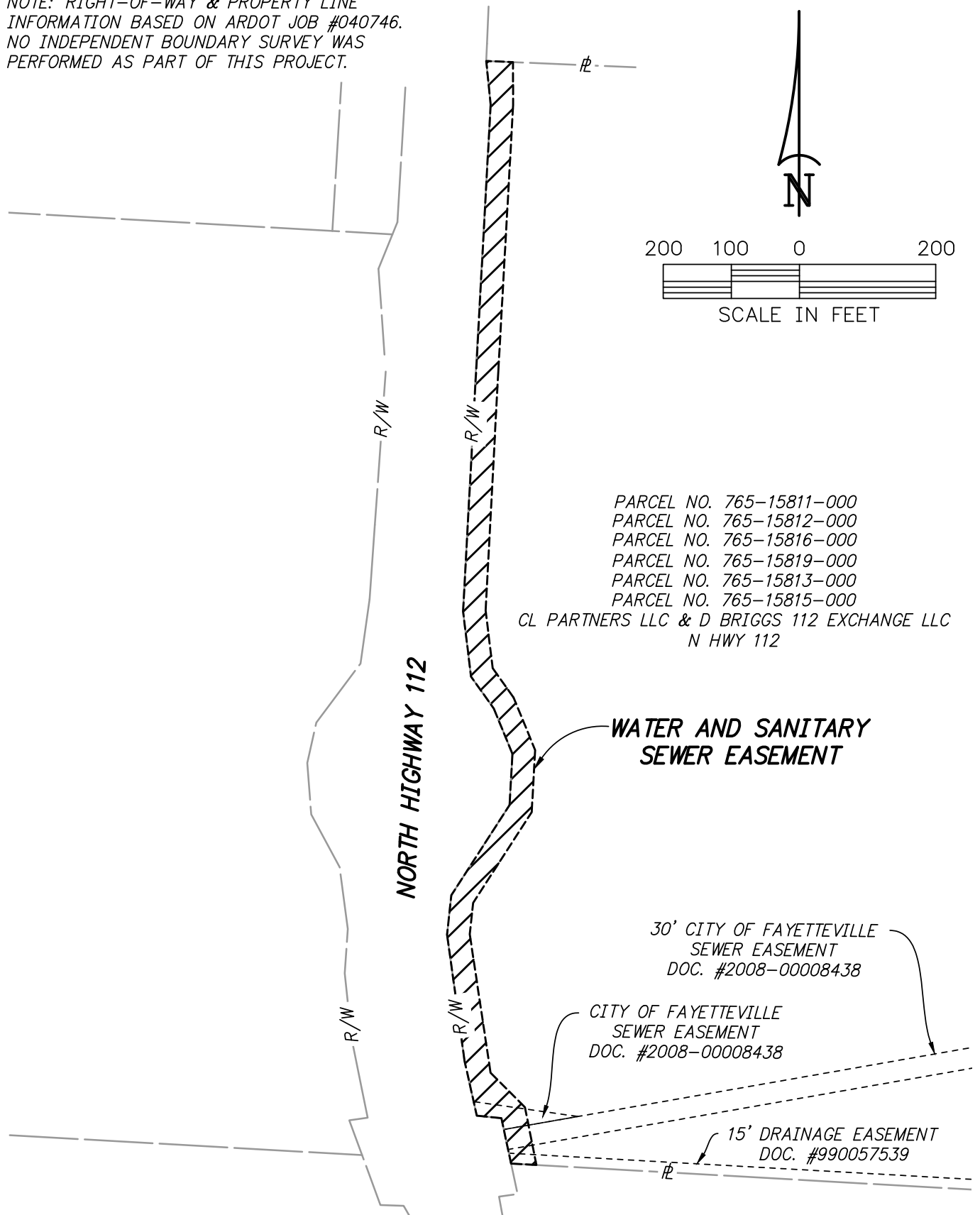
WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\15 & 16 - CL PARTNERS, LLC & D BRIGGS 112 EXCHANGE, LLC.DWG, 12/4/2024 7:40 AM, ANDREW MCCOLLUM, LAYOUT1

NOTE: RIGHT-OF-WAY & PROPERTY LINE
INFORMATION BASED ON ARDOT JOB #040746.
NO INDEPENDENT BOUNDARY SURVEY WAS
PERFORMED AS PART OF THIS PROJECT.



HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACTS 15 & 16 - CL PARTNERS LLC & D BRIGGS 112 EXCHANGE LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/03/2024

SCALE: 1"=200'

JOB NO. 2021048

Tract No. 17

McBryde Family Limited Partnership



January 30, 2025

Mr. C. Bryan McBryde
McBryde Family Limited Partnership, an Arkansas limited partnership (GUE \$0)
5800 N. Bannister Drive
Fayetteville, AR 72704

RE: Highway 112 Widening Project
Parcel No. 765-15814-000
3450 N. Hwy 112, Fayetteville, AR
(Notification Letter)

Dear Mr. McBryde:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement will also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$18,000.00 for the rights associated with the permanent easement (5,794 square feet), \$1,500.00 for the rights associated with the temporary construction and grading easement (700 square feet), and \$900.00 for damages, for a total of **\$20,400.00**. Damages include the loss of a professionally landscaped tree. This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Additionally, the City is asking you to dedicate a permanent easement over the existing water and sewer lines. As you can see from the enclosed as-built plan by Jorgensen & Associates, these lines were installed as part of your development in 1997 and the required easements were not properly dedicated at that time.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 32,690 SqFt office and warehouse on 5.17 acres of commercial land. The city is relocating water and sewer easements along this corridor.

1/29/2025	Effective Date
PHYSICAL CHARACTERISTICS	
McBryde Family Limited Partnership	Property Owner
765-15814-000	Parcel #
Fayetteville	City
AR	State
32,690	SqFt - Gross Building Area
225,205	SqFt - Land
5,794	SqFt - Land (Acquisition Area)
219,411	SqFt - Land (Remainder)
5,794	SqFt - Land (Residual)
700	SqFt - Land
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 2,854,000	Land Value Before the Acquisition
\$ 2,836,000	Land Value After the Acquisition
\$ 18,000	Market Value of the Acquisition
\$ 1,500	TCE
\$ 900	Damages

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

The WSE restricts permanent structures above the easement area.

Damages: Damages include the loss of a professionally landscaped tree.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **McBryde Family Limited Partnership, an Arkansas limited partnership**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement and a temporary construction and grading easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 98-89202)

Part of the Southeast Quarter of Section Twenty-Eight (28), Township Seventeen (17) North, Range Thirty (30) West and being more particularly described as follows, to-wit: Beginning at a point which is 769.20 feet south of the Northwest corner of the Northeast Quarter of the Southeast Quarter of said Section 28, and running thence East 941.07 feet to the centerline of an existing ditch, thence South along said ditch centerline 250 feet, thence West 950.27 feet, thence North 250 feet to the point of beginning.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northeast Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter of the Southeast Quarter; thence along the West line of said Quarter-Quarter S02°35'05"W 771.01'; thence S88°08'51"E 53.84' to the East line of an existing 15.00' City of Fayetteville water and sewer easement (filed for record in Book 888 Page 768) and the Point of Beginning; thence S88°08'51"E 28.34'; thence S02°52'30"W 72.98'; thence S00°14'50"W 57.54' to the North line of an existing City of Fayetteville utility easement; thence along said North easement line N88°17'11"W 28.12' to the East line of an existing City of Fayetteville water and sewer easement (filed for record in Book 1157 Page 411); thence along said East easement line N01°16'01"W 37.94' to the East line of an existing City of Fayetteville water and sewer easement (filed for record in Book 888 Page 768); thence along said East easement line N02°48'08"E 92.69' to the Point of Beginning, containing 3,713 square feet or 0.09 acres more or less.

ALSO

Part of the Northeast Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

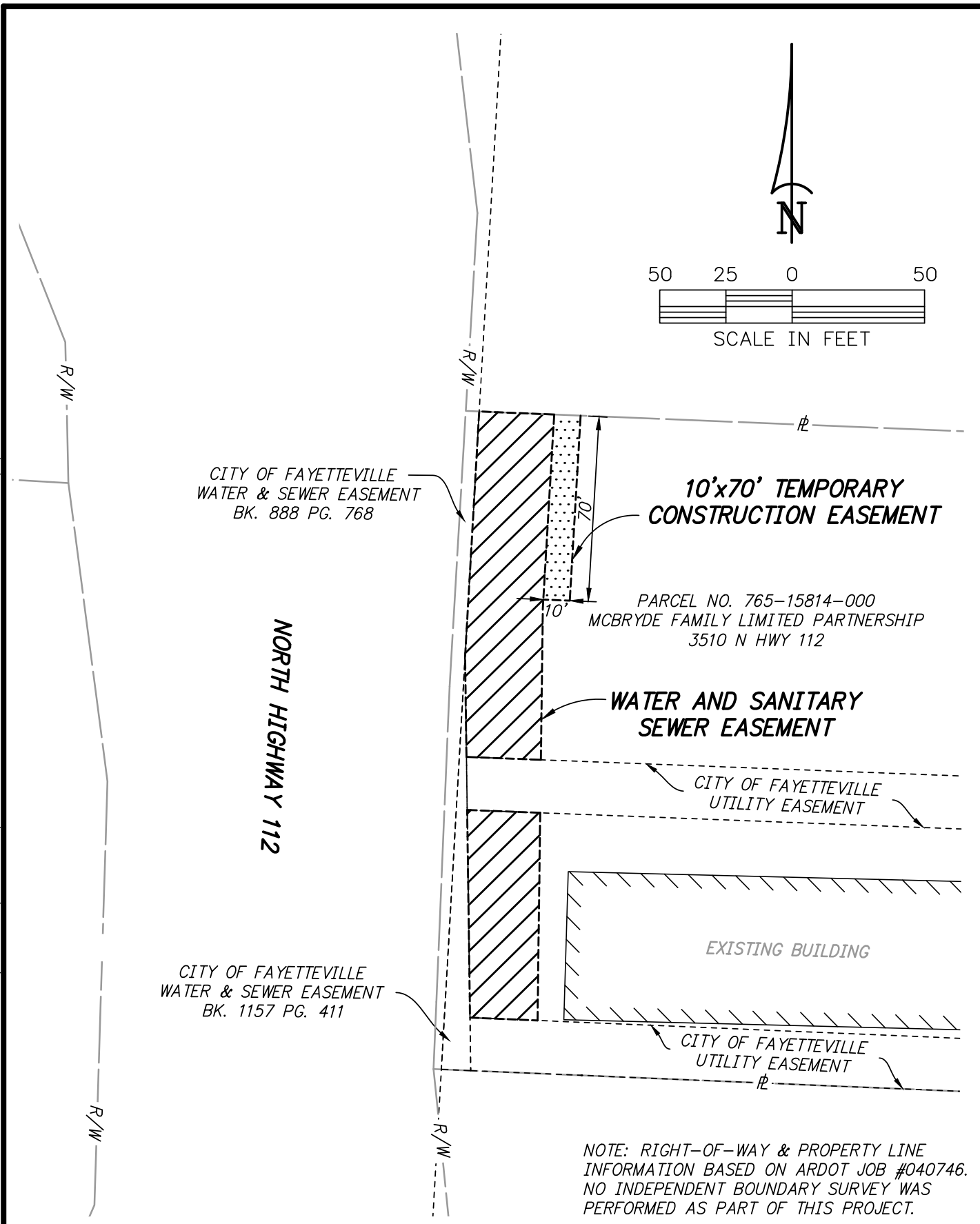
Commencing at the Northwest corner of said Northeast Quarter of the Southeast Quarter; thence along the West line of said Quarter-Quarter S02°35'05"W 921.71'; thence S88°17'11"E 57.38' to the intersection of the East line of an existing City of Fayetteville water and sewer easement (filed for record in Book 1157 Page 411) and the South line of an existing City of Fayetteville utility easement and the Point of Beginning; thence along the South line of said utility easement S88°17'11"E 27.59'; thence S00°14'50"W 78.43' to the North line of an existing City of Fayetteville utility easement; thence along said North easement line N88°04'09"W 25.52' to the East line of said City of Fayetteville water and sewer easement; thence along said East easement line N01°16'01"W 78.42' to the Point of Beginning, containing 2,081 square feet or 0.05 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 10.00'x70.00' easement over part of the Northeast Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter of the Southeast Quarter; thence along the West line of said Quarter-Quarter S02°35'05"W 771.01'; thence S88°08'51"E 82.18' to the East line of the above described permanent easement and the Point of Beginning; thence S88°08'51"E 10.00'; thence S02°52'30"W 70.00'; thence N88°08'51"W 10.00' to the East line of the above described permanent easement; thence along said East line N02°52'30"E 70.00' to the Point of Beginning, containing 700 square feet or 0.02 acres more or less.

Notary Public



HW HAWKINS WEIR ENGINEERS, INC.

Van Buren (479) 474-1227 | Fort Smith (479) 242-4685 | Fayetteville (479) 455-2206 | Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 17 - MCBRYDE FAMILY LIMITED PARTNERSHIP
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/02/2023

SCALE: 1"=50'

JOB NO. 2021048

GENERAL UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **McBryde Family Limited Partnership, an Arkansas limited partnership**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto the public utilities holding a franchise granted by said City of Fayetteville, a permanent easement for the purpose of construction, maintenance, repair and/or replacement, enlargement and operations of general utilities including water and/or sanitary sewer pipe line or lines, manholes, natural gas, electrical power, telephone, fiber optic cable(s) and television communication line or lines, traffic signal poles and equipment, and appurtenances thereto, on over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 98-89202)

Part of the Southeast Quarter of Section Twenty-Eight (28), Township Seventeen (17) North, Range Thirty (30) West and being more particularly described as follows, to-wit: Beginning at a point which is 769.20 feet south of the Northwest corner of the Northeast Quarter of the Southeast Quarter of said Section 28, and running thence East 941.07 feet to the centerline of an existing ditch, thence South along said ditch centerline 250 feet, thence West 950.27 feet, thence North 250 feet to the point of beginning.

PERMANENT EASEMENT DESCRIPTION:

A 20.00' permanent easement over part of the Northeast Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter of the Southeast Quarter; thence along the West line of said Quarter-Quarter S02°35'05"W 771.01 feet; thence S88°08'51"E 488.99 feet to the Point of Beginning; thence continuing S88°08'51"E 20.01 feet; thence S04°02'55"W 249.64 feet; thence N88°04'09"W 438.62 feet to the East line of an existing City of Fayetteville Water & Sewer Easement (Filed for Record in Book 1157 Page 411); thence along said East easement line N01°16'01"W 20.03 feet; thence S88°04'09"E 420.46 feet; thence N04°02'55"E 79.97 feet; thence N88°17'11"W 427.79 feet to said East easement line; thence along said East line N01°16'01"W 20.03 feet; thence S88°17'11"E 429.65 feet; thence N04°02'55"E 129.61 feet to the Point of Beginning, containing 21,957 square feet or 0.50 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee and the public utilities holding a franchise granted by said City of Fayetteville, until the use of said permanent easement is relinquished, abandoned or vacated and so long as such pipe line or lines, electrical power, telephone and/or television lines or cables, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee and its associated franchisees, which hereby agree to bury all pipes, lines and/or cables where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee and its associated franchisees shall have the right to construct additional pipelines, electric power lines, telephone and/or television lines or cables upon the above-described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2025.

McBRYDE FAMILY LIMITED PARTNERSHIP, an Arkansas limited partnership

By: Flogene Enterprises, Inc., its General Partner

By: _____
C. Bryan McBryde, President

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss.

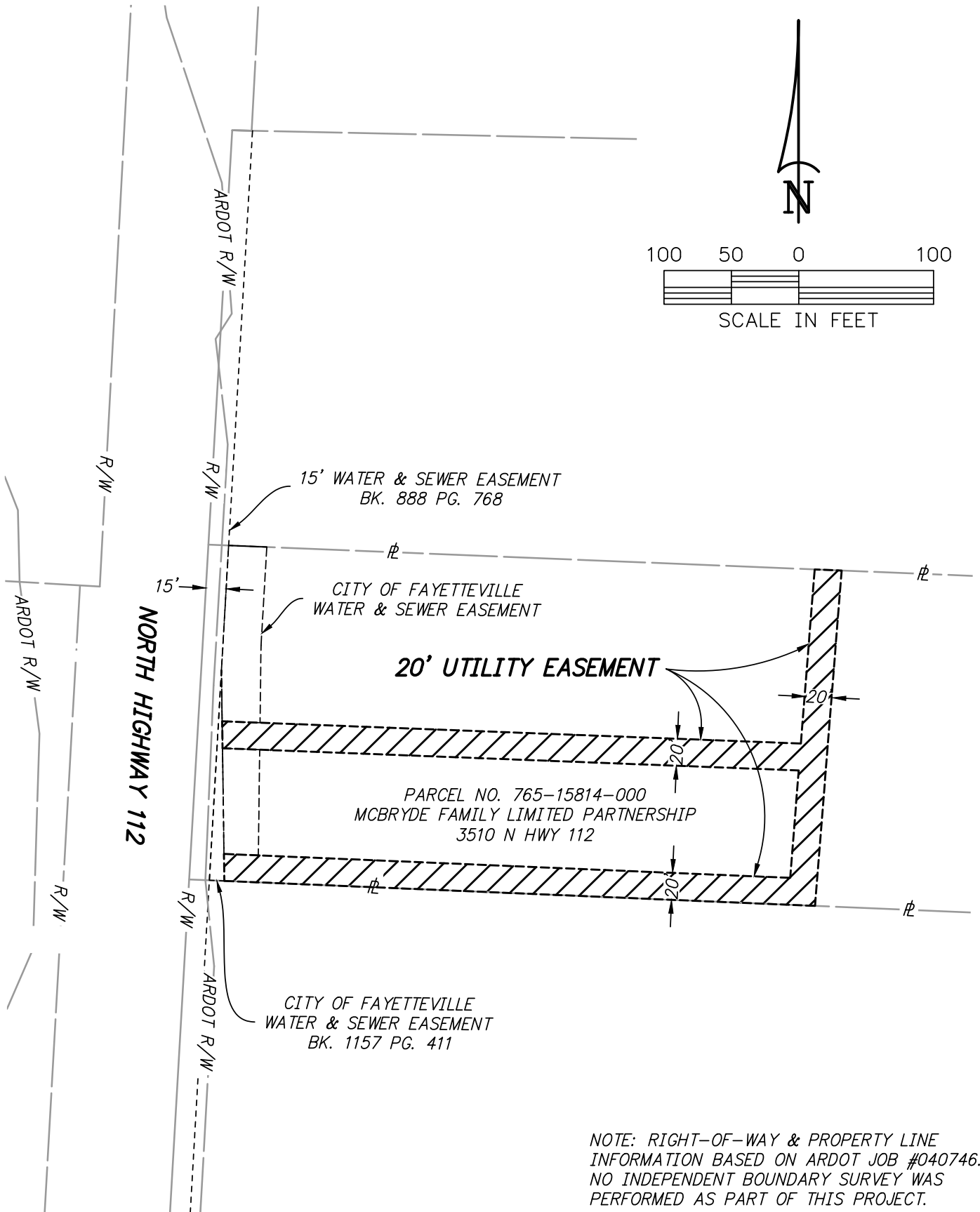
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **C. Bryan McBryde**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the President of **Flogene Enterprises, Inc., General Partner of McBryde Family Limited Partnership, an Arkansas limited partnership**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

Z:\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\17 - MCBRYDE FAMILY LIMITED PARTNERSHIP ADTL. ESMT.DWG, 1/21/2025 2:02 PM, JOSH NICHOLS, LAYOUT1



HW **HAWKINS WEIR**
ENGINEERS, INC.

Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 17 - MCBRYDE FAMILY LIMITED PARTNERSHIP
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 01/21/2025

SCALE: 1"=100'

JOB NO. 2021048

Tract No. 32

Jason Purdy and Marleah Purdy



February 12, 2025

Jason and Marleah Purdy
2357 W. Cartier Street
Fayetteville, AR 72704

RE: Highway 112 Widening Project
Parcel No. 765-28418-000
2357 W. Cartier Street, Fayetteville, AR
(Notification Letter)

Dear Mr. and Mrs. Purdy:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, the City will need a temporary construction easement on the southeast corner of your property for additional working room. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction and temporary fencing can be provided, if needed. The temporary construction easement will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$420.00** for the rights associated with the temporary construction and grading easement (225 square feet). This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

2/10/2025	Effective Date
PHYSICAL CHARACTERISTICS	
Jason & Marleah Purdy	Property Owner
765-28418-000	Parcel #
Fayetteville	City
AR	State
Before the Acquisition	
13,068	SqFt - Land
Proposed Water and Sewer Easement	
-	SqFt - Land (Acquisition Area)
After the Acquisition	
13,068	SqFt - Land (Remainder)
Temporary Construction Easements	
225	SqFt - Land
RSF-4	Zoning
CONCLUSIONS	
\$	420 TCE

The subject property consists of a 3,073 SqFt home on 0.3 acres. The city is relocating water and sewer easements along this corridor. A small portion of the backyard will be used during construction for a temporary construction easement. See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, fencing, lawn) will be repaired by the grantee.

Damages: It appears that the fence will be removed. **We assume that the city will repair the fence at their cost;** therefore, it is not included in permanent damages in this report.

APPRAISERS:

Zach J Holland, AR CG 2911

TEMPORARY CONSTRUCTION AND GRADING EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT we, **Jason Purdy and Marleah Purdy, husband and wife**, hereinafter called GRANTORS, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a temporary construction and grading easement on, over, and through the following described land situated in the County of Washington, State of Arkansas, for the sole purposes necessary for construction of a water and/or sewer line, to-wit:

PROPERTY DESCRIPTION: (Deed Ref: 2023-20423)

Lot 58, Belclaire Estates Subdivision, to the City of Fayetteville, Washington County Arkansas, as shown on plat record "23A" at page 302.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

The North 15.00 feet of the West 15.00 feet of the East 30.00 feet of the South 40.00 feet of Lot 58, Belclaire Estates (filed for record August 15, 2007), City of Fayetteville, Washington County, Arkansas, containing 225 square feet or 0.005 acre more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure(s) which may be located or under construction within said temporary construction easement area during the construction of this project.

TO HAVE AND TO HOLD the same unto the said Grantee, its successors and assigns, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The consideration first above recited as being paid to the Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this easement on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2025.

Jason Purdy

Marleah Purdy

ACKNOWLEDGMENT

STATE OF ARKANSAS

)

SS.

COUNTY OF WASHINGTON

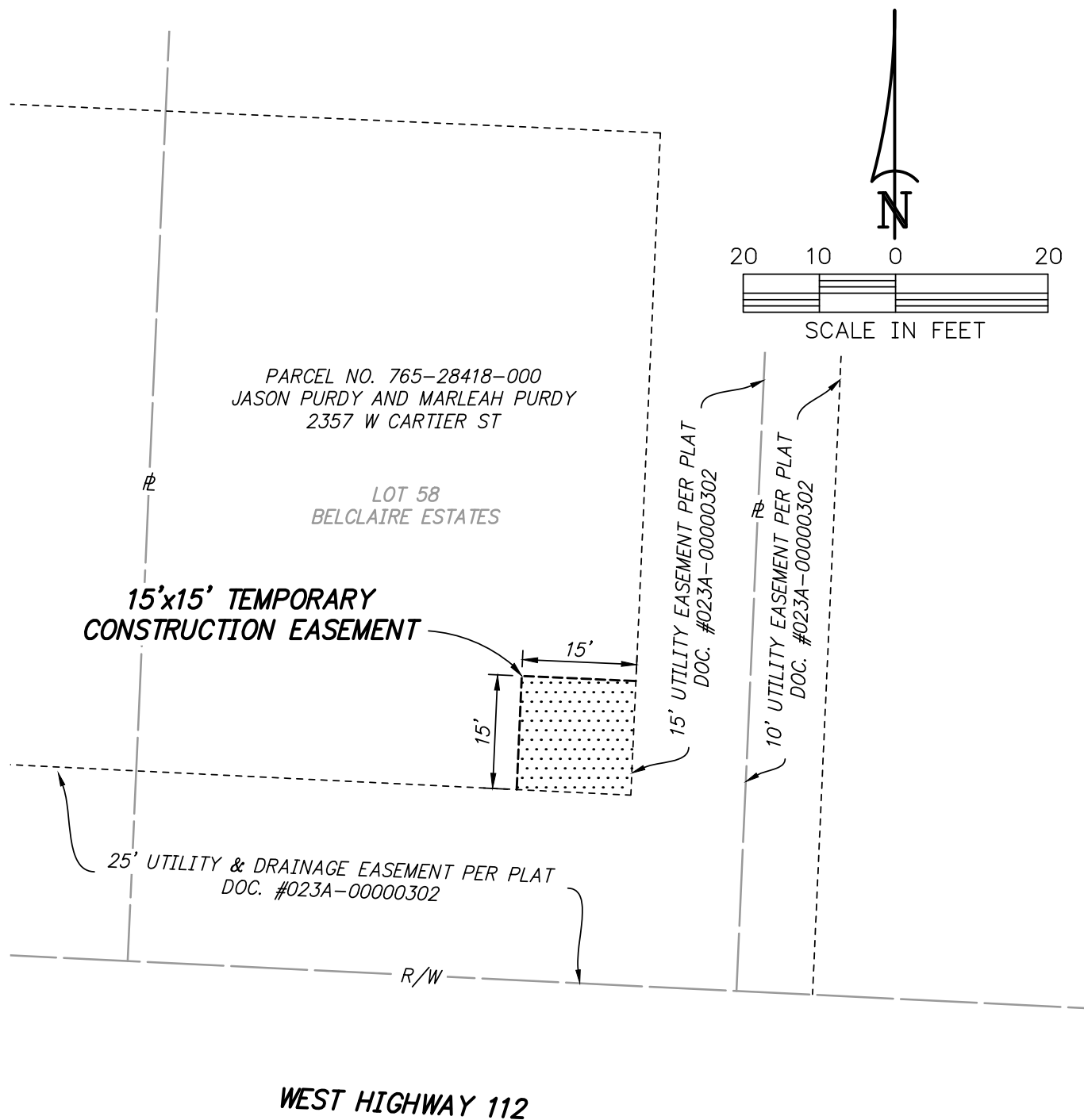
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Jason Purdy and Marleah Purdy, husband and wife**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\32 - JASON PURDY AND MARLEAH PURDY.DWG, 12/4/2024 9:46 AM, ANDREW MCCOLLUM, LAYOUT1



NOTE: RIGHT-OF-WAY & PROPERTY LINE
INFORMATION BASED ON ARDOT JOB #040746.
NO INDEPENDENT BOUNDARY SURVEY WAS
PERFORMED AS PART OF THIS PROJECT.



Van Buren (479) 474-1227 | Fort Smith (479) 242-4685 | Fayetteville (479) 455-2206 | Little Rock (501) 374-4846

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EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 32 - JASON PURDY AND MARLEAH PURDY
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/02/2024

SCALE: 1"=20'

JOB NO. 2021048

Tract No. 47

Jamal Abdin and Mario Abdin



February 21, 2025

Jamal Abdin and Maria Abdin, husband and wife
3687 N. Hwy 112
Fayetteville, AR 72704

RE: Highway 112 Widening Project
Parcel No. 576-20009-000
3687 N. Hwy 112, Fayetteville, AR
(*Notification Letter*)

Dear Mr. and Mrs. Abdin:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction.

The City of Fayetteville hereby offers \$4,000.00 for the rights associated with the permanent easement (6,049 square feet) and \$2,500.00 for damages, for a total of **\$6,500.00**. Damages include the loss of a mature oak tree. This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a home on 4.1 acres. The city is relocating water and sewer easements along this corridor.

2/19/2025	Effective Date
PHYSICAL CHARACTERISTICS	
Jamal & Maria Abdin	Property Owner
576-20009-000	Parcel #
Fayetteville	City
AR	State
Before the Acquisition	
178,596	SqFt - Land
Proposed Water and Sewer Easement	
6,049	SqFt - Land (Acquisition Area)
After the Acquisition	
172,547	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
6,049	SqFt - Land (Residual)
No Zoning	Zoning
CONCLUSIONS	
\$ 466,000	Land Value Before the Acquisition
\$ 462,000	Land Value After the Acquisition
\$ 4,000	Market Value of the Acquisition
\$ 2,500	Damages

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn, fencing, sprinklers) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the home does not appear to be affected by the permanent easement, and the client assures us that owners will continue to have access and use of the parking and home during construction.

The WSE restricts permanent structures above the easement area.

Damages: Damages include the loss of a mature oak tree.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT WE, **Jamal Abdin and Maria Abdin, a married couple**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 2018-9724)

Tract 9A, which is a part of Lot 9 of the Woodlands Subdivision, Washington County, Arkansas per plat of said subdivision recorded in the office of the Circuit Clerk of Washington County, Arkansas, and being more particularly described as follows: Beginning at the Southwest corner of Lot 9, thence North 193.00 feet, thence East 449.42 feet, thence S00°00'41"E 193.00 feet, thence West 449.46 feet to the P.O.B., containing 2.00 acres, more or less.

AND

Tract 9B, which is a part of Lot 9 & Lot 8 of the Woodlands Subdivision, Washington County, Arkansas per plat of said subdivision recorded in the office of the Circuit Clerk of Washington County, Arkansas, and being more particularly described as follows: Beginning at the Northwest corner of Lot 9, thence North 32.00 feet, thence East 449.38 feet, thence S00°00'41"E 239.00 feet, thence West 449.42 feet, Thence North 207.00 feet to the P.O.B., containing 2.47 acres, more or less.

ALSO KNOWN AS

Lots 9A and 9B, of the replat of Lots 8, 9 and 10, The Woodlands Subdivision, Fayetteville, Washington County, Arkansas, as shown on Survey Record 2003 page 28897.

LESS AND EXCEPT:

Lot 8, The Woodlands Subdivision, Fayetteville, Washington County, Arkansas, as shown on Survey Record 2012-28301. And being more particularly described as follows: A part of Lot 7 and all of Lot 8 of the Woodlands Subdivision in Washington County, Arkansas, as per plat of said subdivision recorded in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Beginning at the SW Corner of said Lot 8, thence West 300.00 feet, thence North 456.26 feet, thence S89°40'07"E 490.86 feet, thence along a curve to the right 406.85 feet, said curve having a radius of 260.00 feet and a chord bearing and distance of S44°50'24"E 366.59 feet, thence S00°00'41"E 193.48 feet, thence West 449.38 feet to the P.O.B.; Containing 7.48 acres more or less. Subject to easements and rights of way of record.

PERMANENT EASEMENT DESCRIPTION:

A 15.00' wide easement over part of Lots 9A and 9B, The Woodland Subdivision Replat (filed for record May 28, 2003), City of Fayetteville, Washington County, Arkansas, the East line of which being more particularly described as follows:

Commencing at the Southwest corner of said Lot 9A; thence along the South line of said Lot S87°25'30"E 157.27' to the West right-of-way of Highway 112 (per ARDOT Job #040746); thence along said West right-of-way N02°30'43"E 10.00' to the North line of an existing 20.00' utility easement (filed for record in Document #0016-00000063) and the Point of Beginning; thence continuing along said West right-of-way the following three (3) courses: N02°30'43"E 92.84'; thence N10°18'40"E 120.93'; thence N03°11'11"E 167.47' to the South line of an existing 20.00' utility easement (filed for record in Document #0016-00000063) and the Point of Termination, containing 5,719 square feet or 0.13 acres more or less.

ALSO

A 15.00' wide easement over part of Lot 9B, The Woodland Subdivision Replat (filed for record May 28, 2003), City of Fayetteville, Washington County, Arkansas, the East line of which being more particularly described as follows:

Commencing at the Northwest corner of said Lot 9B; thence along the North line of said Lot S87°31'07"E 401.84' to the Point of Beginning; thence S03°11'11"W 22.00' to the North line of an existing 20.00' utility easement (filed for record in Document #0016-00000063) and the Point of Termination, containing 330 square feet or 0.01 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipelines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2025.

Jamal Abdin

Maria Abdin

A C K N O W L E D G M E N T

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
) ss.

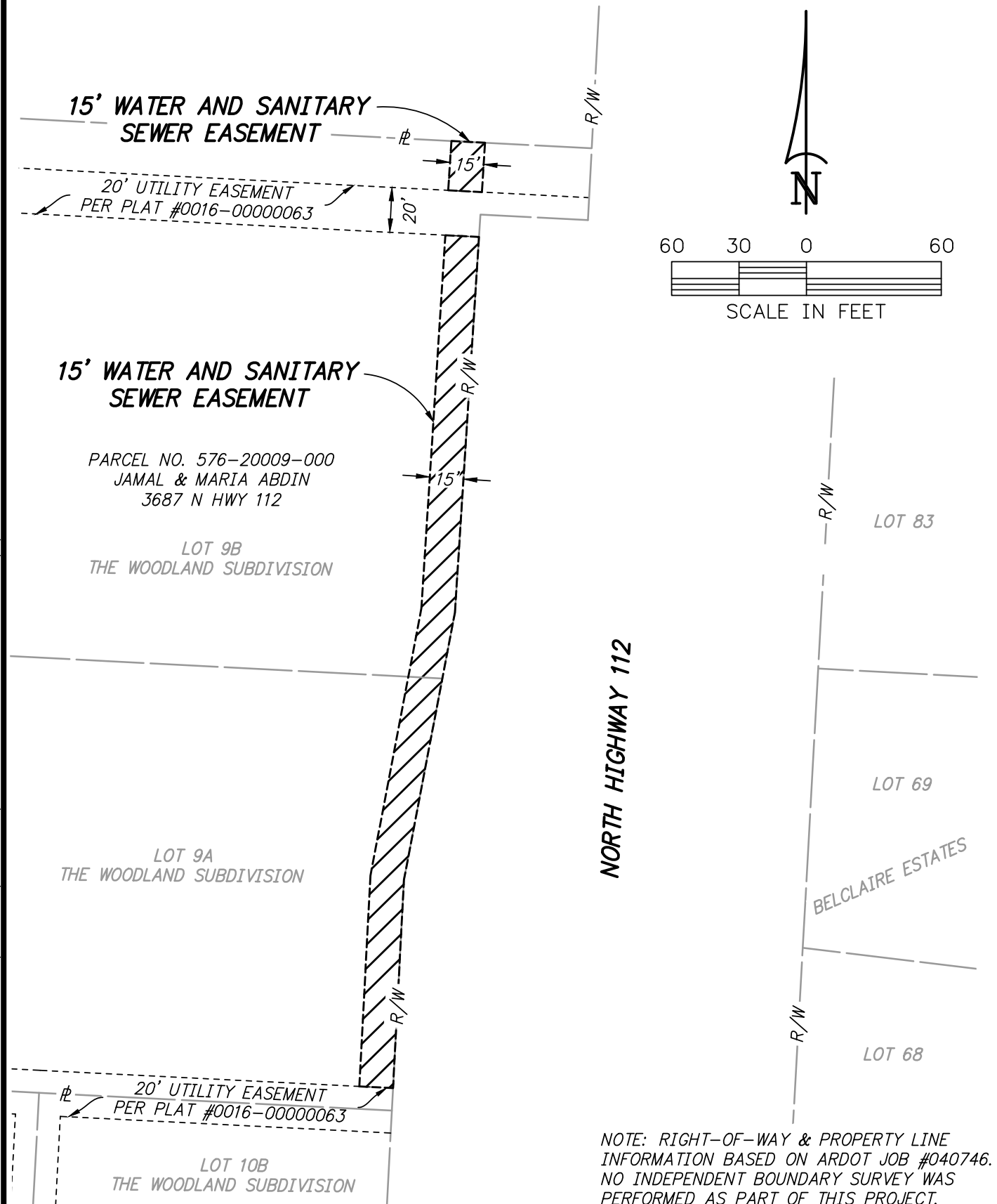
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Jamal Abdin and Maria Abdin, a married couple**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\47 - JAMAL & MARIA ABDIN.DWG, 12/4/2024 10:10 AM, ANDREW MCCOLLUM, LAYOUT1



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ENGINEERS, INC.

Van Buren (479) 474-1227 | Fort Smith (479) 242-4685 | Fayetteville (479) 455-2206 | Little Rock (501) 374-4846

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EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 47 - JAMAL & MARIA ABDIN
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/02/2024

SCALE: 1"=60'

JOB NO. 2021048

City of Fayetteville Staff Review Form

2025-303

Item ID

3/18/2025

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Tim Nyander

2/27/2025

WATER SEWER (720)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends City Council approval of a Resolution authorizing the City Attorney to seek condemnation and orders of possession for the remaining easements necessary for the Highway 112 Utility Relocations Project and approval of a budget adjustment.

Budget Impact:

5400.720.5600-5810.00

Water & Sewer

Account Number

Fund

11011.2101

Water & Sewer Relocations - I-49 & MLK
Interchange

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 9,781,598.00

Expenses (Actual+Encum)

\$ 9,588,467.37

Available Budget

\$ 193,130.63

Does item have a direct cost? Yes

Item Cost

\$ 438,120.00

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 250,000.00

Remaining Budget

\$ 5,010.63

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Tract No.	First Owner Name	Appraised Value of PUE*	Appraised Value of TCE**	Damages	Total Value of Easements
1	Thomas E. Simmons and Candace Simmons	\$5,000.00		\$3,200.00	\$8,200.00
3	Arkansas State Highway Commission				\$0.00
6	BFT Rental, LLC, an Arkansas limited liability company	\$123,000.00			\$123,000.00
10	Fellowship Bible Church of Northwest Arkansas	\$28,000.00		\$2,800.00	\$30,800.00
11	One Twelve Village, LLC, an Arkansas limited liability company	\$50,000.00			\$50,000.00
12	Transport Realty, Inc., an Arkansas corporation	\$19,000.00	\$0.00		\$19,000.00
13	Sam's Real Estate Business Trust, a Delaware Statutory Trust	\$0.00	\$4,800.00		\$4,800.00
15a	CL Partners, LLC, an undivided 57.5% interest, and D Briggs 112 Exchange, LLC, an undivided 42.5% interest	\$169,000.00	\$0.00		\$169,000.00
17	McBryde Family Limited Partnership, an Arkansas limited partnership (GUE \$0)	\$18,000.00	\$1,500.00	\$900.00	\$20,400.00
18	Arkansas State Highway Commission				\$0.00
19	Kubald Ventures, LLC	\$6,000.00			\$6,000.00
32	Jason and Marleah Purdy		\$420.00		\$420.00
47	Jamal Abdin and Maria Abdin, husband and wife	\$4,000.00		\$2,500.00	\$6,500.00
		\$422,000.00	\$6,720.00	\$9,400.00	\$438,120.00

*PUE = Permanent Utility Easement

**TCE = Temporary Construction Easement

Tract No. 1

Thomas E. Simmons & Candace Simmons



February 21, 2025

Thomas and Candace Simmons
2607 W. Howard Nickell Road
Fayetteville, AR 72704

RE: Highway 112 Widening Project
Parcel No. 516-02443-000
2607 W. Howard Nickell Road, Fayetteville, AR
(*Notification Letter*)

Dear Mr. and Mrs. Simmons:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction.

The City of Fayetteville hereby offers \$5,000.00 for the rights associated with the permanent easement (3,404 square feet) and \$3,200.00 for damages, for a total of **\$8,200.00**. Damages include the loss of a mature oak tree. This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a home on 1.66 acres. The city is relocating water and sewer easements along this corridor.

2/19/2025	Effective Date
PHYSICAL CHARACTERISTICS	
Thomas E. & Candace Simmons	Property Owner
516-02443-000	Parcel #
Fayetteville	City
AR	State
Before the Acquisition	
72,310	SqFt - Land
Proposed Water and Sewer Easement	
3,404	SqFt - Land (Acquisition Area)
After the Acquisition	
68,906	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
3,404	SqFt - Land (Residual)
No Zoning	Zoning
CONCLUSIONS	
\$ 189,000	Land Value Before the Acquisition
\$ 184,000	Land Value After the Acquisition
\$ 5,000	Market Value of the Acquisition
\$ 3,200	Damages

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn, fencing, sprinklers) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the home does not appear to be affected by the permanent easement, and the client assures us that owners will continue to have access and use of the parking and home during construction.

The WSE restricts permanent structures above the easement area.

Damages: Damages include the loss of a mature oak tree.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT WE, **Thomas E. Simmons and Candace Simmons, husband and wife**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 2019-13961)

Lot Number One (1) of the Twin Oaks Subdivision as recorded in Book 5 at Page 33 of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

PERMANENT EASEMENT DESCRIPTION:

Part of Lot 1, Twin Oaks Addition (filed for record October 14, 1971), City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Beginning at the Northwest corner of said Lot 1, said corner being on the South right-of-way line of West Howard Nickell Road; thence along said South right-of-way line S86°46'40"E 12.19 feet to the West line of the West Howard Nickell Road ARDOT right-of-way (per ARDOT Job #040746); thence along said West right-of-way S03°24'30"W 3.45 feet to the South line of said ARDOT right-of-way; thence along said South right-of-way S78°34'28"E 143.40 feet; thence continuing along said South right-of-way S73°55'34"E 36.99 feet to the West right-of-way line of North Pin Oak Street; thence along said West right-of-way S02°54'08"W 17.97 feet; thence parallel to and 17.50 feet South of said ARDOT right-of-way the following two courses: N73°55'34"W 40.38 feet; thence N78°34'28"W 152.37 feet to the West line of said Lot 1; thence along said West line N02°54'08"E 19.39 feet to the Point of Beginning, containing 3,404 square feet or 0.08 acre more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipelines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2025.

Thomas E. Simmons

Candace Simmons

ACKNOWLEDGMENT

STATE OF ARKANSAS

)

SS.

COUNTY OF WASHINGTON

)

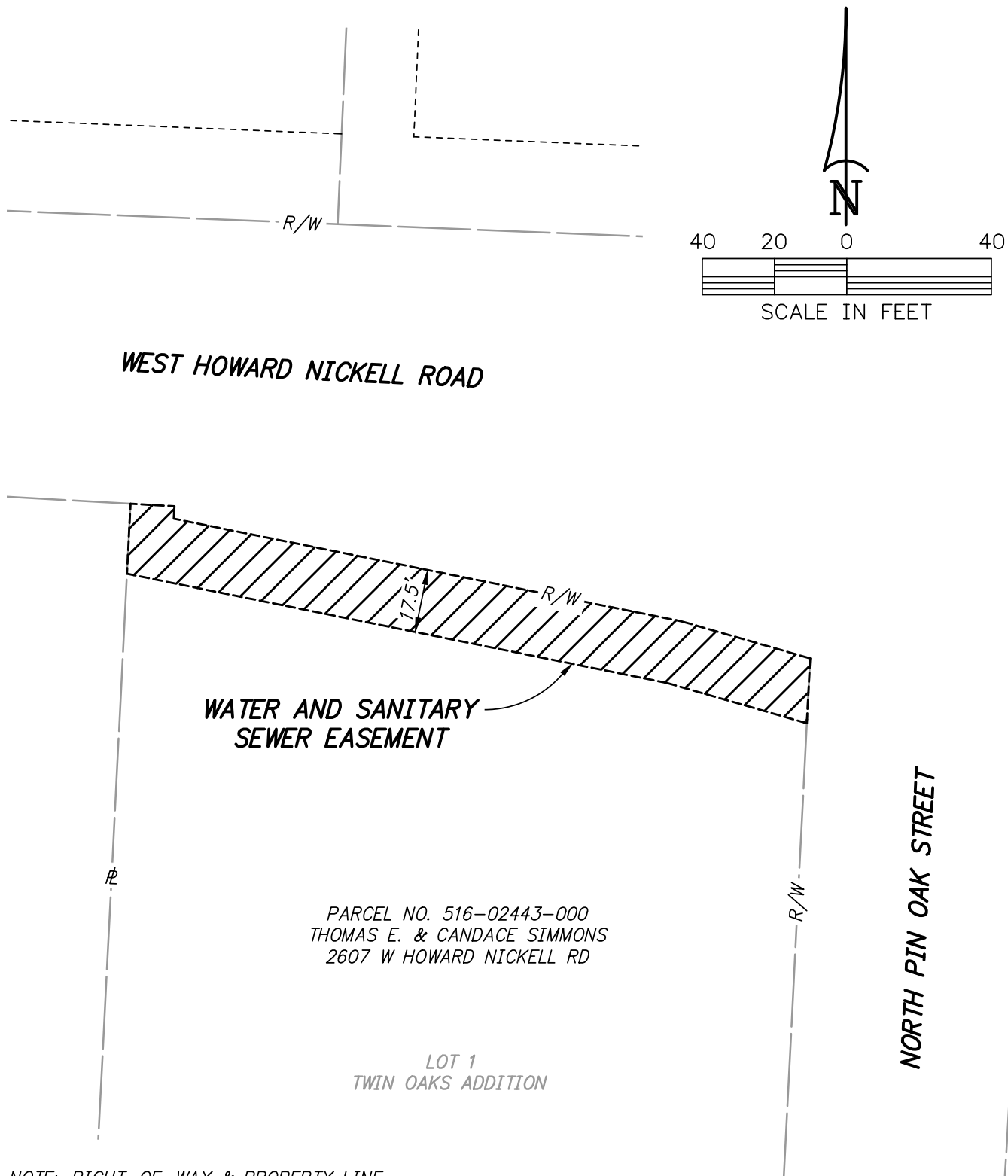
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Thomas E. Simmons and Candace Simmons, husband and wife**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\1 - THOMAS E. & CANDACE SIMMONS.DWG, 12/16/2024 4:37 PM, ANDREW MCCOLLUM, LAYOUT1



NOTE: RIGHT-OF-WAY & PROPERTY LINE
INFORMATION BASED ON ARDOT JOB #040746.
NO INDEPENDENT BOUNDARY SURVEY WAS
PERFORMED AS PART OF THIS PROJECT.



Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 1 - THOMAS E. & CANDACE SIMMONS
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/16/2024

SCALE: 1"=40'

JOB NO. 2021048

Tract No. 6, 7, & 9

BFT Rental, LLC



February 21, 2025

Mr. Dale L. Benedict
BFT Rental, LLC
PO Box 1927
Fayetteville, AR 72702

RE: Highway 112 Widening Project
Parcel No. 765-15832-000, 765-15830-001 & 765-15830-003
N. Deane Solomon Road, Fayetteville, AR
(*Notification Letter*)

Dear Mr. Benedict:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement will also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$123,000.00** for the rights associated with the permanent easement (36,002 square feet). This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of 65.33 acres of land with multiple zonings and multiple structures. The city is relocating water and sewer easements along this corridor.

2/20/2025	Effective Date
PHYSICAL CHARACTERISTICS	
BFT Rental LLC	Property Owner
765-15832-000; 765-15830-003; 765-15830-001	Parcel #
Fayetteville	City
AR	State
Before the Acquisition	
2,845,644	SqFt - Land
Proposed Water and Sewer Easement	
36,002	SqFt - Land (Acquisition Area)
After the Acquisition	
2,809,642	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
36,002	SqFt - Land (Residual)
Multiple	Zoning
CONCLUSIONS	
\$ 63,000	Market Value of the Acquisition A
\$ 60,000	Market Value of the Acquisition B & C
\$ 123,000	Total WSE Acquisitions

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the buildings does not appear to be affected by the permanent easements, and the client assures us that owners and customers will continue to have access and use of the parking and buildings during construction.

The WSE restricts permanent structures above the easement area.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **BFT Rental LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 2016-14655)

A part of the W ½ of the SW ¼ of Section 28, T-17-N, R-30-W, Washington County, Arkansas being more particularly described as follows: Beginning at the intersection of the South right-of-way of Arkansas State Highway No. 112 and the East right-of-way of a gravel dirt road, said point lying S 85°39'30" E, 460.60 feet from the NW Corner of said 80.00 acres tract and running thence S 89°51'00" E, 858.70 feet with the South right-of-way line of Highway No. 112 to the East line of said 80.00 acres tract; thence S 00°07'00" E with said East line 1,300.60 feet to a point N 00°07'00" W, 1,303.60 feet from the SE Corner of said 80.00 acre tract; thence West 600.60 feet to the East right-of-way line of the previously mentioned gravel road; thence N 08°06'00" E with said East line 321.00 feet; thence N 10°39'00" W with said East line 284.30 feet; thence N 28°25'00" W with said East line 166.10 feet; thence N 17°19'00" W with said East line 586.00 feet to the point of beginning, containing 20.00 acres, more or less.

Now, more accurately described by a plat of survey by Milholland Company dated May 10, 2004 and designated as drawing no. E-688 as follows: A part of the West Half (W1/2) of the Southwest Quarter (SW1/4) of Section Twenty-Eight (28), Township Seventeen (17) North, Range Thirty (30) West, described as follows: Commencing at the Northwest corner of the SW1/4 of said Section 28-17-30, thence S87°14'29"E 1320.14 feet to a point on the East line of the West Half (W1/2), Southwest Quarter (SW1/4) of said Section, thence S02°31'02"W, 34.99 feet along said East line to the Southern right-of-way of Arkansas Highway No. 112 and the point of beginning, thence continuing along said East line S02°31'02"W, 1298.63 feet; thence N87°16'08"W 600.60 feet to the East right-of-way of Washington County Road No. 890, thence along said right-of-way N10°49'52"E 321.00 feet, thence with said right-of-way N07°55'08"W, 284.30 feet, thence with said right-of-way N25°41'08"W, 166.10 feet, thence with said right-of-way N14°35'08"W 576.59 feet to the southern right-of-way of Arkansas Highway No. 12, thence along said right-of-way S87°35'48"E 853.78 feet to the point of beginning, all located in Fayetteville, Washington County, Arkansas and containing 19.860 acres, more or less.

AND

A part of the NE1/4 of the SW1/4 of Section 28, Township 17 North, Range 30 West, being more particularly described as follows: Commencing at the Northwest corner of said 40 acre tract, said point being in Arkansas Highway #112; thence S01°21'02"W along the West line of said 40 acre tract 60.40 feet to an existing iron on the South Right-of-Way line of said highway for the true point of beginning; thence S88°44'20"E along said right of way 636.06 feet to an existing iron; thence leaving said right of way S00°40'42"E 565.86 feet to an existing iron; thence S01°01'05"W 179.25 feet to an existing iron at a fence corner; thence S01°01'50"W 161.92 feet to a set ½" iron rebar on the proposed North Right-of-Way line of an undeveloped street as shown on the master street plat for Fayetteville, Arkansas; thence N88°33'19"W along said proposed right of way line 658.07 feet to a set ½" iron rebar on the West line of said 40 acre tract; thence N01°21'02"E 904.60 feet to the point of beginning, containing 13.52 acres, more or less.

AND (Deed Reference 2016-17689)

Part of the NE1/4 of the SW1/4 and part of the NW1/4 of the SE1/4 of Section 28, Township 17 North, Range 30 West of the 5th Principal Meridian, all in Washington County, Arkansas, more particularly described as follows, to-wit: Commencing at the Northwest corner of the NE ¼ of the SW ¼ of said Section 28, Township 17 North, Range 30 West, thence along the centerline of Highway 112, South 89°35'26" East 941.81 feet to the POINT OF BEGINNING, thence along the centerline of Highway 112 South 89°35'36" East 1704.36 feet, thence along the centerline of Highway 112 South 801.84 feet, thence North 89°28'28" West 1984.09 feet, thence North 179.25 feet, thence along an existing fence North 02°04'03" West 154.99 feet; thence along an existing fence which is the South property line of the Sandlin property North 89°42'25" East 299.39 feet, thence along an existing fence which is the East property line of the Sandlin property North 01°45'19" West 460.28 feet to the POINT OF BEGINNING, containing 33.397 acres, more or less.

PERMANENT EASEMENT DESCRIPTION "A":

Part of the North Half of the Southwest Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of the Southwest Quarter; thence along the East line of said Quarter-Quarter S02°37'26"W 157.13' to the South line of the Highway 112 ARDOT right-of-way (per ARDOT Job #040746) and the Point of Beginning; thence along said South right-of-way S88°26'10"E 52.86'; thence S02°21'17"W 20.00'; thence N88°26'10"W 92.85'; thence N68°18'00"W 106.91'; thence N88°19'27"W 499.66'; thence S01°28'45"W 8.78'; thence S51°21'40"E 138.33'; thence S38°38'20"W 20.00'; thence N51°21'40"W 148.27'; thence N01°28'45"E 18.79'; thence N88°19'27"W 99.62' thence S70°37'29"W 57.32' to the East right-of-way of North Deane Solomon Road; thence along said East right-of-way N14°34'18"W 48.22' to said South ARDOT right-of-way; thence along said South right-of-way the following five courses: N83°37'27"E 78.76'; thence S79°34'36"E 110.03'; thence S88°19'27"E 503.06'; thence S68°18'00"E 106.89'; thence S88°26'10"E 36.71' to the Point of Beginning, containing 23,165 square feet or 0.53 acre more or less.

PERMANENT EASEMENT DESCRIPTION "B":

Part of the Northeast Quarter of the Southwest Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northeast corner of said Northeast Quarter of the Southwest Quarter; thence along the North line of said Quarter-Quarter N87°14'29"W 116.30'; thence S02°35'30"W 150.10' to the South line of the ARDOT Highway 112 right-of-way (per ARDOT Job #040746) and the Point of Beginning; thence continuing S02°35'30"W 77.10'; thence S08°57'44"E 97.29'; thence S81°02'16"W 15.00'; thence N08°57'44"W 148.74'; thence N02°35'30"E 30.00' to the South line of said ARDOT right-of-way; thence along said South right-of-way S86°42'52"E 25.00' to the Point of Beginning, containing 3,184 square feet or 0.07 acres more or less.

PERMANENT EASEMENT DESCRIPTION "C":

Part of the Northwest Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northeast corner of said Northwest Quarter of the Southeast Quarter; thence along the East line of said Quarter-Quarter S02°35'18"W 806.01'; thence N87°11'34"W 99.62' to the West line of the ARDOT Highway 112 right-of-way (per ARDOT Job #040746) and the Point of Beginning; thence N87°11'34"W 82.49'; thence N02°50'45"E 62.00'; thence S87°11'34"E 41.01' to a point 30.00 West of said West right-of-way; thence continuing 30.00' West of and parallel to said right-of-way N22°01'58"W 150.02'; thence N67°58'02"E 30.00' to said West right-of-way; thence along said West right-of-way the following two courses: S22°01'58"E 173.78'; thence S01°44'58"E 53.20' to the Point of Beginning, containing 9,653 square feet or 0.22 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipelines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is further understood that Grantee's easement shall be exclusive and that Grantor and/or Grantor's successors shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2025.

BFT RENTAL, LLC, an Arkansas limited liability company

By: Dale L. Benedict, Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF WASHINGTON) ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dale L. Benedict**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Manager of **BFT Rental, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\6 - BFT RENTAL LLC.DWG, 12/2/2024 9:41 AM, ANDREW MCCOLLUM, LAYOUT1

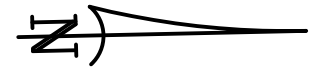
R/W
NORTH DEANE SOLOMAN ROAD
R/W

30' OZARK ELECTRIC COOPERATIVE
RIGHT OF WAY
DOC. #2014-00025143

WATER AND SANITARY
SEWER EASEMENT "A"

PARCEL NO. 765-15832-000 &
765-15830-000
BFT RENTAL LLC
N DEANE SOLOMAN RD

30' OZARK ELECTRIC COOPERATIVE
RIGHT OF WAY
DOC. #2014-00025143



100 50 0 100
SCALE IN FEET

WEST HIGHWAY 112

LOT 57
BELCLAIRE ESTATES

N. PROMENADE LNK.

LOT 16

LOT 15

LOT 14

NOTE: RIGHT-OF-WAY & PROPERTY LINE
INFORMATION BASED ON ARDOT JOB #040746.
NO INDEPENDENT BOUNDARY SURVEY WAS
PERFORMED AS PART OF THIS PROJECT.

HW **HAWKINS WEIR**
ENGINEERS, INC.

Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

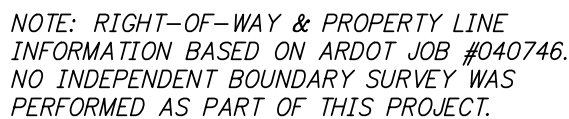
www.hawkins-weir.com

EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACTS 6, 7 & 9 - BFT RENTAL LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/02/2024

SCALE: 1"=100'

JOB NO. 2021048



Tract No. 10

Fellowship Bible Church
of Northwest Arkansas



February 6, 2025

Mr. John Marquette
Fellowship Bible Church of Northwest Arkansas
1051 W. Pleasant Grove Road
Rogers, AR 72758

RE: Highway 112 Widening Project
Parcel No. 765-15830-004
3447 N. Hwy 112, Fayetteville, AR
(Notification Letter)

Dear Mr. Marquette:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement will also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$28,000.00 for the rights associated with the permanent easement (13,131 square feet) and \$2,800.00 for damages, for a total of **\$30,800.00**. Damages include the loss of professionally landscaped trees and shrubs. This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a church on 22.42 acres of commercial land. The city is relocating water and sewer easements along this corridor.

[illegible]

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

The WSE restricts permanent structures above the easement area.

Damages: Damages include the loss of professionally landscaped trees and shrubs.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Fellowship Bible Church of Northwest Arkansas, an Arkansas non-profit corporation**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 2018-4064)

A part of the Northwest Quarter of the Southeast Quarter and a part of the Northeast Quarter of the Southwest Quarter all in Section twenty-eight (28), Township Seventeen (17) North, Range Thirty (30) West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows:

Commence at the Northwest corner of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4) of said Section 28 being a found magnail in asphalt roadway; thence S87°34'31"E a distance of 631.02 feet to a point; thence S00°23'08"W a distance of 628.16 feet to a found steel fence post; thence S02°10'40"W a distance of 178.19 feet to a found ½ inch iron pin and the Point of Beginning; thence S87°11'04"E a distance of 1926.85 feet to a found ½ inch iron pin and the western right of way for U.S. Highway 112 being fifty-five (55) feet west of centerline; thence along said western right of way, S02°43'18"W a distance of 474.95 feet to a set iron pin with cap "PLS 1439"; thence leaving said western right of way, N87°19'58"W a distance of 2582.01 feet to a set iron pin with cap "PLS 1439" and the west boundary of the East Half (E1/2) of the SW ¼, N02°34'52"E a distance of 318.11 feet to a set iron pin with cap "PLS 1439"; thence leaving said west boundary, S87°13'55"E a distance of 656.51 feet to a set iron pin with cap "PLS 1439"; thence N02°31'13"E a distance of 162.98 feet to the point of beginning.

Said tract or parcel of land containing 25.90 acres (1,138,075 square feet), more or less.

Subject to easements, right-of-ways, and protective covenants of record, if any, subject to all prior mineral reservations and oil and gas leases, if any.

PERMANENT EASEMENT DESCRIPTION:

A 30.00' wide easement over part of the Northwest Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Southwest corner of said Northwest Quarter of the Southeast Quarter; thence along the South line of said Quarter-Quarter S87°15'04"E 1,186.30' to the Point of Beginning; thence N02°01'19"E 71.96'; thence N11°20'46"E 22.14'; thence N22°55'37"E 119.27'; thence N01°16'12"E 155.97'; thence N07°56'41"W 115.29' to the Point of Termination, containing 14,539 square feet or 0.33 acres more or less.

Less and Except those portions contained in existing utility easements, being 1,408 square feet or 0.03 acres more or less. Containing a net total of 13,131 square feet or 0.30 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipelines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is further understood that Grantee's easement shall be exclusive and that Grantor and/or Grantor's successors shall convey no parallel rights to any person, utility or corporation on, across or under said easement without the express written permission of Grantee.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2025.

**FELLOWSHIP BIBLE CHURCH OF NORTHWEST ARKANSAS,
an Arkansas non-profit corporation**

By: _____
John Marquette, Secretary

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss.

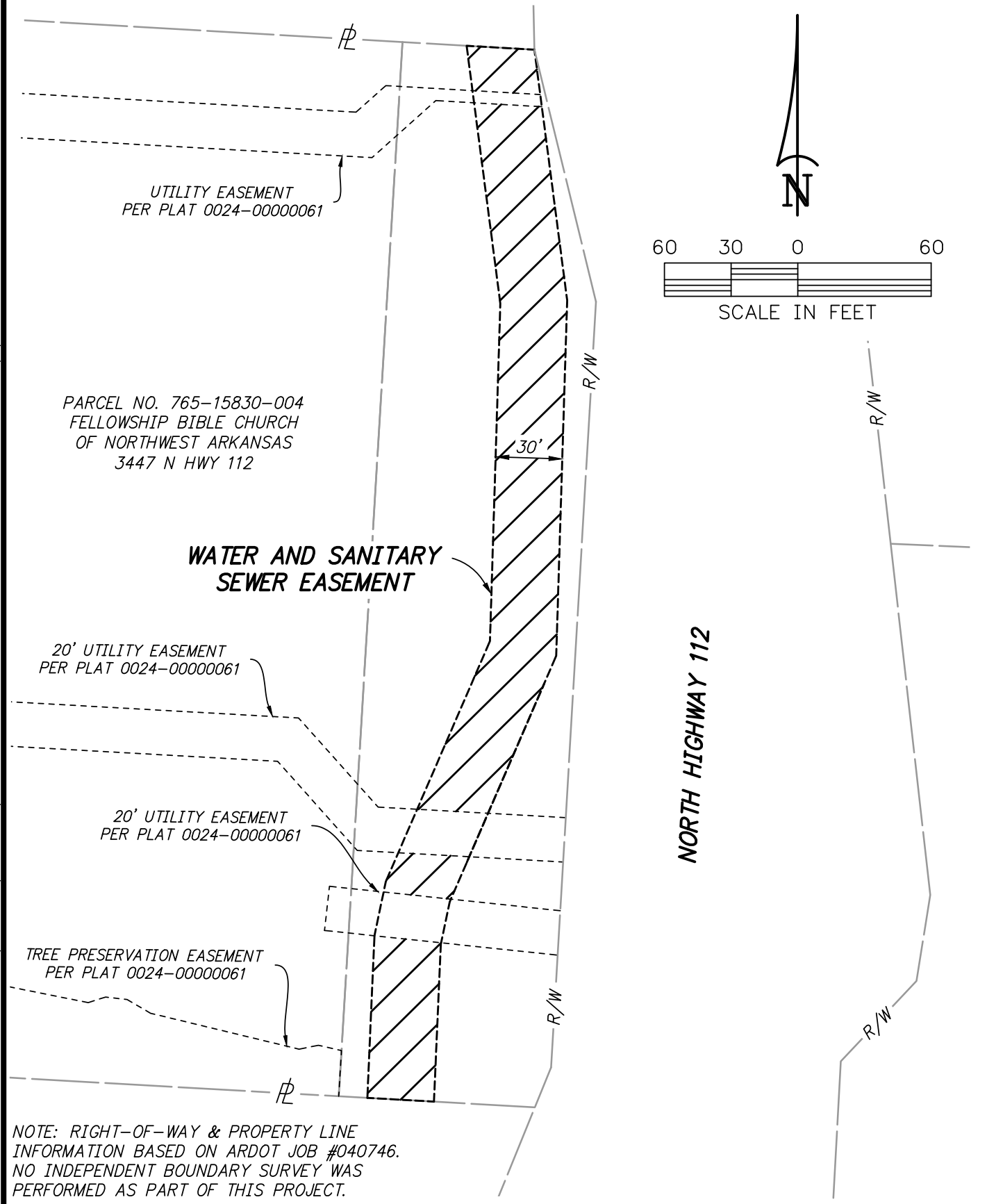
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **John Marquette**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Secretary of **Fellowship Bible Church of Northwest Arkansas, an Arkansas non-profit corporation**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\10 - FELLOWSHIP BIBLE CHURCH OF NORTHWEST ARKANSAS.DWG, 12/2/2024 1:27 PM, ANDREW MCCOLLUM, LAYOUT1



Van Buren | Fort Smith | Fayetteville | Little Rock
(479) 474-1227 | (479) 242-4685 | (479) 455-2206 | (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 10 - FELLOWSHIP BIBLE CHURCH OF NORTHWEST ARKANSAS
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/02/2024

SCALE: 1"=60'

JOB NO. 2021048

Tract No. 11

One Twelve Village, LLC



January 30, 2025

Mr. David R. Evans
One Twelve Village, LLC, an Arkansas limited liability company
3768 E. Leawood Way
Fayetteville, AR 72703

RE: Highway 112 Widening Project
Parcel No. 765-15830-000
N Hwy 112, Fayetteville, AR
(Notification Letter)

Dear Mr. Evans:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement will also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$50,000.00** for the rights associated with the permanent easement (36,251 square feet). This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of 39.43 acres of residential land. The city is relocating water and sewer easements along this corridor.

[illegible]

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access during construction.

The WSE restricts permanent structures above the easement area.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **One Twelve Village, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 2017-7010)

A PART OF THE WEST HALF (W 1/2) OF THE SOUTHEAST QUARTER (SE1/4), ALL IN SECTION TWENTY-EIGHT (28), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS; COMMENCING AT THE NORTHWEST CORNER OF THE NE 1/4 OF THE SW 1/4 OF SAID SECTION 28 BEING A FOUND COTTON PICKER SPINDLE IN ASPHALT ROADWAY; THENCE ALONG THE WEST LINE OF SAID NE 1/4 OF THE SW 1/4, S02°34'52"W A DISTANCE OF 1283.11 FEET TO A FOUND IRON PIN WITH CAP "PLS 1439"; THENCE LEAVING SAID WEST LINE, 87°19'58"E A DISTANCE OF 1315.10 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A SET IRON PIN WITH CAP "PLS 1156"; THENCE S87°19'58"E A DISTANCE OF 1266.91 FEET TO THE WESTERLY RIGHT OF WAY LINE OF HIGHWAY 112 THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE THE FOLLOWING EIGHT (8) CALLS, S02°43'18"W A DISTANCE OF 978.38 FEET TO A POINT; THENCE S02°02'26"W A DISTANCE OF 63.14 FEET TO A POINT; THENCE S00°11'50"W A DISTANCE OF 51.97 FEET TO A POINT; THENCE S03°04'07"E A DISTANCE OF 40.08 FEET TO A POINT; THENCE S07°04'04"E A DISTANCE OF 55.68 FEET TO A POINT; THENCE S11°50'44"E A DISTANCE OF 58.74 FEET TO A POINT; THENCE S15°34'53"E A DISTANCE OF 71.32 FEET TO A POINT; THENCE S18°13'53"E A DISTANCE OF 15.95 FEET TO A POINT; THENCE LEAVING SAID RIGHT OF WAY, S02°32'54"W A DISTANCE OF 26.08 FEET TO A FOUND 3 INCH ALUMINUM CAP AT THE SOUTHEAST CORNER OF THE SW 1/4 OF THE SE 1/4 OF SAID SECTION 28; THENCE ALONG THE SOUTH LINE OF SAID SW 1/4 OF THE SE 1/4, N87°08'52"W A DISTANCE OF 1322.12 FEET TO A FOUND IRON PIN WITH CAP "PLS 1439", BEING THE SOUTH QUARTER CORNER OF SAID SECTION 28; THENCE LEAVING SAID SOUTH LINE, N02°32'22"E A DISTANCE OF 1349.51 FEET TO THE POINT OF BEGINNING. SAID TRACT OR PARCEL OF LAND CONTAINING 39.43 ACRES (1,717,256 SQUARE FEET), MORE OR LESS, AND BEING DEPICTED AS NEW TRACT 1 ON THAT CERTAIN PROPERTY LINE ADJUSTMENT SURVEY FILED FOR RECORD FEBRUARY 1, 2017, AS LAND DOCUMENT 2017-00003176, OF THE RECORDS OF WASHINGTON COUNTY, ARKANSAS.

PERMANENT EASEMENT DESCRIPTION:

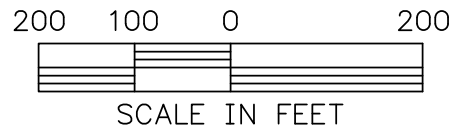
A 30.00' wide easement over part of the Southwest Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, the centerline of which being more particularly described as follows:

Commencing at the Southeast corner of said Southwest Quarter of the Southeast Quarter; thence along the South line of said Quarter-Quarter N87°15'19"W 168.81 feet; thence N02°44'10"E 30.00 feet to the North line of an existing City of Fayetteville water and sewer easement (Filed for Record in Book 93 Page 44456) and the Point of Beginning; thence N02°44'10"E 502.63 feet to a point 15.00 feet West of the West right-of-way of Highway 112 (Per ARDOT Job 040746); thence continuing 15.00 feet West of and parallel to said West right-of-way the following five (5) courses: N04°53'33"W 38.08 feet; thence N12°09'52"E 66.30 feet; thence N36°23'32"E 107.52 feet; thence N07°30'57"E 90.96 feet; thence N03°33'26"E 283.44 feet; thence N20°35'09"W 54.50 feet; thence N02°03'04"E 65.43 feet to the South right-of-way of a future City of Fayetteville road (Acquired by ARDOT Per ARDOT Job 040746) and the Point of Termination, containing 36,251 square feet or 0.83 acre more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

Notary Public



JOB NO. 2021048

Tract No. 12

Transport Realty, Inc.



January 30, 2025

Mr. Walter J. Echols
Transport Realty, Inc., an Arkansas corporation
PO Box 10048
Fort Smith, AR 72917

RE: Highway 112 Widening Project
Parcel No. 765-15856-000
1550 W. Truckers Drive, Fayetteville, AR
(Notification Letter)

Dear Mr. Echols:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement will also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$19,000.00** for the rights associated with the permanent easement (10,540 square feet). This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 9,334 SqFt freight business on 7.75 acres of commercial land. The city is relocating water and sewer easements along this corridor.

1/16/2025	Effective Date
PHYSICAL CHARACTERISTICS	
Transport Realty Inc	Property Owner
765-15856-000	Parcel #
Fayetteville	City
AR	State
9,334	SqFt - Gross Building Area
337,590	SqFt - Land
10,540	SqFt - Land (Acquisition Area)
327,050	SqFt - Land (Remainder)
10,540	SqFt - Land (Residual)
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 2,431,000	Land Value Before the Acquisition
\$ 2,412,000	Land Value After the Acquisition
\$ 19,000	Market Value of the Acquisition

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction. The WSE restricts permanent construction above the easement area.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Transport Realty, Inc., an Arkansas corporation (formerly known as ABC-Treadco, Inc., formerly known as Arkansas Bandag Corporation)**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 99-84977)

Part of the N1/2 of the NE1/4 of Section 33, T-17-N, R-30-W, and being more particularly described as follows: Beginning at a point one hundred sixty-five feet east of the Northwest corner of the Northeast quarter of the Northeast quarter of said section, township, and range, and running thence West eight hundred nineteen and seventy six hundredths feet; thence South four hundred seventeen and seventy four hundredths feet to the North line of a fifty foot roadway; thence east with the North line of said roadway eight hundred nineteen and seventy six hundredths feet to center line of State Highway No. 112; thence North four hundred seventeen and seventy four hundredths feet to the point of beginning, containing seven and eighty three hundredths acres, more or less. LESS AND EXCEPT that part embraced in State Highway No. 112 and that portion which is east of the center line of said Highway, in the Northeast corner, LESS AND EXCEPT all public roads and rights-of-way.

PERMANENT EASEMENT DESCRIPTION:

Part of the North Half of the Northeast Quarter of Section 33, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter; thence along the North line of said Northeast Quarter S87°15'19"E 1,245.30' to the Point of Beginning; thence continuing along said North line S87°15'19"E 30.82' to the West right-of-way of Highway 112 (per ARDOT Job #040746); thence along said West right-of-way the following three (3) courses: S20°38'38"E 78.06'; thence S88°35'04"E 34.18'; thence S30°08'39"E 34.90' to the West line of an existing City of Fayetteville utility easement (filed in Book 1023 Page 498); thence along said West easement line the following three courses S18°39'08"E 85.09'; thence S13°28'15"E 89.40'; thence S02°54'25"E 64.42' to said West right-of-way of Highway 112; thence along said West right-of-way S35°52'33"W 46.23'; thence continuing along said West right-of-way S10°48'29"W 8.84' to the Northwest line of an existing City of Fayetteville water and sewer easement (filed as Document #2016-00015682); thence along said Northwest easement line S47°33'15"W 4.91'; thence continuing along said Northwest easement line S02°33'15"W 10.76' to the North line of an existing City of Fayetteville utility easement (filed in Book 1023 Page 498); thence along said North easement line N87°43'41"W 25.69'; thence N01°48'31"E 22.74'; thence N35°46'15"E 75.89'; thence N15°42'54"W 203.46'; thence N60°32'55"W 61.91'; thence N24°18'02"W 94.39' to the Point of Beginning, containing 10,540 square feet or 0.24 acre more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipelines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2025.

**TRANSPORT REALTY, INC., AN ARKANSAS CORPORATION
(FORMERLY KNOWN AS ABC-TREADCO, INC., FORMERLY
KNOWN AS ARKANSAS BANDAG CORPORATION)**

By: _____
Walter J. Echols, Vice President, Real Estate

ATTEST:

Shaun McCaffrey, Director, Real Estate
ArcBest Corp.

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss.

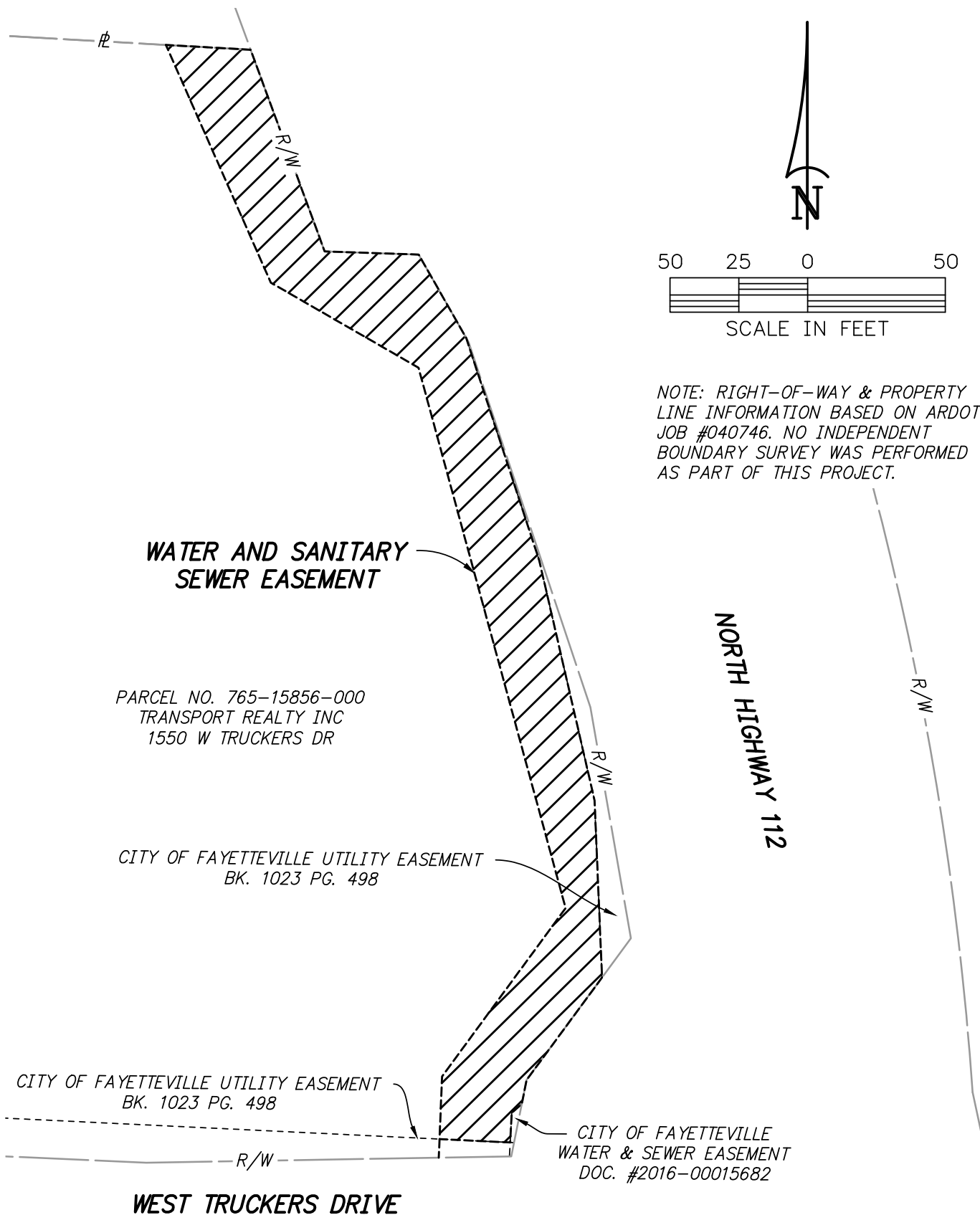
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Walter J. Echols and Shaun McCaffrey**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the Vice President and Director of Real Estate for ArcBest Corp., respectively, of **TRANSPORT REALTY, INC., AN ARKANSAS CORPORATION (FORMERLY KNOWN AS ABC-TREADCO, INC., FORMERLY KNOWN AS ARKANSAS BANDAG CORPORATION)**, and are 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 instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\12 - TRANSPORT REALTY INC.DWG, 12/3/2024 2:00 PM, ANDREW MCCOLLUM, LAYOUT1



Van Buren (479) 474-1227 | Fort Smith (479) 242-4685 | Fayetteville (479) 455-2206 | Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 12 - TRANSPORT REALTY INC.
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/02/2024

SCALE: 1"=50'

JOB NO. 2021048

Tract No. 13

Sam's Real Estate Business Trust



January 30, 2025

Mr. Thomas H. Wait
Sam's Real Estate Business Trust, a Delaware Statutory Trust
Walmart Property Tax Dept 8013, PO Box 8050
Bentonville, AR 72712

RE: Highway 112 Widening Project
Parcel No. 765-15855-000
3075 N. Hwy 112, Fayetteville, AR
(Notification Letter)

Dear Mr. Wait:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement will also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$4,800.00** for the rights associated with the temporary construction and grading easement (1,600 square feet). This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

1/13/2025	Effective Date
PHYSICAL CHARACTERISTICS	
Sam's Real Estate Business Trust	Property Owner
Fayetteville	City
AR	State
Before the Acquisition	
681,278	SqFt - Land
After the Acquisition	
681,278	SqFt - Land (Remainder)
Temporary Construction Easements	
1,600	SqFt - Land
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$	4,800 TCE

Before the acquisition, the subject property consists of a 147,774 SqFt retail store on 15.64 acres of commercial land. The city is relocating water and sewer easements along this corridor, and they will use a portion of the frontage of this lot for a temporary construction easement.

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

APPRAISERS:

Zach J Holland, AR CG 2911

TEMPORARY CONSTRUCTION AND GRADING EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Sam's Real Estate Business Trust, a Delaware statutory trust**, hereinafter called GRANTORS, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a temporary construction and grading easement on, over, and through the following described land situated in the County of Washington, State of Arkansas, for the sole purposes necessary for construction of ??? Street, to-wit:

PROPERTY DESCRIPTION: (Deed Ref: 99-84977)

Property located in Washington County, AR Lot 7 Springwoods, an addition to the City of Fayetteville, and other lands all located in the NE1/4 NW1/4, NW1/4 NE1/4 and the NE1/4 NE1/4 Section 33, Township 17 North, Range 30 West, Fayetteville, Washington County, Arkansas, being more particularly described as follows: Commencing at the Northeast corner of the NE1/4 NW1/4 of said Section 33; Thence S 87°12'42" E for 247.42 feet; Thence S 02°27'35" W for 478.05 feet to a rebar and cap and the point of beginning; Thence S 87°53'56" E for 1205.16 feet to a rebar and cap on the Westerly Right of Way line of Arkansas State Highway Number 112; Thence S 2°16'58" W for 344.45 feet along the said Right of Way line to a row disk; Thence N 88°14'29" W for 40.13 feet along said Right of Way line to a rebar and cap; Thence S 03°00'58" W for 210.44 feet along said West Right of Way line to a 5/8" pipe; Thence N 88°14'36" W for 60.11 feet (59.97 feet deed) along said West Right of Way line to a 3/8" rebar; Thence S 27°17'36" W for 9.62 feet (9.72 feet deed) along said West Right of Way line to a "A" rebar; Thence leaving said Right of Way line N 87°17'29" W for 1100.18 (1100.10 deed) feet to a rebar and cap; Thence N 02°29'21" E for 61.97 feet to a rebar and cap; Thence N 84°47'37" W for 63.41 feet (N 84°44'45" W for 63.43 feet plat) to a rebar and cap; Thence S 24°25'48" E for 97.81 feet (S 24°27'56" E for 97.91 feet plat) to a concrete monument and cap; Thence S 15°44'41" W for 256.80 feet (S 15°42'51" W for 256.83 feet plat) to a concrete monument and cap; Thence N 87°05'25" W for 296.07 feet (N 87°03'33" W for 296.13 feet plat) to a rebar and cap; Thence N 74°16'00" W for 43.14 feet (N 74°33'51" W for 43.11 feet plat) to a rebar and cap; Thence S 88°05'35" W for 191.98 feet (S 88°06'58" W for 192.03 feet plat) to a rebar and cap; Thence N 06°46'12" W for 95.32 feet (N 06°46'27" W for 95.47 feet plat) to a rebar and cap; Thence N 88°38'49" W for 95.51 feet (N 88°52'35" W for 95.38 feet plat) to a Conc. Mon. and 3" cap; Thence N 22°25'46" W for 53.94 feet (N 22°28'20" W for 54.13 feet plat) to a rebar and cap; Thence N 64°02'57" E for 696.60 feet (N 64°03'19" E for 696.30 feet plat) to a rebar and cap; Thence along a curve to the right having a radius of 175.00 feet and a chord bearing and distance of N 85°44'08" E for 129.33 feet (N 85°45'19" E for 129.41 feet plat) to a rebar and cap; Thence N 02°29'21" E for 339.31 feet to the point of beginning and containing 884,181 sq. ft. or 20.298 acres, more or less. AND BEING the same property conveyed to Sam's West, Inc., an Arkansas corporation from Springwoods Landholdings, LLC, an Arkansas limited liability company by Warranty Deed dated August 16, 2006 and recorded August 22, 2006 in Instrument No. 2006-00034446. Tax Parcel No. 765-15855-002.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

Part of the Northeast Quarter of Section 33, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northwest corner of the Northwest Quarter of said Section 33; thence along the West line of said Quarter S02°28'26"W 508.24 feet; thence S87°54'20"E 2,884.98 feet to the West line of an existing utility easement (filed as Document #2004-00021856); thence along said West easement line S02°27'35"W 50.00 feet to the South line of said Easement; thence along said South easement line S87°54'20"E 1,095.69 feet to the Point of Beginning; thence continuing along said South easement line S87°54'20"E 80.00 feet to the West line of an existing utility easement (filed in Document #0023-00000259); thence along said West easement line S02°58'58"W 20.00 feet; thence N87°54'20"W 80.00 feet; thence N02°58'58"E 20.00 feet to the Point of Beginning, containing 1,600 square feet or 0.04 acre more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure(s) which may be located or under construction within said temporary construction easement area during the construction of this project.

TO HAVE AND TO HOLD the same unto the said Grantee, its successors and assigns, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The consideration first above recited as being paid to the Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this easement on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2022.

SAM'S REAL ESTATE BUSINESS TRUST, a Delaware statutory trust

By: Thomas H. Wait, Senior Vice President

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF WASHINGTON) ss.

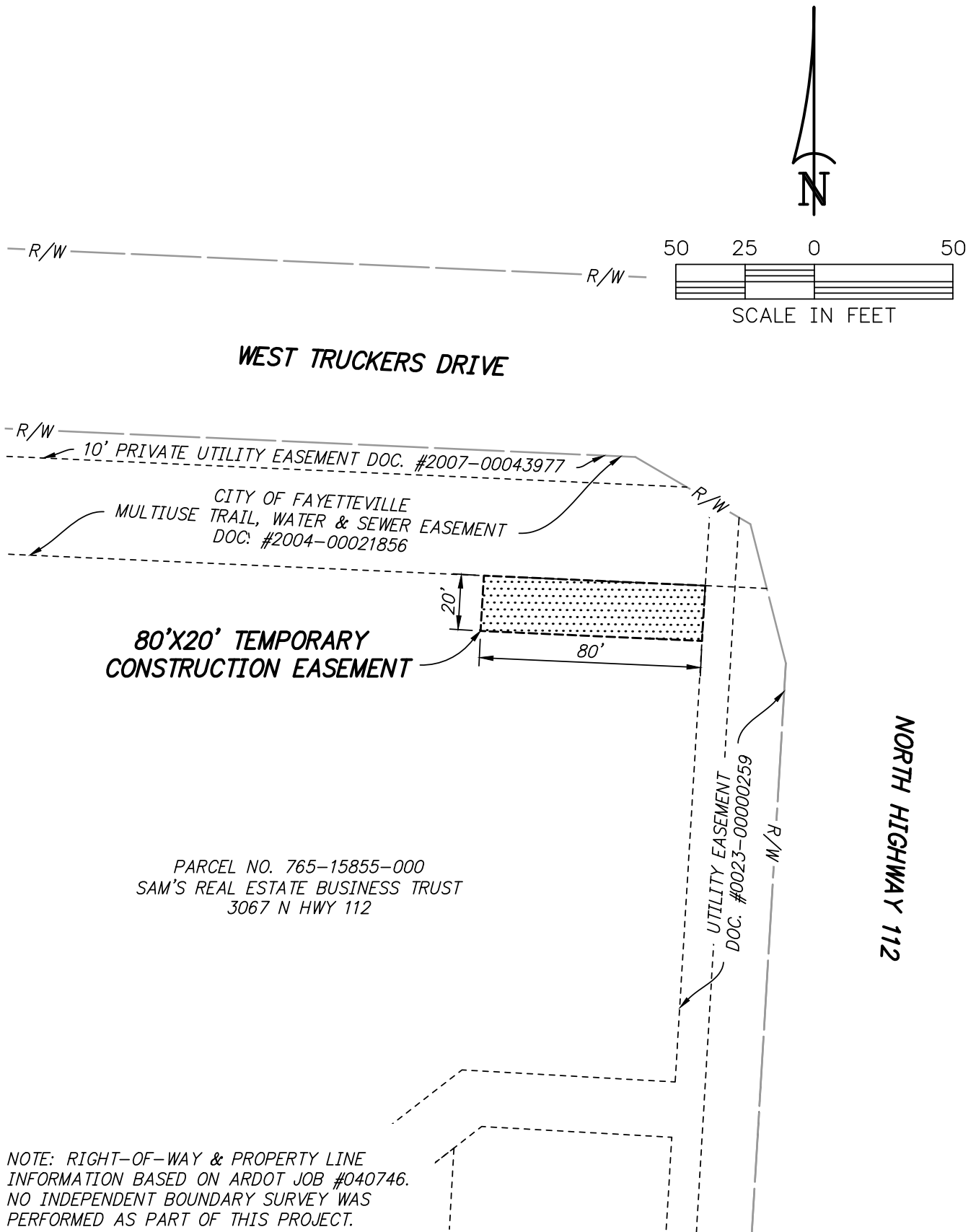
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared Thomas H. Wait, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Senior Vice President of Sam's Real Estate Business Trust, a Delaware statutory trust, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said trust, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2023.

MY COMMISSION EXPIRES:

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\13 - SAM'S REAL ESTATE BUSINESS TRUST.DWG, 12/16/2024 1:03 PM, ANDREW MCCOLLUM, LAYOUT1



Van Buren (479) 474-1227 | Fort Smith (479) 242-4685 | Fayetteville (479) 455-2206 | Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 13 - SAMS REAL ESTATE BUSINESS TRUST
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/16/2024

SCALE: 1"=50'

JOB NO. 2021048

Tract No. 15

CL Partners, LLC



January 30, 2025

Mr. Christopher A. Akbari
CL Partners, LLC and D Briggs 112 Exchange, LLC
PO Box 189
Sedalia, MO 65302

RE: Highway 112 Widening Project
Parcel No. 765-15813-000, 765-15815-000, 765-15816-000,
765-15819-000, 765-15812-000, 765-15811-000
N Hwy 112, Fayetteville, AR
(Notification Letter)

Dear Mr. Akbari:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement will also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$169,000.00** for the rights associated with the permanent easement (57,077 square feet). This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of 36.11 acres of commercial land formerly used for a drive-in theater. The property is intended for a new mixed use housing development, but the plans are on hold. The city is relocating water and sewer easements along this corridor.

1/22/2025	Effective Date
PHYSICAL CHARACTERISTICS	
CL Partners, LLC; D Briggs 112 Exchange LLC	Property Owner
Fayetteville	City
AR	State
Before the Acquisition	
1,572,952	SqFt - Land
Proposed Water and Sewer Easement	
57,077	SqFt - Land (Acquisition Area)
After the Acquisition	
1,515,875	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
57,077	SqFt - Land (Residual)
CONCLUSIONS	
\$ 18,567,000	Land Value Before the Acquisition
\$ 18,398,000	Land Value After the Acquisition
\$ 169,000	Market Value of the Acquisition

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) within the easement construction area will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The WSE restricts permanent construction above the easement area.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **CL Partners, LLC, an Arkansas limited liability company, and D. Briggs 112 Exchange LLC, an Arkansas limited liability company**, hereinafter called GRANTORS, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 2022-29207)

SURVEY DESCRIPTION from ALTA/NSPS Land Title Survey by ESI Consulting Engineers dated August 29, 2022.

Part of the East Half (E 1/2) of the Southeast Quarter (SE 1/4) of Section Twenty-Eight (28), Township Seventeen (17) North, Range Thirty (30) West of the Fifth Principal Meridian, City of Fayetteville, Washington County, Arkansas, and being more particularly described as follows: COMMENCING at the Southwest Corner of said E 1/2 of the SE 1/4, said point being a found 3 inch Aluminum Monument; thence along the South line of said E 1/2 of the SE 1/4, S87°08'52"E a distance of 83.50 feet to the POINT OF BEGINNING, said point being a set iron pin with cap "PS 1559"; thence leaving said South line, N20°53' 11"W a distance of 48.65 feet; thence along a curve to the right, said curve having a radius of 699.58 feet, an arc length of 290.81 feet, and a chord bearing and distance of N08°58'40"W 288.72 feet; thence N02°55'51"E a distance of 300.88 feet; thence N02°45' 12"E a distance of 221.00 feet; thence N02°38' 37"E a distance of 345.10 feet; thence N02°44'E a distance of 418.46 feet to a set iron pin with cap "PS 1559"; thence S88°43'56"E a distance of 943.50 feet to a set iron pin with cap "PS 1559"; thence S00°38'08"W a distance of 1639.87 feet to a set iron pin with cap "PS 1559" on the South line of said E 1/2 of the SE 1/4; thence along said South line, N87°08'52"W a distance of 924.94 feet to the POINT OF BEGINNING, containing 36.11 acres (1,572,946 square feet), more or less, and subject to all Rights-Of-Way, Easements or Restrictive Covenants of record and fact..

PERMANENT EASEMENT DESCRIPTION:

Part of the Southeast Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Southwest corner of said Southeast Quarter; thence along the South line of said Quarter-Quarter S87°15'19"E 173.14' to the East right-of-way of Highway 112 (per ARDOT Job #040746) and the Point of Beginning; thence along said East right-of-way the following twelve (12) courses: N12°34'40"W 68.06'; thence N84°41'48"W 36.25'; thence N13°05'39"W 82.41'; thence N08°21'32"W 187.26'; thence N05°39'53"E 58.08'; thence N32°21'25"E 157.65'; thence N02°42'08"E 75.00'; thence N22°47'43"W 72.01'; thence N35°57'27"W 57.63'; thence N07°26'36"W 96.51'; thence N02°37'31"E 745.00'; thence N06°15'36"W 64.18'; thence leaving said West right of way S88°04'09"E 39.28'; thence S00°40'26"E 63.28'; thence S02°42'06"W 390.70'; thence S02°32'29"W 352.08'; thence S07°26'36"E 85.24'; thence S35°57'27"E 53.05'; thence S22°47'43"E 83.29'; thence S02°42'08"W 91.20'; thence S32°21'25"W 158.56'; thence S05°39'53"W 46.15'; thence S09°01'37"E 205.70'; thence S45°27'08"E 71.50'; thence S11°42'12"E 86.41' to the South line of said Southeast Quarter; thence along said South line N87°15'19"W 37.24' to the Point of Beginning, containing 57,077 square feet or 1.31 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipelines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2025.

CL PARTNERS, LLC, an Arkansas limited liability company

By: Christopher A. Akbari, Manager

ACKNOWLEDGMENT

STATE OF TEXAS)
COUNTY OF HARRIS) SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Christopher A. Akbari**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is a manager of **CL Partners, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

CL PARTNERS, LLC, an Arkansas limited liability company

By: _____
David Anderson, Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS }
 }
COUNTY OF WASHINGTON } ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **David Anderson**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is a manager of **CL Partners, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

D. BRIGGS 112 EXCHANGE LLC, LLC, an Arkansas limited liability company

By: _____
Dale Briggs, Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS }
 }
COUNTY OF WASHINGTON } ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dale Briggs**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is a manager of **D. Briggs 112 Exchange, LLC, an Arkansas limited liability company**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

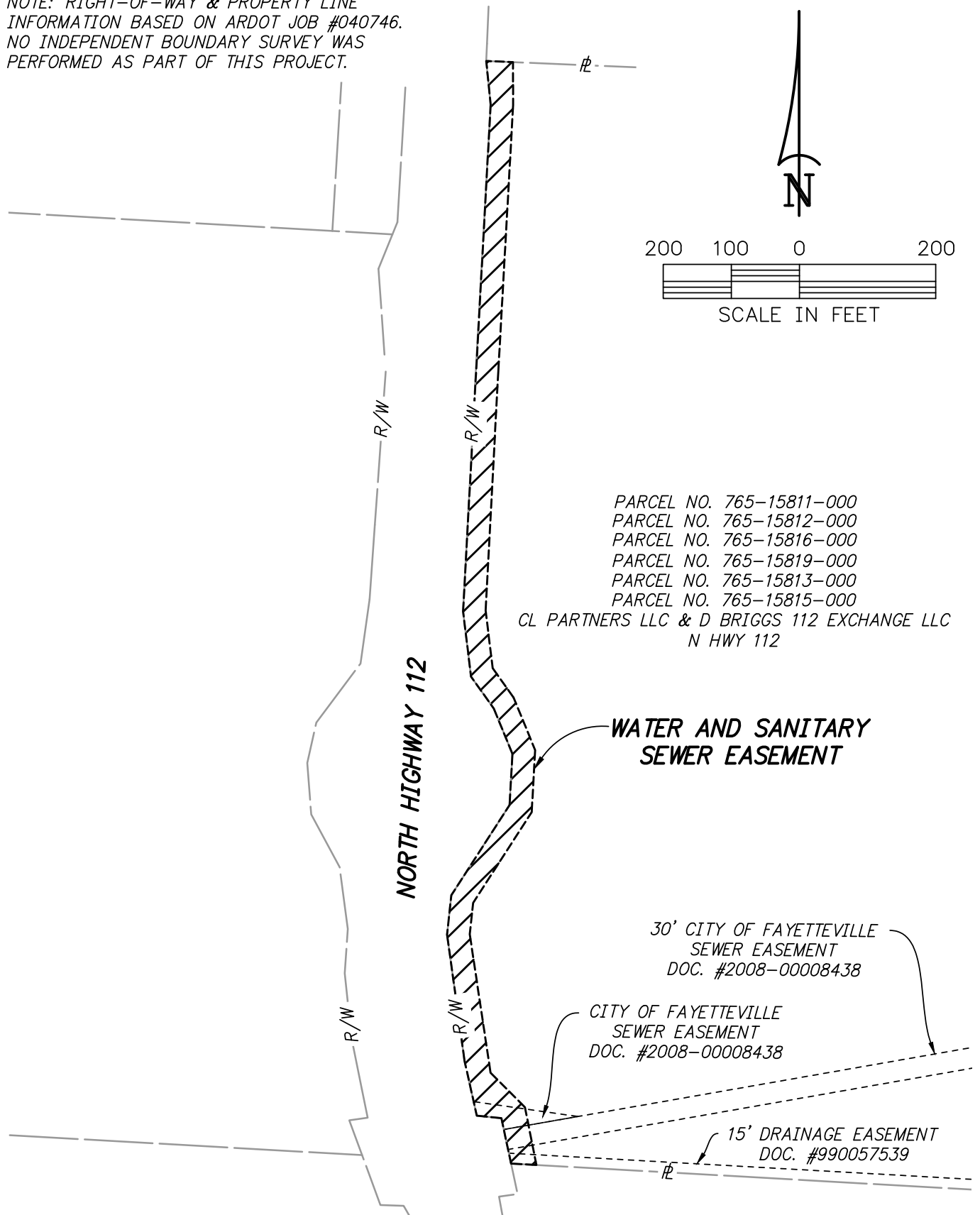
WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\15 & 16 - CL PARTNERS, LLC & D BRIGGS 112 EXCHANGE, LLC.DWG, 12/4/2024 7:40 AM, ANDREW MCCOLLUM, LAYOUT1

NOTE: RIGHT-OF-WAY & PROPERTY LINE
INFORMATION BASED ON ARDOT JOB #040746.
NO INDEPENDENT BOUNDARY SURVEY WAS
PERFORMED AS PART OF THIS PROJECT.



HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACTS 15 & 16 - CL PARTNERS LLC & D BRIGGS 112 EXCHANGE LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/03/2024

SCALE: 1"=200'

JOB NO. 2021048

Tract No. 17

McBryde Family Limited Partnership



January 30, 2025

Mr. C. Bryan McBryde
McBryde Family Limited Partnership, an Arkansas limited partnership (GUE \$0)
5800 N. Bannister Drive
Fayetteville, AR 72704

RE: Highway 112 Widening Project
Parcel No. 765-15814-000
3450 N. Hwy 112, Fayetteville, AR
(Notification Letter)

Dear Mr. McBryde:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement will also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers \$18,000.00 for the rights associated with the permanent easement (5,794 square feet), \$1,500.00 for the rights associated with the temporary construction and grading easement (700 square feet), and \$900.00 for damages, for a total of **\$20,400.00**. Damages include the loss of a professionally landscaped tree. This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Additionally, the City is asking you to dedicate a permanent easement over the existing water and sewer lines. As you can see from the enclosed as-built plan by Jorgensen & Associates, these lines were installed as part of your development in 1997 and the required easements were not properly dedicated at that time.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 32,690 SqFt office and warehouse on 5.17 acres of commercial land. The city is relocating water and sewer easements along this corridor.

1/29/2025	Effective Date
PHYSICAL CHARACTERISTICS	
McBryde Family Limited Partnership	Property Owner
765-15814-000	Parcel #
Fayetteville	City
AR	State
32,690	SqFt - Gross Building Area
225,205	SqFt - Land
5,794	SqFt - Land (Acquisition Area)
219,411	SqFt - Land (Remainder)
5,794	SqFt - Land (Residual)
700	SqFt - Land
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 2,854,000	Land Value Before the Acquisition
\$ 2,836,000	Land Value After the Acquisition
\$ 18,000	Market Value of the Acquisition
\$ 1,500	TCE
\$ 900	Damages

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction.

The WSE restricts permanent structures above the easement area.

Damages: Damages include the loss of a professionally landscaped tree.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **McBryde Family Limited Partnership, an Arkansas limited partnership**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement and a temporary construction and grading easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 98-89202)

Part of the Southeast Quarter of Section Twenty-Eight (28), Township Seventeen (17) North, Range Thirty (30) West and being more particularly described as follows, to-wit: Beginning at a point which is 769.20 feet south of the Northwest corner of the Northeast Quarter of the Southeast Quarter of said Section 28, and running thence East 941.07 feet to the centerline of an existing ditch, thence South along said ditch centerline 250 feet, thence West 950.27 feet, thence North 250 feet to the point of beginning.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northeast Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter of the Southeast Quarter; thence along the West line of said Quarter-Quarter S02°35'05"W 771.01'; thence S88°08'51"E 53.84' to the East line of an existing 15.00' City of Fayetteville water and sewer easement (filed for record in Book 888 Page 768) and the Point of Beginning; thence S88°08'51"E 28.34'; thence S02°52'30"W 72.98'; thence S00°14'50"W 57.54' to the North line of an existing City of Fayetteville utility easement; thence along said North easement line N88°17'11"W 28.12' to the East line of an existing City of Fayetteville water and sewer easement (filed for record in Book 1157 Page 411); thence along said East easement line N01°16'01"W 37.94' to the East line of an existing City of Fayetteville water and sewer easement (filed for record in Book 888 Page 768); thence along said East easement line N02°48'08"E 92.69' to the Point of Beginning, containing 3,713 square feet or 0.09 acres more or less.

ALSO

Part of the Northeast Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

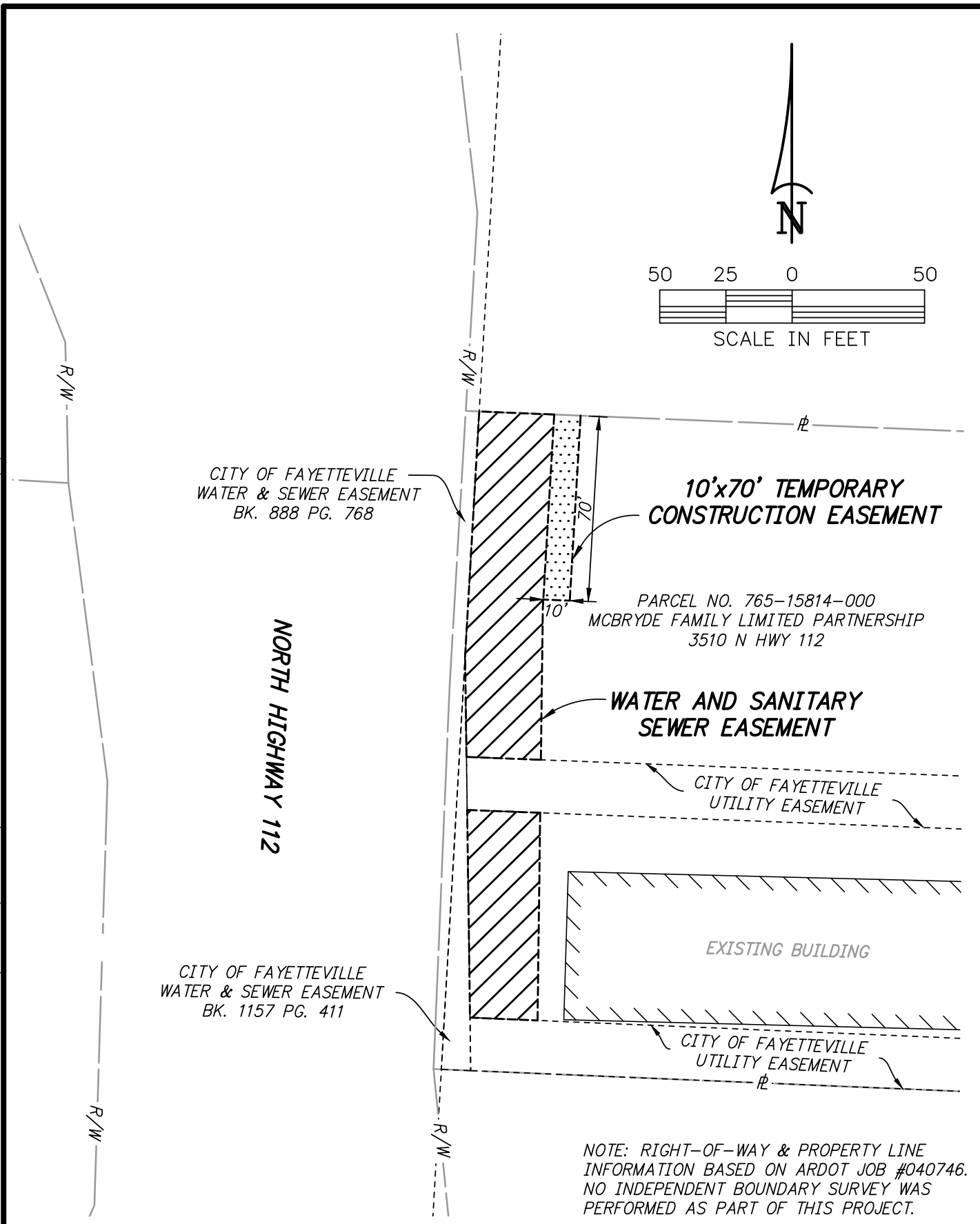
Commencing at the Northwest corner of said Northeast Quarter of the Southeast Quarter; thence along the West line of said Quarter-Quarter S02°35'05"W 921.71'; thence S88°17'11"E 57.38' to the intersection of the East line of an existing City of Fayetteville water and sewer easement (filed for record in Book 1157 Page 411) and the South line of an existing City of Fayetteville utility easement and the Point of Beginning; thence along the South line of said utility easement S88°17'11"E 27.59'; thence S00°14'50"W 78.43' to the North line of an existing City of Fayetteville utility easement; thence along said North easement line N88°04'09"W 25.52' to the East line of said City of Fayetteville water and sewer easement; thence along said East easement line N01°16'01"W 78.42' to the Point of Beginning, containing 2,081 square feet or 0.05 acres more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 10.00'x70.00' easement over part of the Northeast Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter of the Southeast Quarter; thence along the West line of said Quarter-Quarter S02°35'05"W 771.01'; thence S88°08'51"E 82.18' to the East line of the above described permanent easement and the Point of Beginning; thence S88°08'51"E 10.00'; thence S02°52'30"W 70.00'; thence N88°08'51"W 10.00' to the East line of the above described permanent easement; thence along said East line N02°52'30"E 70.00' to the Point of Beginning, containing 700 square feet or 0.02 acres more or less.

Notary Public



Van Buren (479) 474-1227 | Fort Smith (479) 242-4685 | Fayetteville (479) 455-2206 | Little Rock (501) 374-4846

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EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 17 - MCBRYDE FAMILY LIMITED PARTNERSHIP
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/02/2023

SCALE: 1"=50'

JOB NO. 2021048

GENERAL UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **McBryde Family Limited Partnership, an Arkansas limited partnership**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto the public utilities holding a franchise granted by said City of Fayetteville, a permanent easement for the purpose of construction, maintenance, repair and/or replacement, enlargement and operations of general utilities including water and/or sanitary sewer pipe line or lines, manholes, natural gas, electrical power, telephone, fiber optic cable(s) and television communication line or lines, traffic signal poles and equipment, and appurtenances thereto, on over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 98-89202)

Part of the Southeast Quarter of Section Twenty-Eight (28), Township Seventeen (17) North, Range Thirty (30) West and being more particularly described as follows, to-wit: Beginning at a point which is 769.20 feet south of the Northwest corner of the Northeast Quarter of the Southeast Quarter of said Section 28, and running thence East 941.07 feet to the centerline of an existing ditch, thence South along said ditch centerline 250 feet, thence West 950.27 feet, thence North 250 feet to the point of beginning.

PERMANENT EASEMENT DESCRIPTION:

A 20.00' permanent easement over part of the Northeast Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter of the Southeast Quarter; thence along the West line of said Quarter-Quarter S02°35'05"W 771.01 feet; thence S88°08'51"E 488.99 feet to the Point of Beginning; thence continuing S88°08'51"E 20.01 feet; thence S04°02'55"W 249.64 feet; thence N88°04'09"W 438.62 feet to the East line of an existing City of Fayetteville Water & Sewer Easement (Filed for Record in Book 1157 Page 411); thence along said East easement line N01°16'01"W 20.03 feet; thence S88°04'09"E 420.46 feet; thence N04°02'55"E 79.97 feet; thence N88°17'11"W 427.79 feet to said East easement line; thence along said East line N01°16'01"W 20.03 feet; thence S88°17'11"E 429.65 feet; thence N04°02'55"E 129.61 feet to the Point of Beginning, containing 21,957 square feet or 0.50 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee and the public utilities holding a franchise granted by said City of Fayetteville, until the use of said permanent easement is relinquished, abandoned or vacated and so long as such pipe line or lines, electrical power, telephone and/or television lines or cables, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee and its associated franchisees, which hereby agree to bury all pipes, lines and/or cables where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above water.

The Grantor agrees not to erect any buildings or structures in said permanent easement. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee and its associated franchisees shall have the right to construct additional pipelines, electric power lines, telephone and/or television lines or cables upon the above-described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2025.

McBRYDE FAMILY LIMITED PARTNERSHIP, an Arkansas limited partnership

By: Flogene Enterprises, Inc., its General Partner

By: _____
C. Bryan McBryde, President

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss.

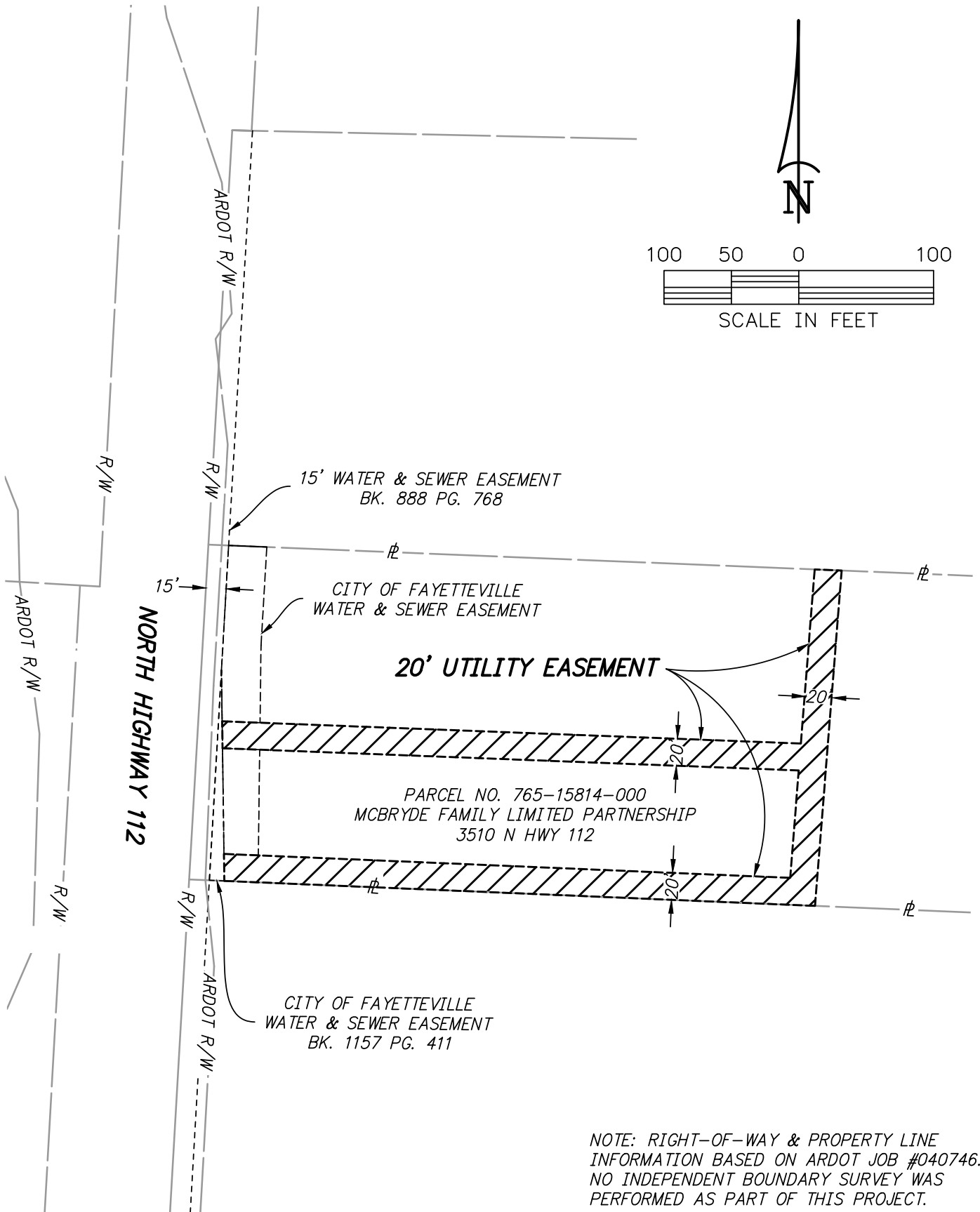
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **C. Bryan McBryde**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the President of **Flogene Enterprises, Inc., General Partner of McBryde Family Limited Partnership, an Arkansas limited partnership**, and is duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

Z:\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\17 - MCBRYDE FAMILY LIMITED PARTNERSHIP ADTL. ESMT.DWG, 1/21/2025 2:02 PM, JOSH NICHOLS, LAYOUT1



HW **HAWKINS WEIR**
ENGINEERS, INC.

Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

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EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 17 - MCBRYDE FAMILY LIMITED PARTNERSHIP
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 01/21/2025

SCALE: 1"=100'

JOB NO. 2021048

Tract No. 19

Kubald Ventures, LLC



January 30, 2025

Mr. Brandon Sebald
Kubald Ventures, LLC
3931 N. Dogwood Canyon Loop
Fayetteville, AR 0

RE: Highway 112 Widening Project
Parcel No. 765-15824-001
3538 N. Hwy 112, Fayetteville, AR
(Notification Letter)

Dear Mr. Sebald:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction. A temporary construction and grading easement will also be needed for extra room to work. All temporary construction easements will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$6,000.00** for the rights associated with the permanent easement (1,873 square feet). This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a 4,200 SqFt office and warehouse on 1.32 acres of commercial land. The city is relocating water and sewer easements along this corridor.

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn) will be repaired by the grantee.

1/29/2025	Effective Date
PHYSICAL CHARACTERISTICS	
Kubald Ventures LLC	Property Owner
765-15824-001	Parcel #
Fayetteville	City
AR	State
4,200	SqFt - Gross Building Area
Before the Acquisition	
57,499	SqFt - Land
Proposed Water and Sewer Easement	
1,873	SqFt - Land (Acquisition Area)
After the Acquisition	
55,626	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
1,873	SqFt - Land (Residual)
C-2; Thoroughfare Commercial	Zoning
CONCLUSIONS	
\$ 729,000	Land Value Before the Acquisition
\$ 723,000	Land Value After the Acquisition
\$ 6,000	Market Value of the Acquisition

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the building does not appear to be affected by the permanent easement, and the client assures us that owners and customers will continue to have access and use of the parking and building during construction. The WSE restricts permanent structures above the easement area.

Damages: The parking will be temporarily limited, but the subject has surplus land and parking areas to use during that period, and the city assures us that the parking lot will be repaired at their cost and access will be continuous during construction; therefore, there are no permanent damages.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Kubald Ventures, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement and a temporary construction and grading easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 2023-2456)

A part of the NE1/4 of the SE1/4 of Section 28, Township 17 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at the NW corner of said NE1/4 of the SE1/4; thence S02°33'33"W along the West line of said NE1/4 of the SE1/4 461.00 feet; thence S89°15'44"E 40.20 feet to an existing iron on the East right of way of State Highway #112 for the true point of beginning; thence S89°15'44"E, 443.26 feet to an existing iron; thence N02°33'33"E 161.70 feet to a set iron; thence S83°37'26"W 448.51 feet to a set iron on the easterly right of way of Arkansas State Highway #112; thence S02°32'30"W along said Easterly right of way 106.12 feet to the point of beginning, containing 1.36 acres, more or less. Subject to the expanded right of way of State Highway #112 along the entire West boundary and also subject to a 15 foot general utility easement lying East of the being adjacent to an parallel with the expanded right of way of State Highway #112 along the entire west boundary as shown on the master street plan for the City of Fayetteville, Arkansas.

LESS AND EXCEPT:

A part of the NE1/4 of the SE1/4 of Section 28, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the NW corner of said 40 acre tract; thence S02°15'33"W 461.00 feet along the West line of said 40 acre tract; thence S89°15'44"E 40.20 feet to an existing iron pin on the East right of way of Arkansas Highway #112 for the true point of beginning; thence N02°32'30"E 106.12 feet along the East existing right of way of Arkansas Highway #112; thence N83°37'26"E 15.18 feet; thence S02°32'30"W 108.01 feet; thence N89°15'44"W 15.01 feet to the point of beginning, containing 0.037 acres, more or less.

Together with a shared driveway easement for ingress and egress recorded as Washington County, Arkansas, Land Document #97071387, being more particularly described as follows: A part of the NE1/4 of the SE1/4 of Section 28, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the NW corner of said NE1/4 of the SE1/4; thence S02°33'33"W along the West line of said NE1/4 of the SE1/4, 461.00 feet; thence S89°15'44"E 40.20 feet to an existing iron on the East right of way of State Highway #112; thence N02°32'30"E, along said right of way of 106.12 feet to a set iron for the true point of beginning; thence N02°32'30"E 36.90 feet to the North edge of an existing asphalt drive; thence N79°48'01"E, along the North edge of said drive 194.04 feet; thence S02°33'33"W 50.00 feet; thence S83°37'26"W 191.56 feet to the point of beginning. Subject to Protective Covenants and easements, if any.

PERMANENT EASEMENT DESCRIPTION:

Part of the Northeast Quarter of the Southeast Quarter of Section 28, Township 17 North, Range 30 West, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

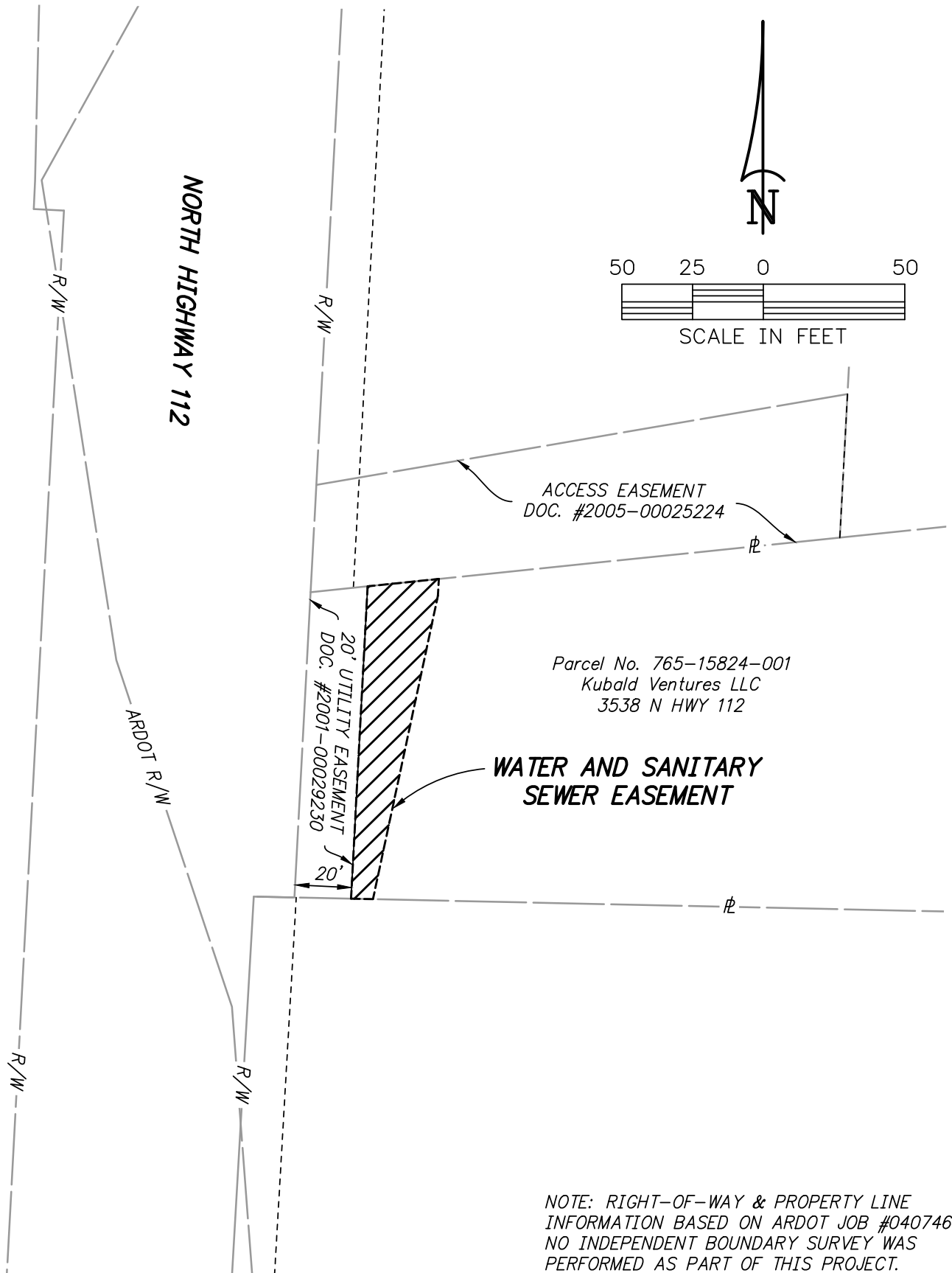
Commencing at the Northwest corner of said Northeast Quarter of the Southeast Quarter; thence along the West line of said Quarter-Quarter S02°35'18"W 463.80 feet; thence S89°15'17"E 74.40 feet to the East line of an existing 20.00 foot utility easement (filed as Document #2001-00029230) and the Point of Beginning; thence along said East easement line N02°33'02"E 110.51 feet to the South line of an existing Access Easement (filed as Document #2005-00025224); thence along said South easement line N83°37'35"E 25.31 feet; thence S02°33'42"W 5.90 feet; thence S11°36'01"W 109.65 feet; thence N89°15'17"W 7.76 feet to the Point of Beginning, containing 1,873 square feet or 0.04 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\19 - KUBALD VENTURES LLC.DWG, 12/18/2024 11:44 AM, ANDREW MCCOLLUM, LAYOUT1



Van Buren (479) 474-1227 Fort Smith (479) 242-4685 Fayetteville (479) 455-2206 Little Rock (501) 374-4846

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EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 19 - KUBALD VENTURES, LLC
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/18/2024

SCALE: 1"=50'

JOB NO. 2021048

Tract No. 32

Jason Purdy and Marleah Purdy



February 12, 2025

Jason and Marleah Purdy
2357 W. Cartier Street
Fayetteville, AR 72704

RE: Highway 112 Widening Project
Parcel No. 765-28418-000
2357 W. Cartier Street, Fayetteville, AR
(Notification Letter)

Dear Mr. and Mrs. Purdy:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, the City will need a temporary construction easement on the southeast corner of your property for additional working room. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction and temporary fencing can be provided, if needed. The temporary construction easement will terminate when the project has been completed by the contractor and accepted by the City of Fayetteville.

The City of Fayetteville hereby offers **\$420.00** for the rights associated with the temporary construction and grading easement (225 square feet). This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs

EXECUTIVE SUMMARY

2/10/2025	Effective Date
PHYSICAL CHARACTERISTICS	
Jason & Marleah Purdy	Property Owner
765-28418-000	Parcel #
Fayetteville	City
AR	State
Before the Acquisition	
13,068	SqFt - Land
Proposed Water and Sewer Easement	
-	SqFt - Land (Acquisition Area)
After the Acquisition	
13,068	SqFt - Land (Remainder)
Temporary Construction Easements	
225	SqFt - Land
RSF-4	Zoning
CONCLUSIONS	
\$	420 TCE

The subject property consists of a 3,073 SqFt home on 0.3 acres. The city is relocating water and sewer easements along this corridor. A small portion of the backyard will be used during construction for a temporary construction easement. See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, fencing, lawn) will be repaired by the grantee.

Damages: It appears that the fence will be removed. **We assume that the city will repair the fence at their cost;** therefore, it is not included in permanent damages in this report.

APPRAISERS:

Zach J Holland, AR CG 2911

TEMPORARY CONSTRUCTION AND GRADING EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT we, **Jason Purdy and Marleah Purdy, husband and wife**, hereinafter called GRANTORS, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a temporary construction and grading easement on, over, and through the following described land situated in the County of Washington, State of Arkansas, for the sole purposes necessary for construction of a water and/or sewer line, to-wit:

PROPERTY DESCRIPTION: (Deed Ref: 2023-20423)

Lot 58, Belclaire Estates Subdivision, to the City of Fayetteville, Washington County Arkansas, as shown on plat record "23A" at page 302.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

The North 15.00 feet of the West 15.00 feet of the East 30.00 feet of the South 40.00 feet of Lot 58, Belclaire Estates (filed for record August 15, 2007), City of Fayetteville, Washington County, Arkansas, containing 225 square feet or 0.005 acre more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure(s) which may be located or under construction within said temporary construction easement area during the construction of this project.

TO HAVE AND TO HOLD the same unto the said Grantee, its successors and assigns, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The consideration first above recited as being paid to the Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this easement on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2025.

Jason Purdy

Marleah Purdy

ACKNOWLEDGMENT

STATE OF ARKANSAS

)

SS.

COUNTY OF WASHINGTON

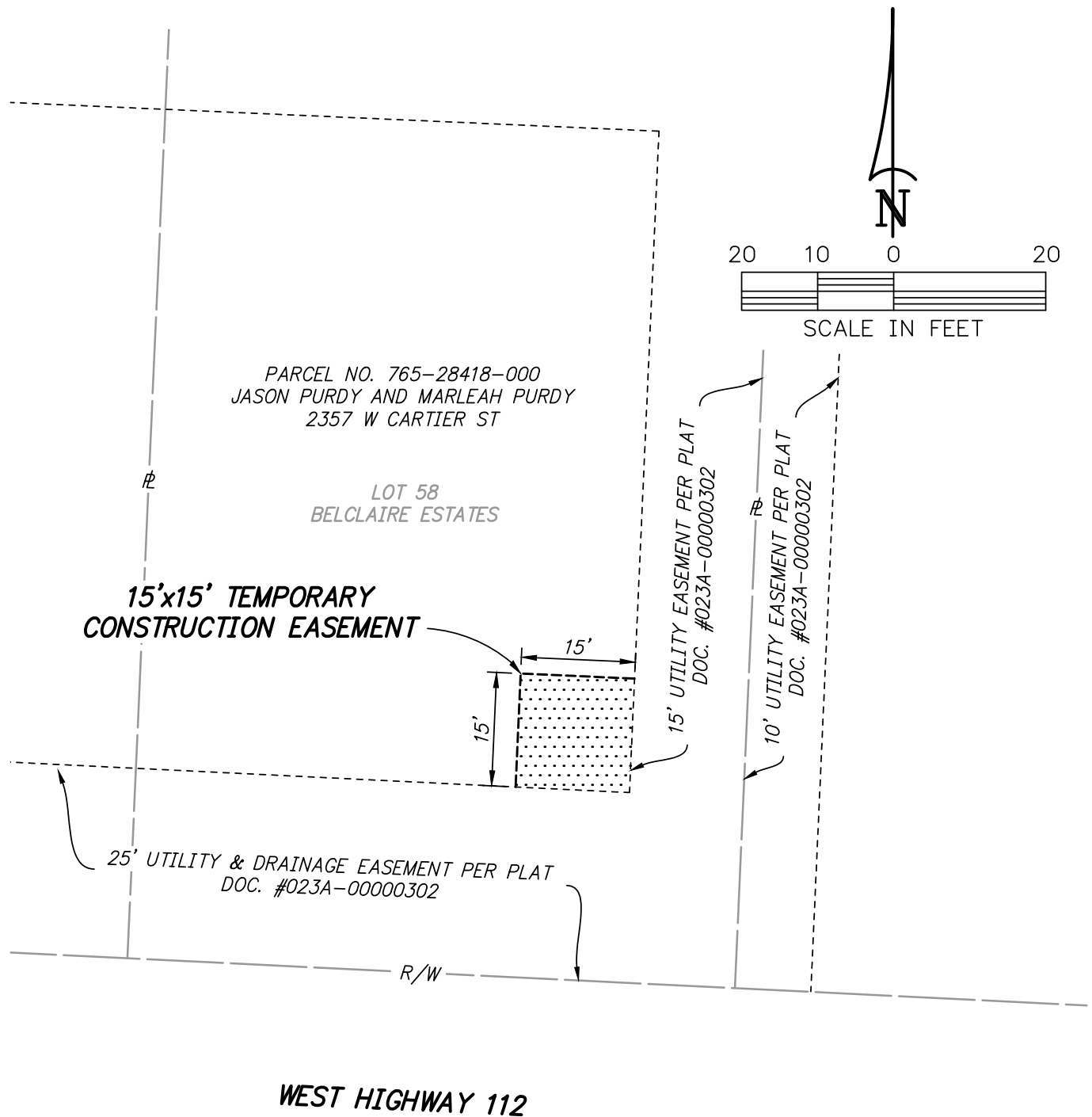
)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Jason Purdy and Marleah Purdy, husband and wife**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public



NOTE: RIGHT-OF-WAY & PROPERTY LINE
INFORMATION BASED ON ARDOT JOB #040746.
NO INDEPENDENT BOUNDARY SURVEY WAS
PERFORMED AS PART OF THIS PROJECT.



Van Buren (479) 474-1227 | Fort Smith (479) 242-4685 | Fayetteville (479) 455-2206 | Little Rock (501) 374-4846

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EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 32 - JASON PURDY AND MARLEAH PURDY
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/02/2024

SCALE: 1"=20'

JOB NO. 2021048

Tract No. 47

Jamal Abdin and Mario Abdin



February 21, 2025

Jamal Abdin and Maria Abdin, husband and wife
3687 N. Hwy 112
Fayetteville, AR 72704

RE: Highway 112 Widening Project
Parcel No. 576-20009-000
3687 N. Hwy 112, Fayetteville, AR
(*Notification Letter*)

Dear Mr. and Mrs. Abdin:

The City of Fayetteville is working in conjunction with the Arkansas Department of Transportation on the widening of Highway 112. Prior to roadway construction, certain utilities will need to be moved and/or added, including, but not limited to, moving the existing waterlines which currently run along the highway.

In order for this project to be completed, a permanent water/sewer easement will be necessary for the placement of the new utilities. The utility easement is necessary to give the City the right to install the water line and/or sewer line and to perform maintenance as necessary on them in the future. This area will still be your property to use and enjoy. However, no permanent structures may be built within the easement area. Your property will be returned to a condition as good as or better than it was found at the end of construction. Access to your property will be provided at all times during construction.

The City of Fayetteville hereby offers \$4,000.00 for the rights associated with the permanent easement (6,049 square feet) and \$2,500.00 for damages, for a total of **\$6,500.00**. Damages include the loss of a mature oak tree. This offer is based on an independent appraisal of your property and a summary sheet is enclosed for your review.

Because ARDOT is installing the lines on this project as part of their roadway construction, certain deadlines have to be met. Therefore, if we do not receive signed documents by the March 18, 2025 City Council meeting, we will submit a request for authorization to proceed with acquisition by eminent domain. The meeting location is 113 West Mountain Street, Room 219 in Fayetteville. This is a public meeting and you or a representative are encouraged to attend. After this date, the City Attorney's Office will take over the acquisition process for the City.

Please note that negotiations may continue throughout this process. A pamphlet is enclosed explaining the steps involved in condemnation and your rights and responsibilities.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Land Agents Brandi Samuels (479) 444-3421 (bsamuels@fayetteville-ar.gov), or Holly Jones (479) 444-3414, (hjones@fayetteville-ar.gov), to schedule a meeting time. If technical questions arise, the City Land Agents will involve project engineers or city utility staff, as needed.

Sincerely,



Tim Nyander
Utilities Director

TN/bs
Enclosures

EXECUTIVE SUMMARY

Before the acquisition, the subject property consists of a home on 4.1 acres. The city is relocating water and sewer easements along this corridor.

2/19/2025	Effective Date
PHYSICAL CHARACTERISTICS	
Jamal & Maria Abdin	Property Owner
576-20009-000	Parcel #
Fayetteville	City
AR	State
Before the Acquisition	
178,596	SqFt - Land
Proposed Water and Sewer Easement	
6,049	SqFt - Land (Acquisition Area)
After the Acquisition	
172,547	SqFt - Land (Remainder)
Remaining Rights In the Acquisition Area	
6,049	SqFt - Land (Residual)
No Zoning	Zoning
CONCLUSIONS	
\$ 466,000	Land Value Before the Acquisition
\$ 462,000	Land Value After the Acquisition
\$ 4,000	Market Value of the Acquisition
\$ 2,500	Damages

See mapping for specific locations. They have minimal impact on the subject improvements. Any existing site improvements (parking, paving, driveways, sidewalks, lawn, fencing, sprinklers) will be repaired by the grantee.

After the acquisition, the property rights in the permanent easement acquisition area will be split between the owner and the city. The continued use of the home does not appear to be affected by the permanent easement, and the client assures us that owners will continue to have access and use of the parking and home during construction.

The WSE restricts permanent structures above the easement area.

Damages: Damages include the loss of a mature oak tree.

APPRAISERS:

Zach J Holland, AR CG 2911

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT WE, **Jamal Abdin and Maria Abdin, a married couple**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, grantee owned fiber optic equipment and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Reference 2018-9724)

Tract 9A, which is a part of Lot 9 of the Woodlands Subdivision, Washington County, Arkansas per plat of said subdivision recorded in the office of the Circuit Clerk of Washington County, Arkansas, and being more particularly described as follows: Beginning at the Southwest corner of Lot 9, thence North 193.00 feet, thence East 449.42 feet, thence S00°00'41"E 193.00 feet, thence West 449.46 feet to the P.O.B., containing 2.00 acres, more or less.

AND

Tract 9B, which is a part of Lot 9 & Lot 8 of the Woodlands Subdivision, Washington County, Arkansas per plat of said subdivision recorded in the office of the Circuit Clerk of Washington County, Arkansas, and being more particularly described as follows: Beginning at the Northwest corner of Lot 9, thence North 32.00 feet, thence East 449.38 feet, thence S00°00'41"E 239.00 feet, thence West 449.42 feet, Thence North 207.00 feet to the P.O.B., containing 2.47 acres, more or less.

ALSO KNOWN AS

Lots 9A and 9B, of the replat of Lots 8, 9 and 10, The Woodlands Subdivision, Fayetteville, Washington County, Arkansas, as shown on Survey Record 2003 page 28897.

LESS AND EXCEPT:

Lot 8, The Woodlands Subdivision, Fayetteville, Washington County, Arkansas, as shown on Survey Record 2012-28301. And being more particularly described as follows: A part of Lot 7 and all of Lot 8 of the Woodlands Subdivision in Washington County, Arkansas, as per plat of said subdivision recorded in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Beginning at the SW Corner of said Lot 8, thence West 300.00 feet, thence North 456.26 feet, thence S89°40'07"E 490.86 feet, thence along a curve to the right 406.85 feet, said curve having a radius of 260.00 feet and a chord bearing and distance of S44°50'24"E 366.59 feet, thence S00°00'41"E 193.48 feet, thence West 449.38 feet to the P.O.B.; Containing 7.48 acres more or less. Subject to easements and rights of way of record.

PERMANENT EASEMENT DESCRIPTION:

A 15.00' wide easement over part of Lots 9A and 9B, The Woodland Subdivision Replat (filed for record May 28, 2003), City of Fayetteville, Washington County, Arkansas, the East line of which being more particularly described as follows:

Commencing at the Southwest corner of said Lot 9A; thence along the South line of said Lot S87°25'30"E 157.27' to the West right-of-way of Highway 112 (per ARDOT Job #040746); thence along said West right-of-way N02°30'43"E 10.00' to the North line of an existing 20.00' utility easement (filed for record in Document #0016-00000063) and the Point of Beginning; thence continuing along said West right-of-way the following three (3) courses: N02°30'43"E 92.84'; thence N10°18'40"E 120.93'; thence N03°11'11"E 167.47' to the South line of an existing 20.00' utility easement (filed for record in Document #0016-00000063) and the Point of Termination, containing 5,719 square feet or 0.13 acres more or less.

ALSO

A 15.00' wide easement over part of Lot 9B, The Woodland Subdivision Replat (filed for record May 28, 2003), City of Fayetteville, Washington County, Arkansas, the East line of which being more particularly described as follows:

Commencing at the Northwest corner of said Lot 9B; thence along the North line of said Lot S87°31'07"E 401.84' to the Point of Beginning; thence S03°11'11"W 22.00' to the North line of an existing 20.00' utility easement (filed for record in Document #0016-00000063) and the Point of Termination, containing 330 square feet or 0.01 acres more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipelines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2025.

Jamal Abdin

Maria Abdin

A C K N O W L E D G M E N T

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
) ss.
)

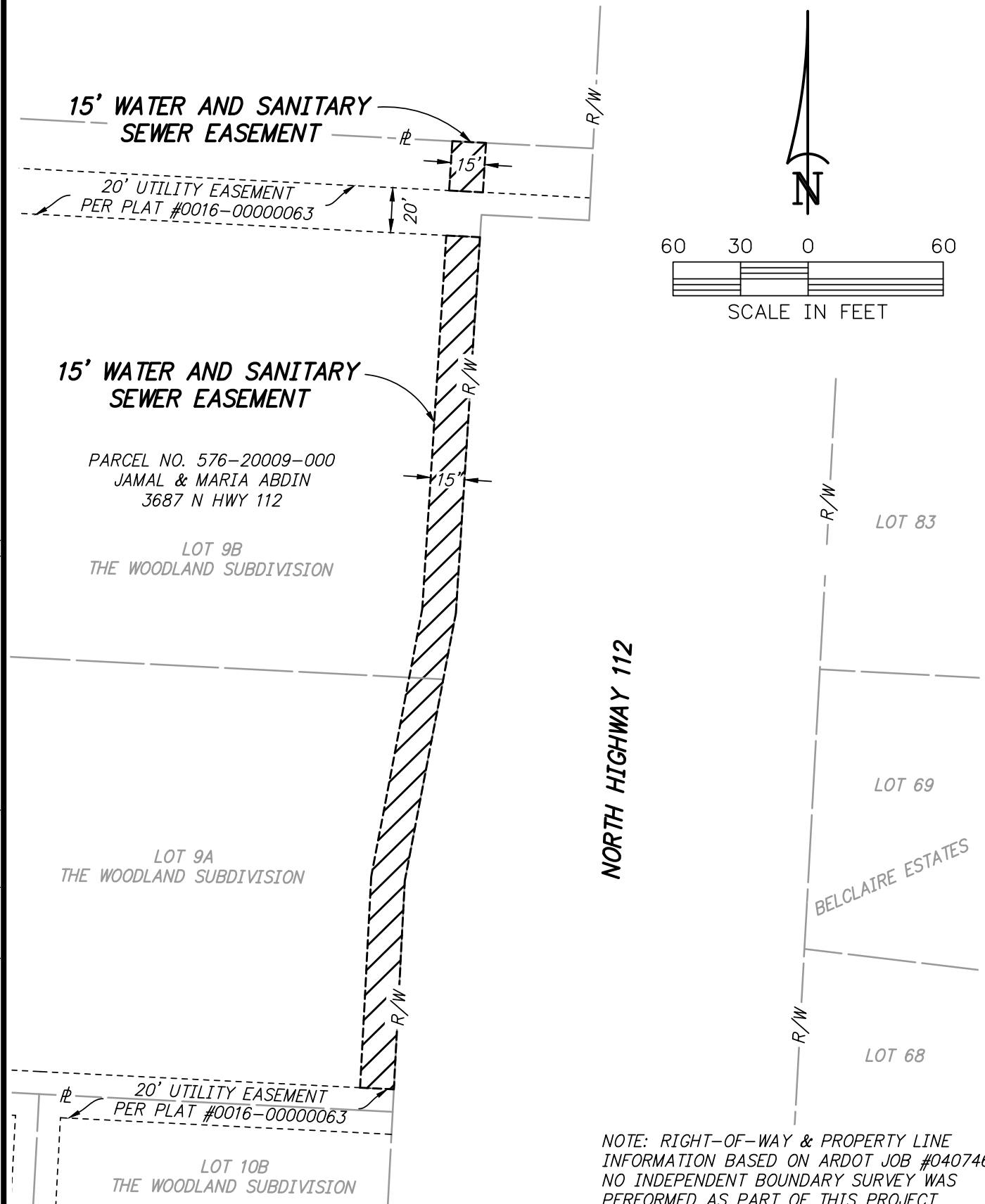
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Jamal Abdin and Maria Abdin, a married couple**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2025.

MY COMMISSION EXPIRES:

Notary Public

Z:\21\2021048 ARDOT HIGHWAY 112 UTILITY RELOCATIONS\DRAWINGS\EASEMENTS\47 - JAMAL & MARIA ABDIN.DWG, 12/4/2024 10:10 AM, ANDREW MCCOLLUM, LAYOUT1



HW HAWKINS WEIR
ENGINEERS, INC.

Van Buren (479) 474-1227 | Fort Smith (479) 242-4685 | Fayetteville (479) 455-2206 | Little Rock (501) 374-4846

www.hawkins-weir.com

EXHIBIT "A"
HIGHWAY 112 UTILITY RELOCATIONS
TRACT 47 - JAMAL & MARIA ABDIN
FOR: CITY OF FAYETTEVILLE, ARKANSAS

DATE: 12/02/2024

SCALE: 1"=60'

JOB NO. 2021048



MEETING OF MARCH 11, 2025

TO: Mayor Rawn and City Council
THRU: Chris Brown, Public Works Director
FROM: Alan Pugh, Staff Engineer
SUBJECT: **2025 STORMWATER EDUCATION (SERVICE AGREEMENT):**

RECOMMENDATION:

Staff recommends waiving competitive bidding and approve an agreement in the amount of \$44,705.91 with the Northwest Arkansas Regional Planning Commission for a Stormwater Education Program to be provided by the University of Arkansas Cooperative Extension service to satisfy portions of the NPDES Phase II Stormwater Permit requirements.

BACKGROUND:

The City of Fayetteville has participated in the educational program provided by the University of Arkansas Cooperative Extension since its inception. This program has been very successful and a valuable asset to the public as well as the city.

DISCUSSION:

Since 2003, the cities of Bentonville, Bethel Heights, Elkins, Elm Springs, Farmington, Fayetteville, Greenland, Johnson, Little Flock, Lowell, Springdale and Rogers along with Benton and Washington Counties and the University of Arkansas have been operating under the Environmental Protection Agency's (EPA) federally mandated Phase II Stormwater regulations as Municipal Separate Storm Sewer Systems (MS4s). While the participating jurisdictions obtain separate National Pollutant Discharge Elimination System (NPDES) permits, they jointly contract with Cooperative Extension Service (CES) through the Northwest Arkansas Regional Planning Commission (NWARPC) as a successful and cost-effective means of implementing the following minimum control measures required in their Phase II permits as well as ensure uniformity in the message presented to residents of Northwest Arkansas:

- 1) Public Education and Outreach
- 2) Public Involvement and Participation
- 6) Pollution Prevention and Good Housekeeping (training for municipal employees)

Positive feedback from the Arkansas Department of Environmental Quality (ADEQ) and participating MS4s has led to the CES and the NWARPC continuing their partnership as the urban stormwater education program support arm of the MS4s' new 2020-2024 stormwater management permits. This agreement is for participation in a 1-Year Regional Stormwater Education and Coordination Program. The allocation of cost is based on the population according to the census.

BUDGET/STAFF IMPACT:

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

Funding for the program is available in the Stormwater Quality Management and Nutrient Reduction Plan Budget. These funds are proposed to be utilized to satisfy the terms of the agreement.

ATTACHMENTS: SRF (#3) , 2025 Stormwater Education Agreement (#4), 2025 NWA Stormwater Education Budget (#5)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2025-232

2025 STORMWATER EDUCATION (SERVICE AGREEMENT):

A RESOLUTION TO WAIVE COMPETITIVE BIDDING AND APPROVE AN AGREEMENT WITH THE NORTHWEST ARKANSAS REGIONAL PLANNING COMMISSION FOR A STORMWATER EDUCATION PROGRAM TO BE PROVIDED BY THE UNIVERSITY OF ARKANSAS COOPERATIVE EXTENSION SERVICE IN THE AMOUNT OF \$44,705.91

WHEREAS, the City has participated in the educational program provided by the University of Arkansas Cooperative Extension since its inception; and

WHEREAS, since 2003, the cities of Bentonville, Bethel Heights, Elkins, Elm Springs, Farmington, Fayetteville, Greenland, Johnson, Little Flock, Lowell, Springdale and Rogers, along with Benton and Washington Counties and the University of Arkansas, have been operating under the Environmental Protection Agency's federally mandated Phase II Stormwater regulations as Municipal Separate Storm Sewer Systems; and

WHEREAS, while the participating jurisdictions obtain separate National Pollutant Discharge Elimination System permits, they jointly contract with Cooperative Extension Service through the Northwest Arkansas Regional Planning Commission as a successful and cost-effective means of implementing the following minimum control measures required in their Phase II permits as well as ensuring uniformity in the message presented to residents of Northwest Arkansas: Public Education and Outreach, Public Involvement and Participation and Pollution Prevention and Good Housekeeping; and

WHEREAS, the agreement is for participation in a one-year Regional Stormwater Education and Coordination Program where the allocation of cost is based on the population according to the census.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines an exceptional situation exists in which competitive bidding is deemed not feasible or practical and therefore waives the requirements of formal competitive bidding and authorizes an agreement with the Northwest Arkansas Regional Planning Commission for a Stormwater Education Program to be provided by the University of Arkansas Cooperative Extension service in the amount of \$44,705.91 to satisfy portions of the National Pollutant Discharge Elimination System Phase II Stormwater Permit Requirements.

City of Fayetteville Staff Review Form

2025-232

Item ID

3/18/2025

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Chris Brown

2/20/2025

ENGINEERING (621)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Waive competitive bidding and approve an agreement in the amount of \$44,705.91 with the Northwest Arkansas Regional Planning Commission for a Stormwater Education Program to be provided by the University of Arkansas Cooperative Extension service to satisfy portions of the NPDES Phase II Stormwater Permit requirements

Budget Impact:

4470.621.8810-5314.00

Sales Tax Capital Improvements

Account Number

Fund

02097.1

Stormwater Quality Management (Stormwater
Quality Mgmt/Nutrient Reduct)

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 308,069.00

Expenses (Actual+Encum)

\$ 2,763.99

Available Budget

\$ 305,305.01

Does item have a direct cost? Yes

Item Cost

\$ 44,705.91

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 260,599.10

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

**MEMORANDUM OF UNDERSTANDING FOR THE MUNICIPAL
SEPARATE STORM SEWER SYSTEMS (MS4) JURISDICTIONS OF
NORTHWEST ARKANSAS AND THE NORTHWEST ARKANSAS
REGIONAL PLANNING COMMISSION**

WHEREAS, 17 cities in Benton and Washington Counties, the counties themselves, and the University of Arkansas meet the U.S. Environmental Protection Agency's "small" urbanized area municipal separate storm sewer systems (MS4) criteria, and must comply with national Phase II Stormwater Regulations; and

WHEREAS, the Arkansas Energy and Environment – Office of Water Quality (DEQ), the state agency authorized by EPA to issue National Pollutant Discharge Elimination System (NPDES) permits requiring and ensuring compliance, will establish dates for affected entities to be covered under Arkansas' general permit for MS4s; and

WHEREAS, said permit requires development, implementation, and evaluation of a stormwater management plan, that addresses each of the six minimum control measures identified in the Phase II Storm Water Regulations contained in 40 CFR 122.26 and outlined in Part I.B.; and

WHEREAS, the Northwest Arkansas Regional Planning Commission (NWARPC) has coordinated meetings between representatives of affected jurisdictions in an effort to determine, in the interest of economy and efficiency, whether certain stormwater permit components could be addressed collectively, rather than individually; and

WHEREAS, it has been determined that a cost effective, regional approach to certain minimum control measures required as part of the permit – namely Public Education and Outreach, Public Involvement and Participation, and the education component of Pollution Prevention/Good Housekeeping – is both logical and appropriate; and

WHEREAS, the NWARPC previously requested and received statements of qualifications from interested institutions and firms with demonstrated water quality educational expertise, and has, in cooperation with representatives of affected MS4 jurisdictions, endorsed the attached proposal from the University of Arkansas Cooperative Extension Service; and

WHEREAS, the DEQ has endorsed the regional concept and proposal for addressing said minimum control measures; and

WHEREAS, said representatives of affected MS4s have also endorsed the distribution of costs associated with the proposal as shown on the attached cost allocation plan; and

WHEREAS, the Board of Directors of the NWARPC have authorized the Commission to act as the financial clearinghouse and primary contractor, on behalf of said MS4s, in connection with said proposal.

NOW, THEREFORE BE IT RESOLVED THAT WE, THE UNDERSIGNED MS4 JURISDICTION, AND THE BOARD OF DIRECTORS OF THE NORTHWEST ARKANSAS REGIONAL PLANNING COMMISSION, AGREE AS FOLLOWS:

SECTION 1. To participate in a 1-Year Regional Stormwater Education and Coordination Program (January 1, 2025 – December 31, 2025), to be carried out by the University of Arkansas Cooperative Extension Service through an engagement with the Northwest Arkansas Regional Planning Commission, with costs based on a base cost and each jurisdiction's pro-rated share of the region's 2020 urban area population; it being understood that said services to be provided shall satisfy requirements for the federally-mandated minimum control measures referenced herein. Commitments for participation in said program in future years will require governing body approval on a year-to-year basis.

SECTION 2. To participate financially in accordance with the attached cost allocation plan. Any increases in the costs allocated to the undersigned MS4 due to the failure of other MS4 jurisdictions to participate shall be subject to the approval of the undersigned MS4.

SECTION. 3. That all funds received by NWARPC from MS4s shall be utilized in their entirety for stormwater management program services and coordination activities in connection with EPA Phase II Stormwater Program requirements and shall be accounted for separately from all other Commission funds.

Dated this _____ day of _____, 202__.

FAYETTEVILLE OFFICIAL



Tim Conkin, Executive Director
NWARPC

**2025 Cost Allocation[†] of U of A Cooperative Extension Service Regional Stormwater
Education and NWA Regional Planning Commission Stormwater Coordination for NWA MS4
Jurisdictions**

MS4 Cost = \$2,000 Base cost + (Remaining Program Cost x % Urban Area Population)
Using 2020 US Census Data for the 20 Collaborating Jurisdictions

<u>Jurisdiction</u>	<u>2020 UA Pop.</u>	<u>2020 % UA</u>	<u>2025 Costs</u>
Greenland	162	0.04	\$2,079.82
Elm Springs	1,391	0.35	\$2,685.40
Tontitown	1,419	0.36	\$2,699.20
Benton County	1,840	0.46	\$2,906.64
Little Flock	1,842	0.47	\$2,907.63
Elkins	1,991	0.50	\$2,981.05
Washington County	2,958	0.75	\$3,457.53
Johnson	3,145	0.79	\$3,549.67
Cave Springs	4,560	1.15	\$4,246.90
Prairie Grove*	5,993	1.51	\$4,953.00
Pea Ridge	6,026	1.52	\$4,969.26
Farmington	6,253	1.58	\$5,081.11
U of A**	7,279	1.84	\$5,586.67
Lowell	9,574	2.42	\$6,717.51
Centerton	17,158	4.34	\$10,454.46
Bella Vista	26,236	6.63	\$14,927.57
Bentonville	54,164	13.69	\$28,688.85
Rogers	69,908	17.66	\$36,446.58
Springdale	87,176	22.03	\$44,955.24
Fayetteville**	86,670	21.90	\$44,705.91
Total	395,745	100.00	\$235,000.00

† The cost breakouts by jurisdiction assume all jurisdictions participate

*Prairie Grove has portions in the MSA and in its own designated UA - this number reflects the total of both portions

** University of Arkansas number of resident beds subtracted from Fayetteville's UA population

Note: Regulated population is citywide for Bentonville, Rogers, Springdale and Fayetteville per the new ≥50,000 population requirement



MEETING OF MARCH 11, 2025

TO: Mayor Rawn and City Council
THRU: Chris Brown, Public Works Director
FROM: Alan Pugh, Staff Engineer
SUBJECT: **WATERSHED CONSERVATION RESOURCE CENTER (TASK ORDER NO. 14):**

RECOMMENDATION:

Staff recommends approval of Task Order No. 14 in the amount of \$37,000 with the Watershed Conservation Resource Center for continuing native vegetation establishment efforts and performing minor adjustments within the stream as necessary to ensure the continued success of completed restoration projects.

BACKGROUND:

On June 4, 2024, City Council approved Resolution Number 149-24 to enter into a memorandum of agreement (MOA) with the Watershed Conservation Resource Center (WCRC). The resolution expressed the City's desire to continue to work jointly with the WCRC to maintain previously constructed stream restoration projects to ensure their ongoing success. The City and WCRC have completed several restoration projects through their partnership. These projects include, but are not limited to: the White River Riverbank Stabilization Project, Niokaska Creek within Sweetbriar Park, Niokaska Creek within Gulley Park and the West Fork of White River Airport Site. This task order deals specifically with the West Fork White River Airport project.

DISCUSSION:

This project consists of ongoing maintenance of a river restoration project whose original implementation was funded, in-part, with City funds that came from the Engineering Division's budget. In 2021, an additional 1,600 linear feet of river restoration and wetland restoration was completed. Much of the new work completed in 2021 was performed on City of Fayetteville Airport property. The new work was funded by a NRCS grant matched with cash contributions from project partners including Beaver Water District and Beaver Watershed Alliance. No cash contribution from the City was required to complete the additional work. To date, the restoration work on the WFWR at the Fayetteville Airport has prevented 23,500 lb of Total Phosphorus loading to the WFWR and Beaver Lake.

Specifically, this task order will aid in the establishment of a high-density riparian zone consisting of native vegetation and minor repairs to prevent localized failures of the restoration project. Part of the funds from this Task Order will be utilized to rebuild a rock structure that, over time, has lost the ability to protect the project as originally planned.

BUDGET/STAFF IMPACT:

The Stormwater Quality Management/Nutrient Reduction project has been designated in part to fund projects that improve stormwater quality in the City of Fayetteville and would be proposed as the source for the funds

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

ATTACHMENTS: SRF (#3) , Task Order 14 (#4)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2025-233

WATERSHED CONSERVATION RESOURCE CENTER (TASK ORDER NO. 14):

A RESOLUTION TO APPROVE TASK ORDER NO. 14 WITH THE WATERSHED CONSERVATION RESOURCE CENTER IN THE AMOUNT OF \$37,000.00 FOR CONTINUING NATIVE VEGETATION ESTABLISHMENT EFFORTS AND PERFORMING MINOR ADJUSTMENTS WITHIN THE STREAM AS NECESSARY TO ENSURE THE CONTINUED SUCCESS OF COMPLETED RESTORATION PROJECTS

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Rawn to sign Task Order No. 14 with the Watershed Conservation Resource Center in the amount of \$37,000.00 for continuing native vegetation establishment efforts and performing minor adjustments within the stream as necessary to ensure the continued success of completed restoration projects.

City of Fayetteville Staff Review Form

2025-233

Item ID

3/18/2025

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Chris Brown

2/20/2025

ENGINEERING (621)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of Task Order No. 14 in the amount of \$37,000 with the Watershed Conservation Resource Center for continuing native vegetation establishment efforts and performing minor adjustments within the stream as necessary to ensure the continued success of completed restoration projects.

Budget Impact:

4470.621.8810-5817.00

Sales Tax Capital Improvement

Account Number

Fund

02097.1

Stormwater Quality Management (Stormwater
Quality Mgmt/Nutrient Reduction)

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 334,756.00

Expenses (Actual+Encum)

\$ 2,763.99

Available Budget

\$ 331,992.01

Does item have a direct cost? Yes

Item Cost

\$ 37,000.00

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 294,992.01

V20221130

Purchase Order Number:

Previous Ordinance or Resolution # 149-24

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

TASK ORDER NO. 14**ESTABLISHMENT OF VEGETATION AND CHANNEL STABILITY
WEST FORK WHITE RIVER RESTORATION AT FAYETTEVILLE EXECUTIVE
AIRPORT**

STATE OF ARKANSAS

COUNTY OF WASHINGTON

This Task Order is written pursuant to the Memorandum of Understanding (MOU) as described in Ordinance No. 6141 executed on June 4, 2024. The referenced MOU pertains to potential stream restoration projects and associated services with the Watershed Conservation Resource Center (WCRC). This Task Order entered into and executed on the date indicated below the signature block by and between the City of Fayetteville (CITY) and WCRC sets forth the project description, schedule and associated fees for services related to maintaining and tending to the West Fork White River (WFWR) restoration project located at the Fayetteville Executive Airport. The stream restoration work that has been completed as part of two phases of work has been funded using a combination of Engineering Division funds as well as funds from the U.S. Environmental Protection Agency, USDA Natural Resources Conservation Service (NRCS), and local project partners.

Section I - Project Description

This project consists of ongoing maintenance of a river restoration project whose original implementation was funded, in-part, with City funds that came from the Engineering Division's budget. The original project, Phase 1, consisted of 3,800 linear feet of river restoration. In 2021, an additional 1,600 linear feet of river restoration and wetland restoration was completed (Phase 2). Much of the restoration work completed in 2021 was implemented on City of Fayetteville Airport property. The new work was funded by a NRCS grant matched with cash contributions from project partners including Beaver Water District and Beaver Watershed Alliance. No cash contribution from the City was required to complete the additional work. This Task Order will establish a framework for the City to provide continued project establishment and maintenance funding that to supports the WFWR Restoration work that has been implemented at the Fayetteville Executive Airport. To date, the restoration work on the WFWR at the Fayetteville Airport has prevented 23,500 lb of Total Phosphorus loading to the WFWR and Beaver Lake. Establishment of a high-density riparian zone consisting of native vegetation is critical in creating stream and river restoration projects that will, upon maturity of the vegetation, be able to withstand the powerful forces that will come along with future flood events. Also, minor repairs need to be occasionally conducted within the stream or river channel restoration area to prevent cumulative degradation of the restoration project. Part of the funds from this Task Order will be utilized to rebuild a rock structure that, over time, has lost the ability to protect the project as originally planned.

To insure the long-term success of the restoration work on the West Fork White River at the Fayetteville Airport, the WCRC maintained and cared for the project, at their own expense for an extended period after initial construction. The City has been providing financial support for ongoing maintenance activities in order to facilitate¹ long-term success of this project that has helped to reduce sediment and nutrient loadings to Beaver Lake, our regions water supply source. The project creates recreation opportunities and improved quality of life for residents of Fayetteville. This agreement will provide continued funding to the WCRC to conduct activities that help to continue to establish healthy, native vegetation and channel stability in order to protect the investment that the City has made to improve water quality, habitat, and recreational value of the WFWR. As the project continues to mature, funding needs required for establishment activities will continue to decrease.

Section II - Project Timeframe

The WCRC will conduct the work from February 24, 2025 to December 31, 2025.

Section III - Scope of Services

The WCRC will perform services that are targeted to maintain and improve the long-term functionality of the WFWR restoration project at the Fayetteville Executive Airport. These services include two major components: 1) Stream restoration maintenance activities that help to create long-term stability and 2) Vegetation Management. Stream restoration maintenance activities include but will not be limited to a) minor hand repairs of structural components of the restoration b) removal of unintended gravel deposition within the project site c) repair of soil mattresses and d) re-setting of boulders that may become displaced. Vegetation maintenance and management activities include but are not limited to a) irrigation of vegetation during summer months b) removal of invasive vegetation and c) planting additional native plants to enhance vegetation density. These funds are intended to cover costs associated with minor and routine maintenance of the site. Repair of damage to the project resulting from large infrequent flood events are generally not covered under this agreement and will be addressed under supplemental agreements. But, if necessary, these funds can be used towards major repairs.

Section IV - Fees and Payments

WCRC will perform the above-referenced Scope of Services amounts not to exceed \$37,000 for this agreement.

Section V - Memorandum of Understanding in Effect

Except as amended specifically herein, the Memorandum of Understanding Fayetteville shall remain in full force as originally approved.

IN WITNESS WHEREOF, the parties hereto have caused this TASK ORDER to be duly executed as of the date and year first herein written.

FOR THE CITY OF FAYETTEVILLE

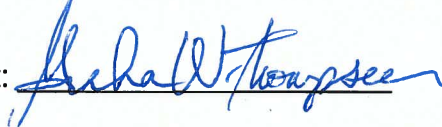
By: _____
Mayor Molly A. Rawn

Attest: _____
Kara Paxton, City Clerk

Date: _____

FOR WATERSHED CONSERVATION RESOUC E CENTER

By:  _____
Sandi J. Formica
Executive Director

Attest:  _____

Date: 2/20/2025



MEETING OF MARCH 11, 2025

TO: Mayor Rawn and City Council
THRU: Mike Reynolds, Police Chief
FROM: Natisha Claypool, Assistant Dispatch Manager
SUBJECT: **MOTOROLA, INC. (SERVICE AGREEMENT):**

RECOMMENDATION:

Staff recommends a resolution to approve waiving the requirements of formal competitive bidding and approve a five-year service agreement with Motorola Inc. for maintenance of the City's Motorola dispatch radio equipment, and mobile and portable radios issued to police, fire and citywide divisions in the amount of \$266,631.92 to be paid in annual installments contingent upon approved funding.

BACKGROUND:

The Police and Fire Department have 126 radios no longer covered under warranty. Motorola provides the expertise necessary to keep our radio equipment functioning properly so our police officers, firefighters and City workers have reliable communication. The radio maintenance in this contract includes all dispatch radio equipment, portable, mobile and control stations that are no longer covered under warranty.

DISCUSSION:

Motorola Inc. offers factory authorized training to provide unique knowledge of our radio equipment to their field service and system technicians. Due to the complexity of this type of system, Motorola's expertise is valuable in keeping the system and equipment functioning properly. Motorola as part of the contract also provides network monitoring.

Additional radios can be added when the warranty period expires. Radios can also be removed from the service agreement when Motorola gives advanced notice they can no longer provide service for a specific radio model.

BUDGET/STAFF IMPACT:

Funding was approved in the 2025 proposed budget. Future funding for years 2026-2029 will be requested during the annual budget process.

ATTACHMENTS: SRF (#3) , Motorola Service Agreement (#4)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2025-235

MOTOROLA, INC. (SERVICE AGREEMENT):

A RESOLUTION TO WAIVE COMPETITIVE BIDDING AND APPROVE A FIVE-YEAR SERVICE AGREEMENT WITH MOTOROLA, INC. IN THE TOTAL AMOUNT OF \$266,631.92 FOR MAINTENANCE OF THE CITY'S MOTOROLA DISPATCH RADIO EQUIPMENT

WHEREAS, the Police and Fire Department have 126 radios no longer covered under warranty and Motorola provides the expertise necessary to keep the radio equipment functioning properly so police officers, firefighters and City workers have reliable communication; and

WHEREAS, the radio maintenance in this contract includes all dispatch radio equipment, portable, mobile and control stations that are no longer covered under warranty; and

WHEREAS, Motorola Inc. offers factory authorized training to provide unique knowledge of the radio equipment to their field service and system technicians and due to the complexity of this type of system, Motorola's expertise is valuable in keeping the system and equipment functioning properly; and

WHEREAS, as part of the contract, Motorola provides network monitoring and additional radios can be added when the warranty period expires or removed when Motorola gives advanced notice they can no longer provide service for a specific radio model.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines an exceptional situation exists in which competitive bidding is deemed not feasible or practical and therefore waives the requirements of formal competitive bidding and approves a five-year service agreement with Motorola Inc. in the total amount of \$266,631.92 for maintenance of the City's Motorola dispatch radio equipment, including mobile and portable radios issued to city employees, contingent upon annual budget approval.

City of Fayetteville Staff Review Form

2025-235

Item ID

3/18/2025

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Chief Mike Reynolds

2/20/2025

CENTRAL DISPATCH (260)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends a resolution to approve waiving the requirements of formal competitive bidding and approve a five-year service agreement with Motorola Inc. for maintenance of the City's Motorola dispatch radio equipment, and mobile and portable radios issued to police, fire and citywide divisions in the amount of \$266,631.92 to be paid in annual installments contingent upon approved funding.

Budget Impact:

xxxx.xxx.xxx-5402.00

General

Account Number

Fund

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 92,356.00

Expenses (Actual+Encum)

Available Budget

\$ 92,356.00

Does item have a direct cost? Yes

Item Cost

\$ 49,227.47

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 43,128.53

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



500 W Monroe Street
Chicago, IL. 60661
(888) 325-9336

SERVICE AGREEMENT

Quote Number : QUOTE-2721067
Contract Number: USC000006611
Contract Modifier: R18-JUL-24 20:35:35

Date:01/28/2025

Company Name: FAYETTEVILLE, CITY OF

Attn:

Billing Address: 1800 N STEPHEN CARR MEM BLVD

City, State, Zip: FAYETTEVILLE , AR, 72703

Customer Contact: Natisha Claypool

Phone:

Required P.O. :
PO # :
Customer # :1011442374
Bill to Tag # :
Contract Start Date :01-Jan-2025
Contract End Date :31-Dec-2029
Payment Cycle :ANNUALLY

Qty	Service Name	Service Description	Extended Amt
	LSV01S01107A	ASTRO SYSTEM ESSENTIAL PLUS PACKAGE – Yr 1 - 2025	\$30,494.99
	LSV00S00155A	LOCAL DEVICE SUPPORT – Yr 1 - 2025	\$14,359.20
	LSV01S01107A	ASTRO SYSTEM ESSENTIAL PLUS PACKAGE – Yr 2 - 2026	\$31,714.79
	LSV00S00155A	LOCAL DEVICE SUPPORT – Yr 2 - 2026	\$14,933.57
	LSV01S01107A	ASTRO SYSTEM ESSENTIAL PLUS PACKAGE – Yr 3 - 2027	\$32,983.40
	LSV00S00155A	LOCAL DEVICE SUPPORT – Yr 3 - 2027	\$15,530.91
	LSV01S01107A	ASTRO SYSTEM ESSENTIAL PLUS PACKAGE – Yr 4 - 2028	\$34,302.72
	LSV00S00155A	LOCAL DEVICE SUPPORT – Yr 4 – 2028	\$16,152.15
	LSV01S01107A	ASTRO SYSTEM ESSENTIAL PLUS PACKAGE – Yr 5 - 2029	\$35,674.84
	LSV00S00155A	LOCAL DEVICE SUPPORT – Yr 5 - 2029	\$16,798.23
ASTRO SYSTEM ADVANCED PAC --- DISPATCH --- NETWORK MONITORING --- ONSITE SYS SUPPORT-STD --- PREVENTIVE MAINTENANCE1 --- REMOTE SUS MGT --- REPAIR AND RETURN --- SECURITY UPDATE SERVICE --- SYSTEM TECH SUPPORT --- ADVANCE EXCHANGE --- SECURITY MONITORING DISPA (MCC 7500e) LOCAL DEVICE SUPPORT ---122 – APX6500 (through 2025)		Subtotal - Recurring Services	\$242,944.80
		Subtotal - One-Time Event Services	
		Estimated Tax	\$23,687.12
		Total	\$266,631.92
		THIS SERVICE AMOUNT IS SUBJECT TO STATE AND LOCAL TAXING JURISDICTIONS WHERE APPLICABLE, TO BE VERIFIED BY MOTOROLA	

SPECIAL INSTRUCTIONS:



SERVICE AGREEMENT

500 W Monroe Street
Chicago, IL. 60661
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Quote Number : QUOTE-2721067
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I have received Applicable Statements of Work which describe the Services and cybersecurity services provided on this Agreement. Motorola's Terms and Conditions, including the Cybersecurity Online Terms Acknowledgement, are attached hereto and incorporate the Cyber Addendum (available at https://www.motorolasolutions.com/en_us/managed-support-services/cybersecurity.html) by reference. By signing below City of Fayetteville acknowledges these terms and conditions govern all Services under this Service Agreement.

AUTHORIZED CITY OF FAYETTEVILLE SIGNATURE

TITLE

DATE

CITY OF FAYETTEVILLE (PRINT NAME)

Dusty Calhoun

CSM

2/8/2025

MOTOROLA REPRESENTATIVE(SIGNATURE)

TITLE

DATE

Dusty Calhoun

501-680-0120

MOTOROLA REPRESENTATIVE(PRINT NAME)

PHONE

Company Name : FAYETTEVILLE, CITY OF

Contract Number : USC000006611

Contract Modifier : R18-JUL-24 20:35:35

Contract Start Date : 01-Jan-2025

Contract End Date : 31-Dec-2029



500 W Monroe Street
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SERVICE AGREEMENT

Quote Number : QUOTE-2721067
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Service Terms and Conditions

Motorola Solutions Inc. ("Motorola") and the City of Fayetteville named in this Agreement ("City of Fayetteville") hereby agree as follows:

Section 1. APPLICABILITY

These Maintenance Service Terms and Conditions apply to service contracts whereby Motorola will provide to City of Fayetteville either (1) maintenance, support, or other services under a Motorola Service Agreement, or (2) installation services under a Motorola Installation Agreement.

Section 2. DEFINITIONS AND INTERPRETATION

2.1 "Agreement" means these Maintenance Service Terms and Conditions; the cover page for the Service Agreement or the Installation Agreement, as applicable; and any other attachments, all of which are incorporated herein by this reference. In interpreting this Agreement and resolving any ambiguities, these Maintenance Service Terms and Conditions take precedence over any cover page, and the cover page takes precedence over any attachments, unless the cover page or attachment states otherwise.

2.2 "Equipment" means the equipment that is specified in the attachments or is subsequently added to this Agreement.

2.3 "Services" means those installation, maintenance, support, training, and other services described in this Agreement.

Section 3. ACCEPTANCE

City of Fayetteville accepts these Maintenance Service Terms and Conditions and agrees to pay the prices set forth in the Agreement. This Agreement becomes binding only when accepted in writing by Motorola. The term of this Agreement begins on the "Start Date" indicated in this Agreement.

Section 4. SCOPE OF SERVICES

4.1 Motorola will provide the Services described in this Agreement or in a more detailed statement of work or other document attached to this Agreement. At City of Fayetteville's request, Motorola may also provide additional services at Motorola's then-applicable rates for the services.

4.2 If Motorola is providing Services for Equipment, Motorola parts or parts of equal quality will be used; the Equipment will be serviced at levels set forth in the manufacturer's product manuals; and routine service procedures that are prescribed by Motorola will be followed.

4.3 If City of Fayetteville purchases from Motorola additional equipment that becomes part of the same system as the initial Equipment, the additional equipment may be added to this Agreement and will be billed at the applicable rates after the warranty for that additional equipment expires.

4.4 All Equipment must be in good working order on the Start Date or when additional equipment is added to the Agreement. Upon reasonable request by Motorola, City of Fayetteville will provide a complete serial and model number list of the Equipment. City of Fayetteville must promptly notify Motorola in writing when any Equipment is lost, damaged, stolen or taken out of service. City of Fayetteville's obligation to pay Service fees for this Equipment will terminate at the end of the month in which Motorola receives the written notice.

4.5 City of Fayetteville must specifically identify any Equipment that is labeled intrinsically safe for use in hazardous environments.

4.6 If Equipment cannot, in Motorola's reasonable opinion, be properly or economically serviced for any reason, Motorola may modify the scope of Services related to that Equipment; remove that Equipment from the Agreement; or increase the price to Service that Equipment.

4.7 City of Fayetteville must promptly notify Motorola of any Equipment failure. Motorola will respond to City of Fayetteville's notification in a manner consistent with the level of Service purchased as indicated in this.

Section 5. EXCLUDED SERVICES

5.1 Service excludes the repair or replacement of Equipment that has become defective or damaged from use in other than the normal, customary, intended, and authorized manner; use not in compliance with applicable industry standards; excessive wear and tear; or accident, liquids, power surges, neglect, acts of God or other force majeure events.

5.2 Unless specifically included in this Agreement, Service excludes items that are consumed in the normal operation of the Equipment, such as batteries or magnetic tapes; upgrading or reprogramming Equipment; accessories, belt clips, battery chargers, custom or special products, modified units, or software; and repair or maintenance of any transmission line, antenna, microwave equipment, tower or tower lighting, duplexer, combiner, or multicoupler. Motorola has no obligations for any transmission medium, such as telephone lines, computer networks, the internet or the worldwide web, or for Equipment malfunction caused by the transmission medium.



SERVICE AGREEMENT

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Quote Number : QUOTE-2721067
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5.3 This Agreement pricing provided does not take into account prevailing wage requirement. Should prevailing wage regulations be applicable to this project, the pricing shall be subject to change to reflect compliance with those regulations.

Section 6. TIME AND PLACE OF SERVICE

Service will be provided at the location specified in this Agreement. When Motorola performs service at City of Fayetteville's location, City of Fayetteville will provide Motorola, at no charge, a non-hazardous work environment with adequate shelter, heat, light, and power and with full and free access to the Equipment. Waivers of liability from Motorola or its subcontractors will not be imposed as a site access requirement. City of Fayetteville will provide all information pertaining to the hardware and software elements of any system with which the Equipment is interfacing so that Motorola may perform its Services. Unless otherwise stated in this Agreement, the hours of Service will be 8:30 a.m. to 4:30 p.m., local time, excluding weekends and holidays. Unless otherwise stated in this Agreement, the price for the Services exclude any charges or expenses associated with helicopter or other unusual access requirements; if these charges or expenses are reasonably incurred by Motorola in rendering the Services, City of Fayetteville agrees to reimburse Motorola for those charges and expenses.

Section 7. CITY OF FAYETTEVILLE CONTACT

City of Fayetteville will provide Motorola with designated points of contact (list of names and phone numbers) that will be available twenty-four (24) hours per day, seven (7) days per week, and an escalation procedure to enable City of Fayetteville's personnel to maintain contact, as needed, with Motorola.

Section 8. INVOICING AND PAYMENT

8.1 City of Fayetteville affirms they have signatory authority to execute this contract. The contract price of \$242,944.80, excluding taxes, is fully committed and identified, including all subsequent years of contracted services, if applicable. The City of Fayetteville will pay all invoices as received from Motorola and any changes in scope will be subject to the change order process as described in this Agreement.

Motorola acknowledges the City of Fayetteville may require the issuance(s) of a purchase order or notice to proceed as part of the City of Fayetteville's procurement process. However, City of Fayetteville agrees that the issuance or non-issuance of a purchase order or notice to proceed does not preclude the City of Fayetteville from its contractual obligations as defined in this Agreement. Unless alternative payment terms are stated in this Agreement, Motorola will invoice City of Fayetteville in advance for each payment period. All other charges will be billed monthly, and City of Fayetteville must pay each invoice in U.S. dollars within twenty (20) days of the invoice date.

8.2 City of Fayetteville will reimburse Motorola for all property taxes, sales and use taxes, excise taxes, and other taxes or assessments that are levied as a result of Services rendered under this Agreement (except income, profit, and franchise taxes of Motorola) by any governmental entity. The City of Fayetteville will pay all invoices as received from Motorola. At the time of execution of this Agreement, the City of Fayetteville will provide all necessary reference information to include on invoices for payment in accordance with this Agreement.

Section 9. WARRANTY

Motorola warrants that its Services under this Agreement will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are completed. In the event of a breach of this warranty, City of Fayetteville's sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Section 10. DEFAULT/TERMINATION

10.1 If either party defaults in the performance of this Agreement, the other party will give to the non-performing party a written and detailed notice of the default. The non-performing party will have thirty (30) days thereafter to provide a written plan to cure the default that is acceptable to the other party and begin implementing the cure plan immediately after plan approval. If the non-performing party fails to provide or implement the cure plan, then the injured party, in addition to any other rights available to it under law, may immediately terminate this Agreement effective upon giving a written notice of termination to the defaulting party.

10.2 Any termination of this Agreement will not relieve either party of obligations previously incurred pursuant to this Agreement, including payments which may be due and owing at the time of termination. All sums owed by City of Fayetteville to Motorola will become due and payable immediately upon termination of this Agreement. Upon the effective date of termination, Motorola will have no further obligation to provide Services.

10.3 Termination for Non-Appropriation. In the event any identified funding is not appropriated or becomes unavailable, the City of Fayetteville reserves the right to terminate this Agreement for non-appropriation upon thirty (30) days' advance written notice to Motorola. In the event of such termination, Motorola shall be entitled to compensation for all conforming goods delivered and for all services performed prior to the effective date of termination date.

10.4 If the City of Fayetteville terminates this Agreement before the end of the Term, for any reason other than Motorola default, then the City of Fayetteville will pay to Motorola an early termination fee equal to the discount applied to the last three (3) years of Service payments for the original Term.



500 W Monroe Street
Chicago, IL. 60661
(888) 325-9336

SERVICE AGREEMENT

Quote Number : QUOTE-2721067
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Section 11. LIMITATION OF LIABILITY

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Service provided under this Agreement. **ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT.** No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account. This limitation of liability will survive the expiration or termination of this Agreement and applies notwithstanding any contrary provision.

Section 12. EXCLUSIVE TERMS AND CONDITIONS

12.1 This Agreement supersedes all prior and concurrent agreements and understandings between the parties, whether written or oral, related to the Services, and there are no agreements or representations concerning the subject matter of this Agreement except for those expressed herein. The Agreement may not be amended or modified except by a written agreement signed by authorized representatives of both parties.

12.2 City of Fayetteville agrees to reference this Agreement on any purchase order issued in furtherance of this Agreement, however, an omission of the reference to this Agreement will not affect its applicability. In no event will either party be bound by any terms contained in a City of Fayetteville purchase order, acknowledgement, or other writings unless: the purchase order, acknowledgement, or other writing specifically refers to this Agreement; clearly indicate the intention of both parties to override and modify this Agreement; and the purchase order, acknowledgement, or other writing is signed by authorized representatives of both parties.

Section 13. PROPRIETARY INFORMATION; CONFIDENTIALITY; INTELLECTUAL PROPERTY RIGHTS

13.1 Any information or data in the form of specifications, drawings, reprints, technical information or otherwise furnished to City of Fayetteville under this Agreement will remain Motorola's property, will be deemed proprietary, will be kept confidential, and will be promptly returned at Motorola's request. City of Fayetteville may not disclose, without Motorola's written permission or as required by law, any confidential information or data to any person, or use confidential information or data for any purpose other than performing its obligations under this Agreement. The obligations set forth in this Section survive the expiration or termination of this Agreement.

13.2 Freedom of Information Act: City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the Motorola Solutions will do everything reasonably possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. Seq.)

13.3 Unless otherwise agreed in writing, no commercial or technical information disclosed in any manner or at any time by City of Fayetteville to Motorola will be deemed secret or confidential. Motorola will have no obligation to provide City of Fayetteville with access to its confidential and proprietary information, including cost and pricing data.

13.4 This Agreement does not grant directly or by implication, estoppel, or otherwise, any ownership right or license under any Motorola patent, copyright, trade secret, or other intellectual property, including any intellectual property created as a result of or related to the Equipment sold or Services performed under this Agreement.

Section 14. FCC LICENSES AND OTHER AUTHORIZATIONS

City of Fayetteville is solely responsible for obtaining licenses or other authorizations required by the Federal Communications Commission or any other federal, state, or local government agency and for complying with all rules and regulations required by governmental agencies. Neither Motorola nor any of its employees is an agent or representative of City of Fayetteville in any governmental matters.

Section 15. COVENANT NOT TO EMPLOY

During the term of this Agreement and continuing for a period of two (2) years thereafter, City of Fayetteville will not hire, engage on contract, solicit the employment of, or recommend employment to any third party of any employee of Motorola or its subcontractors without the prior written authorization of Motorola. This provision applies only to those employees of Motorola or its subcontractors who are responsible for rendering services under this Agreement. If this provision is found to be overly broad under applicable law, it will be modified as necessary to conform to applicable law.

Section 16. MATERIALS, TOOLS AND EQUIPMENT

All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of this Agreement will be and remain the sole property of Motorola. City of Fayetteville will safeguard all such property while it is in City of Fayetteville's custody or control, be liable for any loss or damage to this property, and return it to Motorola upon request. This property will be held by City of Fayetteville for Motorola's use without charge and may be removed from City of Fayetteville's premises by Motorola at any time without restriction.



500 W Monroe Street
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SERVICE AGREEMENT

Quote Number : QUOTE-2721067
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Section 17. GENERAL TERMS

17.1 If any court renders any portion of this Agreement unenforceable, the remaining terms will continue in full force and effect.

17.2 This Agreement and the rights and duties of the parties will be interpreted in accordance with the laws of the State in which the Services are performed.

17.3 Failure to exercise any right will not operate as a waiver of that right, power, or privilege.

17.4 Neither party is liable for delays or lack of performance resulting from any causes that are beyond that party's reasonable control, such as strikes, material shortages, or acts of God.

17.5 Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.

17.6 Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of City of Fayetteville. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event.

17.7 THIS AGREEMENT WILL RENEW, FOR AN ADDITIONAL ONE (1) YEAR TERM, ON EVERY ANNIVERSARY OF THE START DATE UNLESS EITHER THE COVER PAGE SPECIFICALLY STATES A TERMINATION DATE OR ONE PARTY NOTIFIES THE OTHER IN WRITING OF ITS INTENTION TO DISCONTINUE THE AGREEMENT NOT LESS THAN THIRTY (30) DAYS OF THAT ANNIVERSARY DATE. At the anniversary date, an updated agreement shall be mutually executed between the parties.

17.8 If Motorola provides Services after the termination or expiration of this Agreement, the terms and conditions in effect at the time of the termination or expiration will apply to those Services and City of Fayetteville agrees to pay for those services on a time and materials basis at Motorola's then effective hourly rates.

17.9 This Agreement may be executed in one or more counterparts, all of which shall be considered part of the Agreement. The parties may execute this Agreement in writing, or by electronic signature, and any such electronic signature shall have the same legal effect as a handwritten signature for the purposes of validity, enforceability and admissibility. In addition, an electronic signature, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document.

Revised Sept 03, 2022



500 W Monroe Street
Chicago, IL. 60661
(888) 325-9336

SERVICE AGREEMENT

Quote Number : QUOTE-2721067
Contract Number: USC000006611
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Cybersecurity Online Terms Acknowledgement

This Cybersecurity Online Terms Acknowledgement (this "Acknowledgement") is entered into between Motorola Solutions, Inc. ("Motorola") and the entity set forth in the signature block below ("City of Fayetteville").

1. Applicability and Self Deletion. This Cybersecurity Online Terms Acknowledgement applies to the extent cybersecurity products and services, including Remote Security Update Service, Security Update Service, and Managed Detection & Response subscription services, are purchased by or otherwise provided to City of Fayetteville, including through bundled or integrated offerings or otherwise.

NOTE: This Acknowledgement is self deleting if not applicable under this Section 1.

2. Online Terms Acknowledgement. The Parties acknowledge and agree that the terms of the *Cyber Subscription Renewals and Integrations Addendum* available at <http://www.motorolasolutions.com/cyber-renewals-integrations> are incorporated in and form part of the Parties' agreement as it relates to any cybersecurity products or services sold or provided to City of Fayetteville. By signing the signature block below, City of Fayetteville certifies that it has read and agrees to the provisions set forth and linked on-line in this Acknowledgement. To the extent City of Fayetteville is unable to access the above referenced online terms for any reason, City of Fayetteville may request a paper copy from Motorola. The signatory to this Acknowledgement represents and warrants that he or she has the requisite authority to bind City of Fayetteville to this Acknowledgement and referenced online terms.

3. Entire Agreement. This Acknowledgement supplements any and all applicable and existing agreements and supersedes any contrary terms as it relates to City of Fayetteville's purchase of cybersecurity products and services. This Acknowledgement and referenced terms constitute the entire agreement of the parties regarding the subject matter hereof and as set out in the referenced terms, and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter.

4. Execution and Amendments. This Acknowledgement may be executed in multiple counterparts, and will have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing or by electronic signature. An electronic signature, facsimile copy, or computer image of a signature, will be treated, and will have the same effect as an original signature, and will have the same effect, as an original signed copy of this document. This Acknowledgement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The Parties hereby enter into this Acknowledgement as of the last signature date below.

Revised Sept 03, 2022



MEETING OF MARCH 11, 2025

TO: Mayor Rawn and City Council
THRU:
FROM: Council Member Sarah Moore
SUBJECT: **TRUTH IN LEASING (ORDINANCE):**

RECOMMENDATION:

Council Member Moore is sponsoring the Truth in Leasing Ordinance that would require the disclosure of fees and costs associated with residential leases.

BACKGROUND:

DISCUSSION:

BUDGET/STAFF IMPACT:

ATTACHMENTS: Agenda Packet - Truth in Leasing Ordinance - Council Member Moore (#3), Disclosure of Costs (#4), Initial Ordinance Proposed (#5)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2025-231

TRUTH IN LEASING (ORDINANCE):

AN ORDINANCE TO ENACT § 120.03 TRUTH IN LEASING; DISCLOSURE OF RENTAL FEES AND COSTS FOR LEASED RESIDENTIAL PROPERTIES IN THE CITY OF FAYETTEVILLE

WHEREAS, potential tenants often make housing decisions based on advertised rent prices but may not be fully aware of additional, often hidden, fees and costs that could significantly affect their ability to afford and maintain rental housing and can lead to confusion, financial hardship, and the potential for deceptive practices that harm Fayetteville residents; and

WHEREAS, clear and accurate disclosure of all fees and costs associated with rental properties allows prospective tenants to make informed, well-considered decisions and prevents vulnerable tenants, including low-income individuals and families, from being burdened by unexpected financial obligations; and

WHEREAS, providing a clear breakdown of costs ensures that tenants are better equipped to budget effectively and maintain housing stability, which can lead to lower tenant turnover rates; and

WHEREAS, by requiring the disclosure of all rental fees and costs in advertisements and listings, the city will support fair housing practices and enhance consumer protection for current and future tenants.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby enacts § 120.03 – **Truth in Leasing; Disclosure of Rental Fees and Costs** as follows:

“120.03 - Truth in Leasing; Disclosure of Residential Rental Fees and Costs

(A) *Required Disclosures.* Landlords or property owners of residential properties shall include a clear and comprehensive disclosure of all fees and costs that are or could be charged to the tenant by the landlord or property owner in any contract, advertisement or listing, whether physical or digital. This includes, but is not limited to:

1. Rent: The base monthly rent amount.
2. Security Deposit: The amount required as a security deposit.
3. Application and Background Check Fees: Fees required to process rental applications or perform

background checks.

4. Maintenance Fees: Costs for maintenance or repairs that may be charged to the tenant.
5. Utility Costs: Charges for utilities such as water, electricity, gas, internet, or trash collection the tenant pays to the landlord. This does not include costs associated with utilities in the name of the tenant.
6. Pet Fees: Any fees, costs, or deposits associated with keeping pets on the property.
7. Parking Fees: Charges for parking spaces or permits, if applicable.
8. Late Fees: The fees imposed for late rent payments including any grace periods, charges schedules, or escalating fee policies.
9. Administrative, Leasing, or Miscellaneous Fees: Any other fees imposed on a tenant related to the administration of the lease or for other purposes not listed above.

(B) *Clear and Prominent Disclosure Required.* All fees and costs must be disclosed clearly and in a manner that is easily accessible, visible, and understandable to potential tenants. Fees must be itemized and presented separately from the base rent amount and shall be accompanied by a description of the service(s) associated with each fee. In online listings, this disclosure shall be presented on the same page as the listing details, and in print advertisements, it should be included in the body of the advertisement or in a clearly visible section. If there is a leasing office onsite, this information shall be displayed along with any required business licenses or permits. A copy of the list shall be attached to all paper applications. In any lease agreement or contract, this disclosure shall be included in a separate section within the body of the contract or attached as an exhibit or appendix to the contract."

AGENDA REQUEST FORM

FOR: Council Meeting of March 4, 2025

FROM: Council Member Sarah Moore

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

**AN ORDINANCE TO ENACT § 120.03 TRUTH IN LEASING;
DISCLOSURE OF RENTAL FEES AND COSTS FOR LEASED
RESIDENTIAL PROPERTIES IN THE CITY OF FAYETTEVILLE**

APPROVED FOR AGENDA:

Approved by email

Sarah Moore
City Council Member

2/18/2025

Date

Blake Pennington

Blake Pennington
Senior Assistant City Attorney
Approved as to form

2/18/2025

Date

AN ORDINANCE TO ENACT § 120.03 TRUTH IN LEASING; DISCLOSURE OF RENTAL FEES AND COSTS FOR LEASED RESIDENTIAL PROPERTIES IN THE CITY OF FAYETTEVILLE

WHEREAS, potential tenants often make housing decisions based on advertised rent prices but may not be fully aware of additional, often hidden, fees and costs that could significantly affect their ability to afford and maintain rental housing and can lead to confusion, financial hardship, and the potential for deceptive practices that harm Fayetteville residents; and

WHEREAS, clear and accurate disclosure of all fees and costs associated with rental properties allows prospective tenants to make informed, well-considered decisions and prevents vulnerable tenants, including low-income individuals and families, from being burdened by unexpected financial obligations; and

WHEREAS, providing a clear breakdown of costs ensures that tenants are better equipped to budget effectively and maintain housing stability, which can lead to lower tenant turnover rates; and

WHEREAS, by requiring the disclosure of all rental fees and costs in advertisements and listings, the city will support fair housing practices and enhance consumer protection for current and future tenants.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby enacts § 120.03 – **Truth in Leasing; Disclosure of Rental Fees and Costs** as follows:

“120.03 - Truth in Leasing; Disclosure of Residential Rental Fees and Costs

(A) *Required Disclosures.* Landlords or property owners of residential properties shall include a clear and comprehensive disclosure of all fees and costs that are or could be charged to the tenant by the landlord or property owner in any contract, advertisement or listing, whether physical or digital. This includes, but is not limited to:

- (a) Rent: The base monthly rent amount.
- (b) Security Deposit: The amount required as a security deposit.
- (c) Application and Background Check Fees: Fees required to process rental applications or perform background checks.
- (d) Maintenance Fees: Costs for maintenance or repairs that may be charged to the tenant.
- (e) Utility Costs: Charges for utilities such as water, electricity, gas, internet, or trash collection the tenant pays to the landlord. This does not include costs associated with utilities in the name of the tenant.
- (f) Pet Fees: Any fees, costs, or deposits associated with keeping pets on the property.
- (g) Parking Fees: Charges for parking spaces or permits, if applicable.

- (h) Late Fees: The fees imposed for late rent payments including any grace periods, charges schedules, or escalating fee policies.
- (i) Administrative, Leasing, or Miscellaneous Fees: Any other fees imposed on a tenant related to the administration of the lease or for other purposes not listed above.

(B) *Clear and Prominent Disclosure Required.* All fees and costs must be disclosed clearly and in a manner that is easily accessible, visible, and understandable to potential tenants. Fees must be itemized and presented separately from the base rent amount and shall be accompanied by a description of the service(s) associated with each fee. In online listings, this disclosure shall be presented on the same page as the listing details, and in print advertisements, it should be included in the body of the advertisement or in a clearly visible section. If there is a leasing office onsite, this information shall be displayed along with any required business licenses or permits. A copy of the list shall be attached to all paper applications. In any lease agreement or contract, this disclosure shall be included in a separate section within the body of the contract or attached as an exhibit or appendix to the contract.

Disclosure of Rental Fees & Costs Ordinance

For Leased Residential Properties in the City of Fayetteville

March 4, 2025



The Concern Expressed in a Year of Fayetteville Community Housing Conversations

- Burdensome cost to renters each time that they had to move, often yearly given increasing rents. Working with limited means, trying to limit amount spent out to possible rentals. During discussions the following were identified:
 - Application and background check fees were charged at a number of properties adding up to \$100s up to \$1,000 out of pocket at each move.
 - Applicants applied to rentals not always knowing all of the ongoing costs and spending application & background fees and possibly admin fees before fully understanding monthly or any other possible costs which could mean they could not afford the rental ongoing
 - Unknown often what the criteria are to be considered and approved. This information may or not be able to inquired and received of this information prior to spending funds and attempting to rent the property.



CITY OF
FAYETTEVILLE
ARKANSAS

What is out there now- Rental Listings

MOVE IN TODAY | RESIDENTS

the **VUE**
ON STADIUM DRIVE

FAQS APPLY

Please note that signing your application does not guarantee a space.

Fayetteville

Next, we will complete a background screening and send you the Housing Agreement to reserve your spot when mutually signed. The Administrative Fee, if already paid, will be refunded if a Housing Agreement is not approved.

DEPOSITS AND FEES

Application Fee (one-time)	\$40
Administrative Fee (annual)	\$200
Security Deposit (one-time)	\$500 WAIVED

Ready to apply? Start your Application >

accepts electronic payments

select units

Utilities we pay 30%

Water, Sewer, Trash (with us)

Electric (Swepeco)

Monthly Charges

Valet Trash- \$36

Cable/Internet- \$63

CAM (Common Area Maintenance) Fee-

1BR: \$32

2BR: \$35

3BR: \$37

Waiver Renters Insurance-

\$14

131
Get fees
\$14

rs' insurance, a letter

apply
here

com

Rogers

One Bedroom/One Bath

785 sqft

\$

Two Bedroom/One Bath

810 sqft

ASAP

WIC

12/24

Three Bedroom/Two Bath

1183 sqft

\$

Application Fee

\$75.00 per applicant
(18 years old and over)
Non-refundable.

Admin Fee

\$250.00 due with application.
(Used as holding fee)
Non-refundable.

Security Deposit

\$300.00 up to 1 months' rent
based on application.

Pet Fee

\$300.00 fee per pet
Max of two pets per unit. Non-refundable.
Breed & Weight restrictions apply.

Pet Rent

\$32.00 monthly charge (per pet)

Lease Term

12 months.
Depending on availability

*Rates and discounts are subject to change - Restrictions apply

Require proof of income of a month worth of paystubs and if you choose to get from a certified 100,000 Personal Liability Renter's Insurance

1603 W Walnut St • Rogers, AR 72756 • 479

• friscoonwalnut@amllc.net | www.friscoapartments.com

What is out there now- Rental Listings

< Back to search



Home value Cost calculator Owner options **Home details** Neighborhood

What's special

Real Property Management First Choice- NWA is excited to offer this fantastic two-bedroom, two-bathroom home in a prime Fayetteville location! Just minutes from the vibrant Fayetteville downtown square, the University of Arkansas, and Dickson Street, you'll enjoy the best of both convenience and comfort. This charming home blends modern and traditional styles, featuring a stove/oven, dishwasher, refrigerator, disposal for your ease. Stay cozy year-round with central heat and air, and take advantage of the added bonus of a detached garage!

Fill out an application now to live in this prime location!! (Please note that this property is NOT furnished)

Rent: \$2045.00 per month

Deposit: \$1545.00 (one time fee)

Leasing Fee: \$500.00 (one time fee)

Liability to Landlord Insurance Required: \$15.00 per month (you can provide your own insurance to avoid this fee)

Resident Benefit Package: \$40.00 per month

Monthly Pet Rent: \$50.00 per pet.

Pet fee of \$250 per animal

2 Animal Maximum *Breed restrictions apply.

App fee: \$20

Background check: \$20

(All occupants 18 and older must apply separately. Background checks include residential, credit, and criminal

Background check: \$20

(All occupants 18 and older must apply separately. Background checks include residential, credit, and criminal history. Income requirement of 3 times the amount of rent. Application fees are non-refundable.)

(Each future occupant, 18 or older, must submit individual applications. Background checks include residential, credit, and criminal history. Income requirement is 3 times the amount of rent. Applications are available online via our website. Application fees are non-refundable. RPM does not accept payment in the form of cash or any online payment platform not directly linked to an RPM First Choice website and will never ask for payment via those platforms.)

ADDITIONAL INFO/FEEES:

Resident Benefit Package: \$40.00 fee includes utility concierge service, on-time rent payment credit reporting, late pay forgiveness, home buyers assistance, & more!

Insurance Requirement: Liability to Landlord Insurance in the amount of \$100,000 is mandatory. You will be charged \$15.00 per month. If you provide your own policy you will not be charged this fee.

Pet Screening: RPM First Choice uses a platform called Pet Screening to complete the screening and approval process for any pets that will be living on the property. Individuals without pets must complete the online affidavit, while pet/animal owners should gather current vaccination records, veterinarian information and snapshots of their pet/animal. You will find the link to complete your online profile in the application process. Household pets will be charged a fee of \$50 for the first pet, \$35 for the additional pet which will not only complete the screening process, but also create a digital passport for your animal for your personal use. (THIS IS NOT THE MONTHLY PET FEE - THESE FEES ARE STRICTLY FOR YOUR PETS SCREENING & APPROVAL PROCESS - CALL THE OFFICE FOR INITIAL AND MONTHLY PET FEES)

^ Hide

Fayetteville

*Online tool search results utilized by Fayetteville residents, Councilmember Moore, & City Attorney Office



What is out there now- Rental Listings

Fayetteville

Springdale

Wobbe Lane Apartments

(479) 717-2338

Before You Begin:

Please be prepared to pay the application fee as outlined in the property listing. In addition to this rental application, you will also be required to provide a copy of a valid form of identification and proof of income.

To complete this rental application, you must be prepared to provide 3 years of residential history as well as contact information for your rental references. You will also be asked to provide information on your monthly income, and please note that most properties require that applicant combined gross income is at least three (3) times the monthly rent amount.

Each resident over the age of 18 must submit a separate rental application.

Application Fee: \$35.00

You are applying to rent:

580 E Randall Wobbe Ln
17-202
Springdale, AR 72764

PAYMENT OPTIONS

The Following Fees will be incurred for those meeting these specifications:

Primary Applicants/Renters - \$400 Deposit, \$30 Application Fee, \$15 Online Payment Processing Fee

*** Only the \$400 Deposit is refundable. Application and processing fees are non-refundable.*

Secondary Applicants/Renters - \$30 Application Fee, \$5 Online Payment Processing Fee

*** All Secondary Applicant/Renter fees are non-refundable.*

Guarantors - \$30 Application Fee, \$5 Online Payment Processing Fee

*** All Guarantor fees are non-refundable.*

Any refund of the \$400 security deposit will be issued via check the first Friday after a 10 day business period and after the funds have cleared Engage Management's bank account.



Apply Online

Create Account

Login

Create an Account to Begin

To start your application, create an account. We will be able to save your progress and enable you to come back anytime to check on the status of your application.

For any questions, please call (501) 404-9997.

Legal First Name *

Questions? We're here for you.

Last Name *



Leverett Garden Apartments

STEP 1

2

3

4

CREATE ACCOUNT

Create a new account. Already have an account? [Sign in](#)

First name*

Last name*

Email*

Phone*

How did you hear about us?

Please select an option below

Are you working with a leasing agent?

*Online tool search results utilized by Fayetteville residents, Councilmember Moore, & City Attorney Office



What type of Fees or Costs are Being Seen

In Arkansas

- Utility fees
- Valet Trash
- Cable/Internet
- Maintenance Fee
- Waiver of Renters Insurance
- Admin Fee
- Leasing Fee
- Pet Fee
- Pet Rent
- Pet Screening
- Online Payment Processing Fee
- Guarantor Application Fee
- Resident Benefit Package

Nationally

- Identified through 2023 Federal Committee reviewing “junk fees”, over 20 seen across country
- From NPR article (Dec 23 poll)
 - "I think Americans also feel they're not getting a fair price anymore. Everywhere they turn, they're being gouged, overcharged, companies are skimming, just adding a little extra. In some cases, companies are taking away, charging them the same price but offering them a little less product," Owens said.
 - [Polling](#) shows both Democrats and Republicans support tackling junk fees, and a December poll from the left-leaning [Data for Progress](#) found that 72% of Republicans surveyed support the Junk Fee Prevention Act, a bill that would limit excessive and unnecessary fees, including many that the Biden administration has tried to tackle, like concert and airline fees.

*Federal junk fees details from this source:

<https://www.npr.org/2024/03/06/1235955054/biden-junk-fees-state-of-the-union>

Goal of Disclosure of Rental Fees & Cost Ordinance

For Renters

- Reduce out of pocket costs when applying for possible rentals given the expression from Fayetteville community of overly burdensome nature of these fees. In discussion leading up to the CAP ordinance, there were many comments made to “just ask” the properties for these costs up front. This ordinance is aimed to give greater clarity of all in and total costs for a rental BEFORE a family places money towards an application/background check fee.

For Property Owners/Manager

- Create as easy a disclosure process as possible while giving consumers additional information with the overall goal that the relationship between both parties will be on stronger ground with full understanding of finances needed to be in positive standing at a rental long term.



What Ordinance Provides

“120.03 Disclosure of Residential Rental Fees and Costs

(A) *Required Disclosures.* Landlords or property owners of residential properties shall include a clear and comprehensive disclosure of all fees and costs that are likely be charged to the tenant by the landlord or property owner prior to any required payment for rental application review or background check or prior to furnishing the lease if the landlord has not earlier required payment for rental application review or background checks. This includes, but is not limited to:

1. Application and Background Check Fees: Fees landlords require to process rental applications or perform background checks, if any. Explanation whether rental application fee is for the housing unit or assessed against all adult tenants is required.
2. Rent: The base monthly rent amount.
3. Security Deposit: The amount required as a security deposit.
4. Maintenance Fees: Costs for regular monthly or periodic maintenance that may be charged to the tenant.
5. Utility Costs: Charges for utilities such as water, electricity, gas, internet, or trash collection the tenant pays to the landlord. This does not include costs associated with utilities in the name of the tenant.
6. Pet Fees: Any fees, costs, or deposits associated with keeping pets on the property.
7. Parking Fees: Charges for parking spaces or permits, if applicable.
8. Late Fees: The fees imposed for late rent payments including any grace periods, charges schedules, or escalating fee policies.
9. Administrative, Leasing, or Miscellaneous Fees: Any other fees imposed on a tenant related to the administration of the lease or for other purposes not listed above.

(A) *Clear and Prominent Disclosure of All Rental Costs are Required.*

1. All fees and costs must be disclosed clearly and in a manner that is easily accessible, visible, and understandable to potential tenants. Fees must be itemized and presented separately from the base rent amount and shall be accompanied by a description of the service(s) associated with each fee.
2. In online listings, this disclosure shall be presented on the same page as the listing details.
3. In print advertisements, this disclosure should be included in the body of the advertisement or in a clearly visible section.
4. If there is a leasing office onsite, this information shall be displayed along with any required business licenses or permits.
5. A copy of the list shall be attached to all paper rental applications.
6. In any lease agreement or contract, this disclosure shall be included in a separate section within the body of the contract or attached as an exhibit or appendix to the contract.

- Enforcement- Intent would be for the same mechanism as the CAP ordinance following penalty section 10.99 general penalty with other code enforcement



City of Fayetteville Strategic Goal Alignment

- **City Plan 2024:** We will create opportunities for attainable housing
- **Economic Vitality Plan:**
 - Community Development, Goal 2 Neighborhood Center Advancement Plan, Page 48
 - Reduce housing cost burdens for residents making under 120% of Fayetteville's Area Median Income (AMI)
 - Economic Mobility
 - Table 1 pg 12. 1a Support targeted policies and programs that build financial and social capital for Black, Latinx, and Asian residents; women, and low income individuals and families



It took us 6 to 9 months on a waitlist to get an affordable apartment, we want to buy but it feels almost impossible.



This financial strain limits their ability to afford other basic needs and increases the risk of displacement as housing costs continue to rise.



Questions?





City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2025-231

TRUTH IN LEASING (ORDINANCE):

AN ORDINANCE TO ENACT § 120.03 TRUTH IN LEASING; DISCLOSURE OF RENTAL FEES AND COSTS FOR LEASED RESIDENTIAL PROPERTIES IN THE CITY OF FAYETTEVILLE

WHEREAS, potential tenants often make housing decisions based on advertised rent prices but may not be fully aware of additional, often hidden, fees and costs that could significantly affect their ability to afford and maintain rental housing and can lead to confusion, financial hardship, and the potential for deceptive practices that harm Fayetteville residents; and

WHEREAS, clear and accurate disclosure of all fees and costs associated with rental properties allows prospective tenants to make informed, well-considered decisions and prevents vulnerable tenants, including low-income individuals and families, from being burdened by unexpected financial obligations; and

WHEREAS, providing a clear breakdown of costs ensures that tenants are better equipped to budget effectively and maintain housing stability, which can lead to lower tenant turnover rates; and

WHEREAS, by requiring the disclosure of all rental fees and costs in advertisements and listings, the city will support fair housing practices and enhance consumer protection for current and future tenants.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby enacts § 120.03 – **Truth in Leasing; Disclosure of Rental Fees and Costs** as follows:

“120.03 - Truth in Leasing; Disclosure of Residential Rental Fees and Costs

(A) *Required Disclosures.* Landlords or property owners of residential properties shall include a clear and comprehensive disclosure of all fees and costs that are or could be charged to the tenant by the landlord or property owner in any contract, advertisement or listing, whether physical or digital. This includes, but is not limited to:

1. Rent: The base monthly rent amount.
2. Security Deposit: The amount required as a security deposit.
3. Application and Background Check Fees: Fees required to process rental applications or perform

background checks.

4. Maintenance Fees: Costs for maintenance or repairs that may be charged to the tenant.
5. Utility Costs: Charges for utilities such as water, electricity, gas, internet, or trash collection the tenant pays to the landlord. This does not include costs associated with utilities in the name of the tenant.
6. Pet Fees: Any fees, costs, or deposits associated with keeping pets on the property.
7. Parking Fees: Charges for parking spaces or permits, if applicable.
8. Late Fees: The fees imposed for late rent payments including any grace periods, charges schedules, or escalating fee policies.
9. Administrative, Leasing, or Miscellaneous Fees: Any other fees imposed on a tenant related to the administration of the lease or for other purposes not listed above.

(B) *Clear and Prominent Disclosure Required.* All fees and costs must be disclosed clearly and in a manner that is easily accessible, visible, and understandable to potential tenants. Fees must be itemized and presented separately from the base rent amount and shall be accompanied by a description of the service(s) associated with each fee. In online listings, this disclosure shall be presented on the same page as the listing details, and in print advertisements, it should be included in the body of the advertisement or in a clearly visible section. If there is a leasing office onsite, this information shall be displayed along with any required business licenses or permits. A copy of the list shall be attached to all paper applications. In any lease agreement or contract, this disclosure shall be included in a separate section within the body of the contract or attached as an exhibit or appendix to the contract."



MEETING OF MARCH 11, 2025

TO: Mayor Rawn and City Council
THRU: Keith Macedo, Interim Chief of Staff
FROM: Jonathan Curth, Development Services Director
SUBJECT: **ADMINISTRATIVE ITEM (AMEND CHAPTER 94 - FIRE PREVENTION):**

RECOMMENDATION:

City staff recommend approval of an amendment to Chapter 94, Fire Prevention of the Code of Ordinances as described in Exhibit 'A'.

BACKGROUND:

The City has a long and well-established history of charging user fees for a number of City services, including those associated with development review. The most recent action taken in this regards occurred in February 2023 when the City Council approved a contract with MGT for an updated user fee study. Core objectives of the study include evaluating and improving the current fee structure, defining the cost of City services, and recommending fees based on the cost of service.

MGT completed a review of City development review-related services, the hourly rates of staff providing those services, and the time providing each service in six areas. These include Building Safety, Business Licensing, Engineering, Fire, Planning, and Water & Sewer. The most prominent finding of the study is a significant discrepancy between the cost of services provided and the user fees charged, totaling approximately \$2,679,307. Among the groups included in the study, the Fire Marshal's Office is unique for not currently collecting fees despite offering a number of development-related and commercial-oriented services, ranging from permits for blasting or pyrotechnic events to reviewing fire alarm and sprinkler system design.

	<u>Recovery '23/'24</u>	<u>Revenue</u>	<u>Cost</u>	<u>Subsidy</u>
Fire:	0%	\$-	\$45,580	\$45,580
All User Fees:	55%	\$2,679,307	\$4,843,998	\$2,164,691

This information along with the larger user fee study was shared with the City Council at their June 25th Agenda Session, after which a resolution was adopted at the Council's July 2nd meeting expressing intent to implement the study's findings (attached; Resolution 182-24).

DISCUSSION:

The proposed amendment to Chapter 94, Fees includes the following:

- Formalization of several existing services including:
 - Pyrotechnic and special effect, blasting, fire performance, and tent inspection permits
 - Fire alarm and fire sprinkler system permits

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

- Fees will be implemented at 1/3rd of the recommended fee amount

Recognizing the scope of the changes proposed in the overall user fee study, staff is recommending a staggered implementation of fees, with those proposed herein to be effective four weeks from the standard effectiveness date of an ordinance.

BUDGET/STAFF IMPACT:

ATTACHMENTS: SRF (#3) , Exhibit A (#4), 94.09 & 94.10 Strikethrough & Redlines (#5), 182-24 Resolution (#6)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2025-294

ADMINISTRATIVE ITEM (AMEND CHAPTER 94 - FIRE PREVENTION):

AN ORDINANCE TO AMEND CHAPTER 94, FIRE PREVENTION OF THE FAYETTEVILLE CODE OF ORDINANCES TO MODIFY EXISTING FEES AND CREATE A FEE SCHEDULE

WHEREAS, Fayetteville has a long and well-established history of charging user fees for a number of City services, including those associated with development review; and

WHEREAS, in February 2023 the City Council approved a contract with MGT for an updated user fee study whose core objectives include evaluating and improving the current fee structure, defining the cost of City services, and recommending fees based on the cost of service; and

WHEREAS, MGT completed a review of City development review-related services, the hourly rates of staff providing those services, and the time providing each service in six areas that include Building Safety, Business Licensing, Engineering, Fire, Planning, and Water & Sewer; and

WHEREAS, the most prominent finding of the study is a significant discrepancy between the cost of services provided and the user fees charged, totaling approximately \$2,679,307.00; and

WHEREAS, among the groups included in the study, the Fire Marshal's Office is unique for not currently collecting fees despite offering a number of development-related and commercial-oriented services, ranging from permits for blasting or pyrotechnic events to reviewing fire alarm and sprinkler system design; and

WHEREAS, on July 2, 2024 the City Council passed Resolution 182-24 expressing intent to implement the study's findings; and

WHEREAS, the proposed amendments to Chapter 94, Fire Prevention include formalization of several existing services including pyrotechnic and special effect, blasting, fire performance, tent inspection permits, and fire alarm and fire sprinkler system permits; and

WHEREAS, fees will be implemented at 1/3rd of the recommended fee amount; and

WHEREAS, implementation of the new fees will require manual entry by staff and, therefore, staff has proposed a staggered rollout during which time users may be charged the previous fee or the updated fee.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends § 94.09 (B) **Sale of Fireworks** by changing the permit fee from \$500.00 to \$225.00 per location and one-half (1/2) of the permit fee from \$250.00 to \$112.50 that shall be placed in a revenue account.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 91.10 **Fees/Schedule** and enacts a new § 91.10 as follows:

“91.10 Fees/Schedule

A. Fees. Fees shall be imposed, as set forth below, to cover a portion of the cost incurred in connection with processing applications, plan reviews, amendments, permits, acceptance inspections and other matters pertaining to fire protection and fire protection systems in the City of Fayetteville.

B. Fee Schedule.

Indoor Pyrotechnic and Special Effects Permit	\$34.00
Blasting Permit	\$34.00
Fire Alarm and Detection System Permit	\$119.00
Fire Sprinkler System Permit (NFPA 13 or NFPA 13R systems)	\$119.00
Fire Sprinkler System Permit (NFPA 13D system)	\$10.00
Alternative Automatic Fire Extinguishing System Permit	\$25.00
Fire Performance Permit	\$8.00
Tent Inspection Permit	\$34.00

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby authorizes staff to stagger the implementation of the fees provided in Sections 1 and 2 so that those fees shall not exceed the amounts set forth in those sections for a period of four weeks after the effective date of this ordinance. At the end of the four-week period, those fees shall be set at the amounts set forth in Exhibit A.

City of Fayetteville Staff Review Form

2025-294

Item ID

3/18/2025

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jonathan Curth

2/28/2025

DEVELOPMENT SERVICES (620)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Administrative Item (Amend Chapter 94 - Fire Prevention): Submitted by CITY STAFF. The proposed code change will amend Chapter 94, Fire Prevention to modify existing fees and create a fee schedule.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

EXHIBIT 'A'

94.09 Sale Of Fireworks

- (A) No person shall sell or distribute any firecrackers, sky rockets, bottle rockets, sparklers, roman candles, or any other explosive used for amusement purposes, or any other device or composition used to obtain visible or audible pyrotechnic display, all commonly known as fireworks, except as specifically set out herein.
- (B) Fireworks which are not prohibited under state or federal law and which are considered consumer fireworks as defined under federal law and regulations (27 C.F.R. § 555.11) may be sold between June 28th and July 5th of each year, subject to the provisions set out herein. Any person desiring to sell fireworks must obtain a permit. The fee for each permit shall be \$225.00 per location. One-half (½) of the permit fee (\$112.50) shall be placed in a revenue account of the Fayetteville Fire Department to cover the cost of fire inspections of locations where fireworks are sold. Before a permit to sell fireworks is issued, the person applying for the permit must show proof that such location will be insured by a licensed insurance company for \$1,000,000.00 premises liability. A vendor must contact the Fayetteville Fire Department and arrange for an inspection to ensure compliance with this Code and any other applicable fire code requirements, prior to the sale of fireworks.
- (C) No fireworks shall be sold or stored within a permanent structure. Furthermore, no fireworks stand shall be located at any place other than one in full compliance with all provisions of law.
- (D) Fireworks stands shall not be located within 250 feet of a fuel dispensing facility and must be set back at least 50 feet from the nearest portion of the street or highway.
- (E) Fireworks shall not be sold to a person less than sixteen (16) years of age.

(Ord. No. 5320, 5-18-10)

91.10 Fees/Schedule

(A) Fees. Fees shall be imposed, as set forth below, to cover a portion of the cost incurred in connection with processing applications, plan reviews, amendments, permits, acceptance inspections and other matters pertaining to fire protection and fire protection systems in the City of Fayetteville.

(B) Fee Schedule.

Indoor Pyrotechnic and Special Effects Permit	\$34.00
Blasting Permit	\$34.00
Fire Alarm and Detection System Permit	\$119.00
Fire Sprinkler System Permit (NFPA 13 or NFPA 13R systems)	\$119.00
Fire Sprinkler System Permit (NFPA 13D system)	\$10.00
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Tent Inspection Permit	\$34.00

94.09 Sale Of Fireworks

- (A) No person shall sell or distribute any firecrackers, sky rockets, bottle rockets, sparklers, roman candles, or any other explosive used for amusement purposes, or any other device or composition used to obtain visible or audible pyrotechnic display, all commonly known as fireworks, except as specifically set out herein.
- (B) Fireworks which are not prohibited under state or federal law and which are considered consumer fireworks as defined under federal law and regulations (27 C.F.R. § 555.11) may be sold between June 28th and July 5th of each year, subject to the provisions set out herein. Any person desiring to sell fireworks must obtain a permit. The fee for each permit shall be ~~\$500~~\$225.00 per location. One-half (½) of the permit fee (~~\$250~~\$112.00~~\$50~~) shall be placed in a revenue account of the Fayetteville Fire Department to cover the cost of fire inspections of locations where fireworks are sold. Before a permit to sell fireworks is issued, the person applying for the permit must show proof that such location will be insured by a licensed insurance company for \$1,000,000.00 premises liability. A vendor must contact the Fayetteville Fire Department and arrange for an inspection to ensure compliance with this Code and any other applicable fire code requirements, prior to the sale of fireworks.
- (C) No fireworks shall be sold or stored within a permanent structure. Furthermore, no fireworks stand shall be located at any place other than one in full compliance with all provisions of law.
- (D) Fireworks stands shall not be located within 250 feet of a fuel dispensing facility and must be set back at least 50 feet from the nearest portion of the street or highway.
- (E) Fireworks shall not be sold to a person less than sixteen (16) years of age.

(Ord. No. 5320, 5-18-10)

91.10 Fees/Schedule

(A) Fees. Fees shall be imposed, as set forth below, to cover a portion of the cost incurred in connection with processing applications, plan reviews, amendments, permits, acceptance inspections and other matters pertaining to fire protection and fire protection systems in the City of Fayetteville.

(B) Fee Schedule.

<u>Indoor Pyrotechnic and Special Effects Permit</u>	<u>\$34.00</u>
<u>Blasting Permit</u>	<u>\$34.00</u>
<u>Fire Alarm and Detection System Permit</u>	<u>\$119.00</u>
<u>Fire Sprinkler System Permit (NFPA 13 or NFPA 13R systems)</u>	<u>\$119.00</u>
<u>Fire Sprinkler System Permit (NFPA 13D system)</u>	<u>\$10.00</u>
<u>Alternative Automatic Fire Extinguishing System Permit</u>	<u>\$25.00</u>
<u>Fire Performance Permit</u>	<u>\$8.00</u>
<u>Tent Inspection Permit</u>	<u>\$34.00</u>



113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Resolution: 182-24

File Number: 2024-222

IMPLEMENT USER FEE STUDY RECOMMENDATIONS (RESOLUTION OF INTENT):

A RESOLUTION OF INTENT TO IMPLEMENT THE RECOMMENDATIONS OF THE 2024 USER FEE STUDY INCLUDING A FULL COST RECOVERY MODEL, ESTABLISHMENT OF A MASTER FEE SCHEDULE, AND ANNUAL ADJUSTMENT

WHEREAS, Fayetteville has a long and well-established history of charging user fees for a number of City services, including those associated with development review; and

WHEREAS, documentation from as early as the 1980s indicates codified fees for project classes that are still familiar today: lot splits, preliminary plats, large scale developments, and others; and

WHEREAS, in mid-1991, a formal user fee study was initiated but, following a change in the form of Fayetteville's form of municipal government between 1991 and 1992, implementation was delayed with only portions adopted in the mid-1990's; and

WHEREAS, in 2003, the City Council approved a contract for a second user fee study, an element of which focused on Planning and Building Safety; and

WHEREAS, in June 2005, the City Council approved a User Fee Cost Recovery Policy for City Services, but no discernable action was taken, with many fees from 2004 remaining as they existed in 2004; and

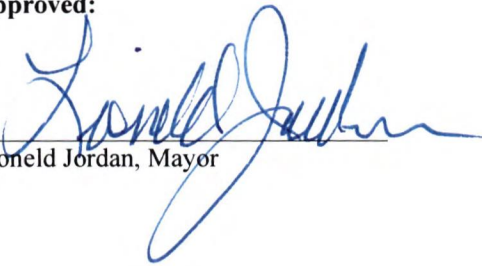
WHEREAS, in February 2023, the City Council approved a contract with MGT for an updated user fee study whose core objectives include evaluating and improving the current fee structure, defining the cost of City services, and recommending fees based on the cost of service.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby expresses its intent to implement the recommendations of the 2024 User Fee Study including a full cost recovery model, establishment of a master fee schedule, and annual adjustment.

PASSED and APPROVED on July 2, 2024

Approved:


Lioneld Jordan, Mayor

Attest:


Kara Paxton, City Clerk Treasurer





MEETING OF MARCH 11, 2025

TO: Mayor Rawn and City Council

THRU: Keith Macedo, Interim Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Donna Wonsower, Planner

SUBJECT: **VACATION-2025-0001: (1278 W. VAN ASCHE DR./LISA ACADEMY HIGH SCHOOL, 171):**

RECOMMENDATION:

Staff recommends approval of **VAC-2025-0001** as shown in the attached Exhibits 'A' and 'B', and with the following condition of approval:

1. Any damage or relocation of existing facilities will be at the property owner/developer's expense;

BACKGROUND:

The subject property is in north Fayetteville, northeast of the intersection of S. McGuire St. and W. Van Asche Dr. The property is zoned C-2, Thoroughfare Commercial, and contains approximately 9.18 acres. It is currently developed with a 46,000-square foot elementary school and associated parking known as Lisa Academy (LSD-2021-000044). A large-scale development for a 71,800-square-foot middle and high school and associated parking was approved by the Planning Commission on August 26, 2024 (LSD-2024-0016).

Request: The applicant proposes to vacate a portion of a sanitary sewer easement along W. Van Asche Dr. that was dedicated in 1994.

DISCUSSION:

City of Fayetteville staff recommend in favor of the requested easement vacation. The applicant submitted all necessary franchise utility approvals without objections. Any new easements necessary for the construction of the proposed school will be dedicated through an associated easement plat.

BUDGET/STAFF IMPACT:

NA

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Cover Letter (#6), Petition to Vacate (#7), Easement Exhibit (#8)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2025-274

VACATION-2025-0001: (1278 W. VAN ASCHE DR./LISA ACADEMY HIGH SCHOOL, 171):

AN ORDINANCE TO APPROVE VAC-25-01 FOR PROPERTY LOCATED AT 1278 WEST VAN ASCHE DRIVE IN WARD 2 TO VACATE 0.06 ACRES OF SANITARY SEWER EASEMENT

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of sanitary sewer easement is not required for corporate purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates the portion of sanitary sewer easement as described in Exhibit B attached to the Planning Department's memo.

Section 2: A copy of this Ordinance duly certified by the City Clerk along with the map attached as Exhibit A to the Planning Department's memo shall be filed in the office of the Washington County Circuit Clerk.

Section 3: This vacation approval is subject to the ongoing condition that any damage to or relocation of existing facilities will be at the property owner/developer's expense.

City of Fayetteville Staff Review Form

2025-274

Item ID

3/18/2025

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jonathan Curth

2/28/2025

DEVELOPMENT SERVICES (620)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

VAC-2025-0001: Vacation (1278 W. VAN ASCHE DR./LISA ACADEMY HIGH SCHOOL, 171): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at 1278 W. VAN ASCHE DR in WARD 2. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 9.18 acres. The request is to vacate 0.06 acres of sanitary sewer easement.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:

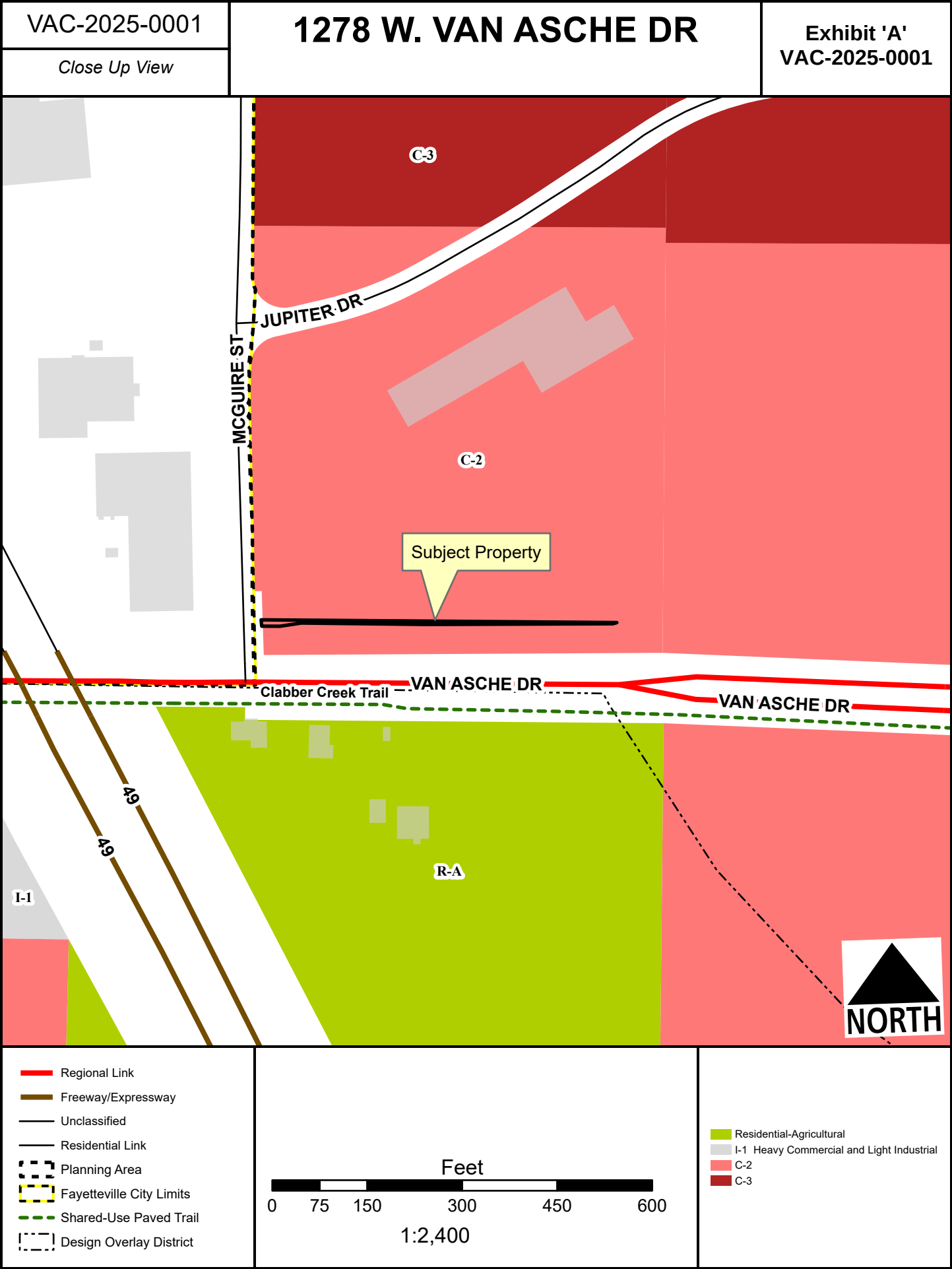


Exhibit 'B'

VAC-2025-0001

SANITARY SEWER UTILITY EASEMENT VACATION DESCRIPTION:

An easement vacation of part of a 20-foot-wide sanitary sewer easement dedicated per easement plat 24-435, said easement vacation being a part of the West Half (W 1/2) of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of Section 27, Township 17 North, Range 30 West, Washington County, Arkansas, and said easement vacation being more particularly described as follows:

Commencing (POC) at the Southwest corner of the W 1/2 of the SW 1/4 of said NW 1/4, thence along the west line of said West 1/2, N02°29'17"E, 103.20 feet; thence leaving said west line, S87°33'44"E, 23.90 feet to the POINT OF BEGINNING (P.O.B. ESMT VACATION); thence S87°33'44"E, 561.83 feet; thence S75°17'19"W, 6.64 feet; thence N88°14'39"W, 294.02 feet; thence N87°19'35"W, 198.04 feet; thence S83°35'22"W, 33.82 feet; thence N88°02'06"W, 28.90 feet; thence N03°54'05"W, 10.15 feet; to the POINT OF BEGINNING (P.O.B. ESMT VACATION), containing 2,633 sq. ft., or 0.06 acres. Subject to any easements, rights-of-way, or covenants of record.

January 27, 2025

City Council
125 W. Mountain Street
Fayetteville, AR 72701

RE: Utility Easement Vacation Request for Lisa Academy High School

City Council,

Please accept this Utility Easement Vacation request for the Lisa Academy High School development located at 1278 W Van Asche Dr in Fayetteville. This Utility Easement Vacation request is to remove a portion of the existing City of Fayetteville sanitary sewer utility easement dedicated to the City of Fayetteville. The existing utility easement is located approximately 41 feet north of the Van Asche Dr right-of-way, with the Utility Easement Vacation area in question being approximately 2,633 sq ft. The intent of this request is to allow the utility easement to be more correctly aligned with a proposed sewer main routing traversing the subject property to facilitate connection of an adjacent property to the City's public infrastructure.

If you should have any questions, please do not hesitate to contact me. We appreciate your continued support of this project.

Sincerely,
McClelland Consulting Engineers, Inc.



James Dibble
Assistant Project Manager
(479) 443.2377
jdibble@mce.us.com



1580 East Stearns Street
Fayetteville, AR 72703
(479) 443.2377 P | (479) 443.9241 F
mce.us.com

January 27, 2025

Fayetteville City Council
RE: 1278 W. Van Asche Drive Utility Easement Vacation Petition

**PETITION TO PARTIALLY VACATE A UTILITY EASEMENT LOCATED IN THE 27-17-30
FAYETTEVILLE OUTLOTS, CITY OF FAYETTEVILLE, ARKANSAS**

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in the 27-17-30 Fayetteville Outlots, City of Fayetteville, Arkansas, a municipal corporation, petition to partially vacate a utility easement which is as follows:

EASEMENT VACATION DESCRIPTION:

An easement vacation of part of a 20-foot-wide sanitary sewer easement dedicated per easement plat 24-435, said easement vacation being a part of the West Half (W 1/2) of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of Section 27, Township 17 North, Range 30 West, Washington County, Arkansas, and said easement vacation being more particularly described as follows:

Commencing (POC) at the Southwest corner of the W 1/2 of the SW 1/4 of said NW 1/4, thence along the west line of said West 1/2, N02°29'17"E, 103.20 feet; thence leaving said west line, S87°33'44"E, 23.90 feet to the POINT OF BEGINNING (P.O.B. ESMT VACATION); thence S87°33'44"E, 561.83 feet; thence S75°17'19"W, 6.64 feet; thence N88°14'39"W, 294.02 feet; thence N87°19'35"W, 198.04 feet; thence S83°35'22"W, 33.82 feet; thence N88°02'06"W, 28.90 feet; thence N03°54'05"W, 10.15 feet; to the POINT OF BEGINNING (P.O.B. ESMT VACATION), containing 2,633 sq. ft., or 0.06 acres. Subject to any easements, rights-of-way, or covenants of record.

That the abutting real estate affected by said partial abandonment of the utility easement are a part of the 27-17-30 Fayetteville Outlots, City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above-described easement.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above-described real estate, subject, however, to existing easements as required, and that the above-described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above-described real estate be vested in the abutting property owners as provided by law.

RE: 151 W. Dickson Street Multi-family
Access Easement Vacation Petition

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above-described real estate, subject to said easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said real estate.

Sincerely,
KLS Leasing II, LLC

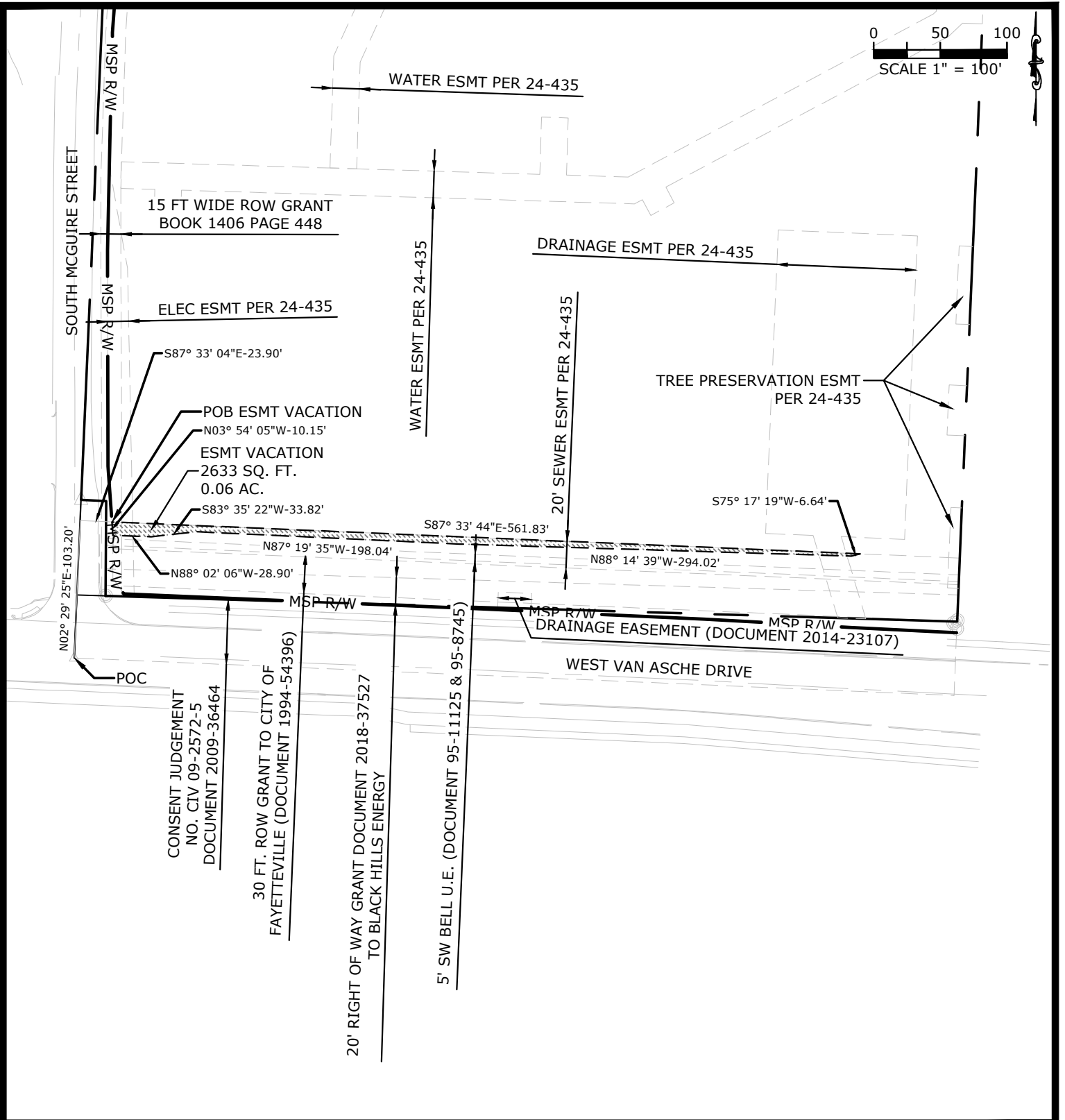
Signed by:

Jeff Dean

BA4DF5F423014CC...

President

W:\2024\24-2122 EASEMENT VACATION\242122 EASEMENT VACATION.DWG



LEGEND

765-15773-803 ——— TAX PARCEL NUMBER
2021-35844 ——— DEED RECORD
- - - - - EXISTING PROPERTY LINE

——— EXISTING EASEMENT
- - - - - EASEMENT TO BE VACATED

BASIS OF BEARINGS: ARKANSAS STATE PLANE COORDINATE SYSTEM, NAD 83, NORTH ZONE. (NOT A PLAT OF SURVEY)

PROJ. MANAGER:	DRAWN BY:
JD	DB
DATE:	REVISION:
01/14/25	
SCALE:	PROJ. NUMBER:
AS NOTED	242122

EXHIBIT "A"
MAP

LISA ACADEMY
FAYETTEVILLE, ARKANSAS

KLS LEASING II LLC

MCE McCLELLAND
CONSULTING
ENGINEERS, INC.
1580 E. STEARNS ST.
FAYETTEVILLE, AR 72703
(479) 443-2377
HTTP://WWW.MCE.US.COM

EX-1

©2025



MEETING OF MARCH 11, 2025

TO: Mayor Rawn and City Council

THRU: Keith Macedo, Interim Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Donna Wonsower, Planner

SUBJECT: **VACATION-2024-0028: (1001 W BULLDOG BLVD./FAYETTEVILLE HIGH SCHOOL, 522):**

RECOMMENDATION:

Staff recommends approval of **VAC-2024-0028** as shown in the attached Exhibits 'A' and 'B', and with the following condition of approval:

1. Any damage or relocation of existing facilities will be at the property owner/developer's expense;

BACKGROUND:

The subject property is located on the Fayetteville High School campus at the southeast corner of the intersection of W. Bulldog Blvd. and S. Stadium Dr. A large-scale development for a 453-stall parking garage to serve the Fayetteville High School campus was approved by the Planning Commission on January 30, 2025.

Request: The applicant proposes to vacate a utility easement that was dedicated in 2011 with the expansion of the Fayetteville High School.

DISCUSSION:

City of Fayetteville staff recommends in favor of the requested easement vacation. The applicant submitted all the necessary franchise utility approvals without objections facility-specific conditions. Any new easements necessary for the construction of the proposed parking garage will be dedicated through an associated easement plat.

BUDGET/STAFF IMPACT:

NA

ATTACHMENTS: SRF (#3) , Exhibit A (#4), Exhibit B (#5), Cover Letter (#6), Petition to Vacate (#7), Easement Exhibit (#8)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2025-273

VACATION-2024-0028: (1001 W BULLDOG BLVD./FAYETTEVILLE HIGH SCHOOL, 522):

AN ORDINANCE TO APPROVE VAC-24-28 FOR PROPERTY LOCATED AT 1001 WEST BULLDOG BOULEVARD IN WARD 1 TO VACATE 0.05 ACRES OF UTILITY EASEMENT

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of utility easement is not required for corporate purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates the portion of utility easement as described in Exhibit B attached to the Planning Department's memo.

Section 2: A copy of this Ordinance duly certified by the City Clerk along with the map attached as Exhibit A to the Planning Department's memo shall be filed in the office of the Washington County Circuit Clerk.

Section 3: This vacation approval is subject to the ongoing conditions that any damage to or relocation of existing facilities will be at the property owner/developer's expense.

City of Fayetteville Staff Review Form

2025-273

Item ID

3/18/2025

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jonathan Curth

2/28/2025

DEVELOPMENT SERVICES (620)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

VAC-2024-0028: Vacation (1001 W BULLDOG BLVD/FAYETTEVILLE HIGH SCHOOL, 522): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at 1001 W. BULLDOG BLVD in WARD 1. The property is zoned P-1, INSTITUTIONAL and contains approximately 18.01 acres. The request is to vacate 0.05 acres of utility easement.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

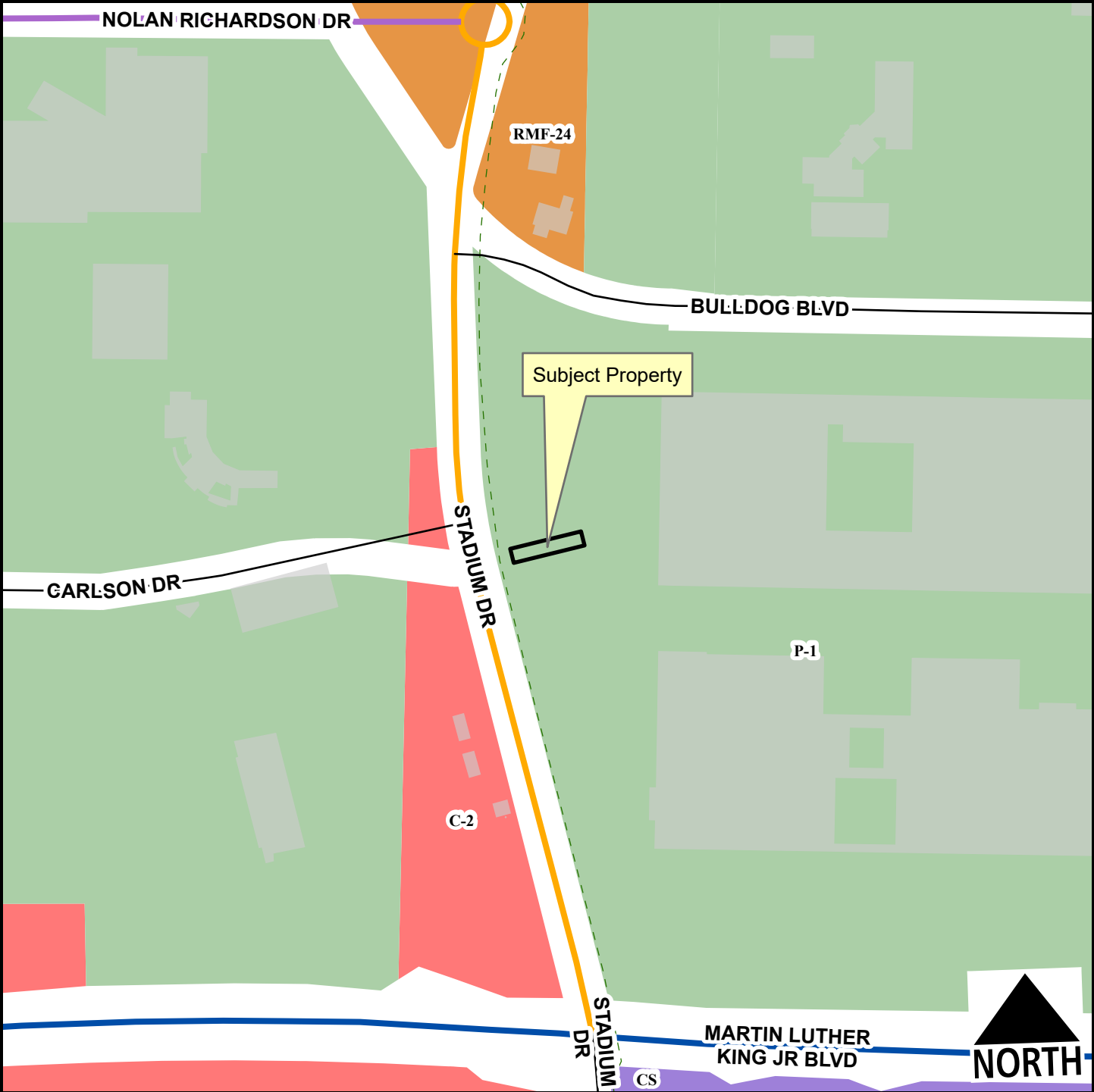
Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



- Neighborhood Link - Institutional Master Plan - Regional Link - High Activity - Residential Link - Planning Area - Fayetteville City Limits - Trail (Proposed)	Feet 0 75 150 300 450 600 1:2,400	- RMF-24 - C-2 - Community Services - P-1
--	--	--

Exhibit 'B'
VAC-2024-0028

PROPERTY DESCRIPTION PER EASEMENT PLAT 2011-00007587

A PART OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SW1/4) AND A PART OF THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 16, T-16-N, R-30-W, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FROM THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SAID SECTION 16, THENCE SOUTH 87°06'56" EAST A DISTANCE OF 30.77 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF GARLAND AVENUE FOR THE POINT OF BEGINNING, THENCE SOUTH 0°02'05" WEST ALONG SAID EAST RIGHT OF WAY LINE A DISTANCE OF 265.46 FEET; THENCE SOUTH 12°23'08" EAST CONTINUING ALONG SAID EAST RIGHT OF WAY LINE A DISTANCE OF 696.05 FEET TO THE NORTH RIGHT OF WAY LINE OF MARTIN LUTHER KING BOULEVARD; THENCE SOUTH 84°27'08" EAST ALONG SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 25.97 FEET; THENCE SOUTH 83°11'48" EAST CONTINUING ALONG SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 100.02 FEET; THENCE SOUTH 87°11'11" EAST CONTINUING ALONG SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 589.58 FEET TO THE WEST RIGHT OF WAY LINE OF BUCHANAN AVENUE; THENCE NORTH 2°38'19" EAST ALONG SAID WEST RIGHT OF WAY LINE A DISTANCE OF 938.94 FEET TO THE SOUTH RIGHT OF WAY LINE OF STONE STREET; THENCE NORTH 87°06'56" WEST ALONG SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 736.28 FEET; THENCE NORTH 2°53'04" EAST CONTINUING ALONG SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 5.00 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SAID SECTION 16; THENCE CONTINUING ALONG SAID SOUTH RIGHT OF WAY LINE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 408.06 FEET, AN ARC DISTANCE OF 198.80 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 60°26'50" WEST - 196.85 FEET TO THE EAST RIGHT OF WAY LINE OF GARLAND AVENUE; THENCE SOUTH 0°02'05" WEST ALONG SAID EAST RIGHT OF WAY LINE A DISTANCE OF 88.46 FEET TO THE POINT OF BEGINNING, CONTAINING 18.07 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. SUBJECT TO ALL EASEMENTS AND/OR RIGHTS OF WAY OF RECORD.

IT IS THE INTENT THAT ALL LANDS DESCRIBED ABOVE IS BOUND BY THE SOUTH RIGHT OF WAY LINE OF STONE STREET, THE EAST RIGHT OF WAY LINE OF GARLAND AVENUE, THE NORTH RIGHT OF WAY LINE OF MARTIN LUTHER KING BOULEVARD, AND THE WEST RIGHT OF WAY LINE OF BUCHANAN AVENUE.

EASEMENT VACATION DESCRIPTION

PART OF A VARIABLE WIDTH UTILITY EASEMENT, DEDICATED PER EASEMENT PLAT 2011-00007587 OF THE PUBLIC RECORDS OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING (POC) AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER (SW1/4), OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 16, TOWNSHIP 16 NORTH, RANGE 30 WEST;
THENCE SOUTH 87°06'56" EAST, A DISTANCE OF 30.77 FEET TO THE EAST RIGHT-OF-WAY LINE OF SOUTH STADIUM DRIVE;

THENCE ALONG SAID EAST LINE, SOUTH 00°02'05" WEST, A DISTANCE OF 218.97 FEET;
THENCE LEAVING SAID EAST LINE, SOUTH 12°23'08" EAST, A DISTANCE OF 98.83 FEET TO THE POINT OF
BEGINNING (POB EASEMENT VACATION);
THENCE NORTH 78°07'07" EAST, A DISTANCE OF 100.38 FEET;
THENCE SOUTH 11°52'53" EAST, A DISTANCE OF 20.00 FEET;
THENCE SOUTH 78°07'07" WEST, A DISTANCE OF 100.20 FEET;
THENCE NORTH 12°23'08" WEST, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING (POB
EASEMENT VACATION). SAID EASEMENT VACATION CONTAINING 2,006 SQUARE FEET, 0.05 ACRES.
SUBJECT TO ALL EASEMENTS AND/OR RIGHTS OF WAY OF RECORD.

December 18, 2024

Development Services

RE: Fayetteville High School Parking Deck – General Utility Easement Vacation

Development Services,

On behalf of Fayetteville Public Schools, a request to vacate a general utility easement is requested as part of the high school parking deck. A general utility easement was dedicated via an easement plat in 2011 associated with the high school's building expansion. Although dedicated, utilities were later revised, no longer requiring said easement. The easement will need to be vacated to allow the placement of the parking deck. No utilities will be affected per this request.

We are committed to ensuring this project aligns with the city's standards and vision. Should you have any questions or require further information, please feel free to contact us directly.

Thank you for your consideration. We look forward to working together on this important development for Fayetteville High School.

Sincerely,

Chris Bakunas, PLA
McClelland Consulting Engineers, Inc.
Land Development Department Head
479-443-2377
cbakunas@mce.us.com

PETITION TO VACATE A general utility/water & sewer EASEMENT LOCATED IN 16-16-30 Fayetteville Outlots, CITY OF FAYETTEVILLE, ARKANSAS

TO: The Fayetteville City Planning Commission and The
Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in *16-16-30 Fayetteville Outlots*, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an easement which is described as follows:

PART OF A VARIABLE WIDTH UTILITY EASEMENT, DEDICATED PER
EASEMENT PLAT 2011-00007587 OF THE PUBLIC RECORDS OF WASHINGTON
COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING (POC) AT THE NORTHWEST CORNER OF THE SOUTHWEST
QUARTER (SW1/4), OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 16,
TOWNSHIP 16 NORTH, RANGE 30 WEST;
THENCE SOUTH 87°06'56" EAST, A DISTANCE OF 30.77 FEET TO THE EAST
RIGHT-OF-WAY LINE OF SOUTH STADIUM DRIVE;
THENCE ALONG SAID EAST LINE, SOUTH 00°02'05" WEST, A DISTANCE OF
218.97 FEET;
THENCE LEAVING SAID EAST LINE, SOUTH 12°23'08" EAST, A DISTANCE OF
98.83 FEET TO THE POINT OF BEGINNING (POB EASEMENT VACATION);
THENCE NORTH 78°07'07" EAST, A DISTANCE OF 100.38 FEET;
THENCE SOUTH 11°52'53" EAST, A DISTANCE OF 20.00 FEET;
THENCE SOUTH 78°07'07" WEST, A DISTANCE OF 100.20 FEET;
THENCE NORTH 12°23'08" WEST, A DISTANCE OF 20.00 FEET TO THE POINT OF
BEGINNING (POB EASEMENT VACATION). SAID EASEMENT VACATION
CONTAINING 2,006 SQUARE FEET, 0.05 ACRES. SUBJECT TO ALL EASEMENTS
AND/OR RIGHTS OF WAY OF RECORD.

That the abutting real estate affected by said abandonment of the alley are *16-16-30 Fayetteville Outlots* City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

Dated this 5th day of February, 2025.

Julie R Williams

Printed Name

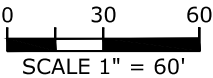
Julie R Williams

Signature

Printed Name

Signature

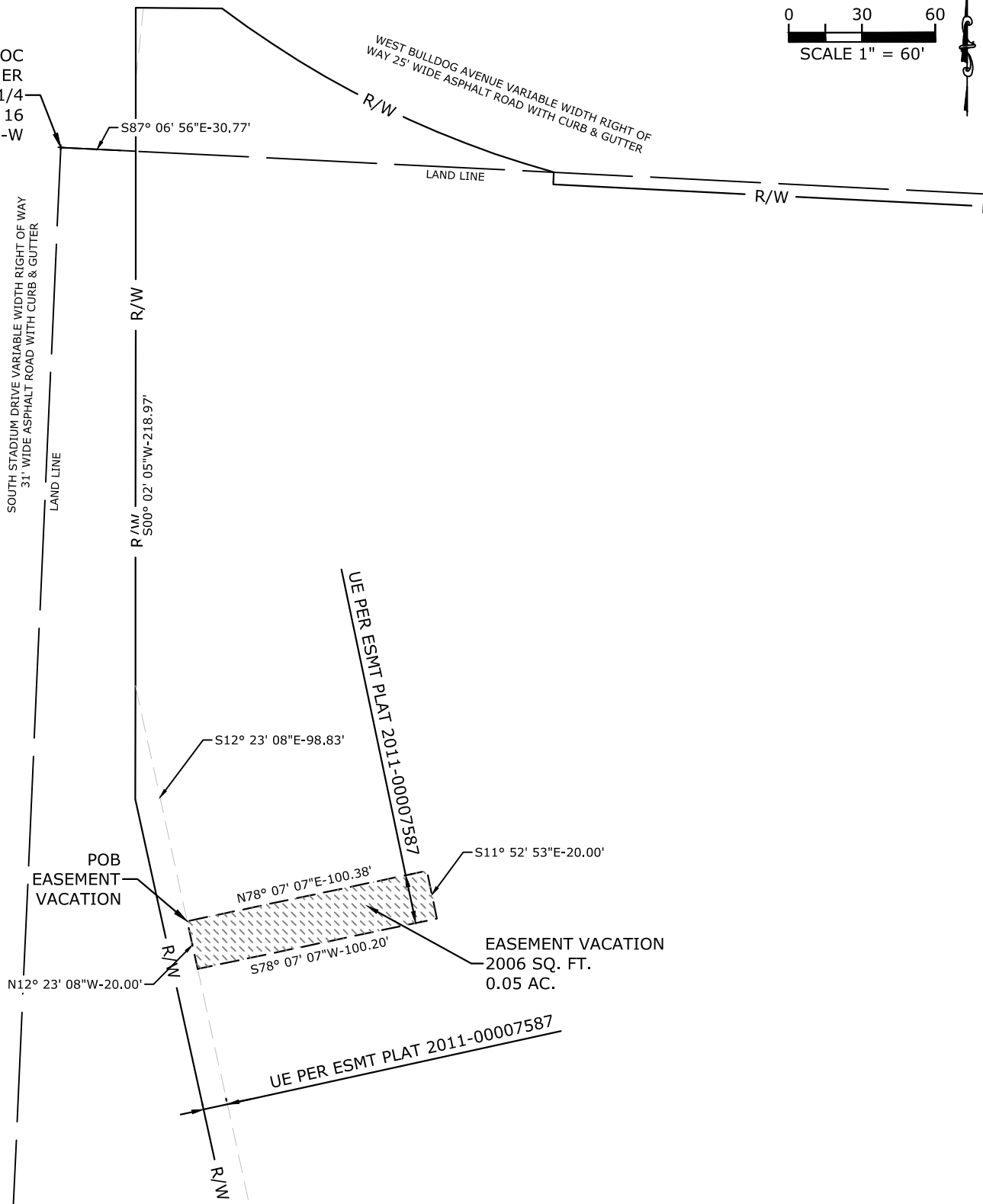
W:\2024\0-SURVEY\JOBS\24-2711 - FAYETTEVILLE PUBLIC SCHOOLS, FAYETTEVILLE HIGH SCHOOL PARKING DECK, FAYETTEVILLE, AR\SURVEY\BOUNDARY\DRAWING\242711 EASEMENT VACATION.DWG



POC
NW CORNER
SW 1/4 SW 1/4
SECTION 16
T-16-N R-30-W

SOUTH STADIUM DRIVE VARIABLE WIDTH RIGHT OF WAY
31' WIDE ASPHALT ROAD WITH CURB & GUTTER

WEST BULLDOG AVENUE VARIABLE WIDTH RIGHT OF WAY
25' WIDE ASPHALT ROAD WITH CURB & GUTTER



LEGEND

765-14448-000 — TAX PARCEL NUMBER

411-202 — DEED RECORD

— R/W — EXISTING RIGHT-OF-WAY LINE

 — UTILITY EASEMENT PER EASEMENT PLAT 2011-00007587 TO BE VACATED

BASIS OF BEARINGS: ARKANSAS STATE PLANE COORDINATE SYSTEM, NAD 83, NORTH ZONE. (NOT A PLAT OF SURVEY)

PROJ. MANAGER:	DRAWN BY:
CB	DB
DATE:	REVISION:
11/07/2024	
SCALE:	PROJ. NUMBER:
AS NOTED	242711

EXHIBIT "A"
MAP

FAYETTEVILLE HIGH SCHOOL
FAYETTEVILLE, ARKANSAS
FAYETTEVILLE SCHOOL DISTRICT # 1

MCE McCLELLAND
CONSULTING
ENGINEERS, INC.
1580 E. STEARNS ST.
FAYETTEVILLE, AR 72703
(479) 443-2377
HTTP://WWW.MCE.US.COM

EX-1

©2024



MEETING OF MARCH 11, 2025

TO: Mayor Rawn and City Council

THRU: Keith Macedo, Interim Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

SUBJECT: **VACATION-2025-0006: (1795 N. LEVERETT AVE./HOGWILDHOUSING LLC, 366):**

RECOMMENDATION:

Staff recommends approval of **VAC-2025-0006** as shown in the attached Exhibits 'A' and 'B.'

BACKGROUND:

The subject property is located on the west side of Leverett Avenue, about one-tenth of a mile north of Sycamore Street. It contains one lot totaling 0.12 acres which is in RSF-8 zoning and developed with a single-family residence built in 2016.

Request: The applicant is requesting to vacate an access easement totaling 0.04 acres which was dedicated as part of a lot split that was approved in 2019.

DISCUSSION:

City staff recommends approval of the requested easement vacation. The subject access easement was dedicated as part of a lot split that was approved in 2019 with the intent of providing access to a neighboring property. However, circumstances have changed and the easement is no longer necessary. The neighboring property has built its own driveway, making the easement unnecessary for shared access. Removing the easement would allow both properties to be fully utilized and avoid future complications if either is sold.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF (#3) , Exhibit A (#4), Exhibit B (#5), Cover Letter (#6), Petition to Vacate (#7), Easement Exhibit (#8)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2025-293

VACATION-2025-0006: (1795 N. LEVERETT AVE./HOGWILDHOUSING LLC, 366):

AN ORDINANCE TO APPROVE VAC-25-06 FOR PROPERTY LOCATED AT 1795 NORTH LEVERETT AVENUE IN WARD 2 TO VACATE 0.04 ACRES OF ACCESS EASEMENT

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of access easement is not required for corporate purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates the portion of access easement as described in Exhibit B attached to the Planning Department's memo.

Section 2: A copy of this Ordinance duly certified by the City Clerk along with the map attached as Exhibit A to the Planning Department's memo shall be filed in the office of the Washington County Circuit Clerk.

City of Fayetteville Staff Review Form

2025-293

Item ID

3/18/2025

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jonathan Curth

2/28/2025

DEVELOPMENT SERVICES (620)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

VAC-2025-0006: Vacation (1795 N. LEVERETT AVE./HOGWILDHOUSING LLC, 366): Submitted by BRENT ETLINGER for property located at 1795 N. LEVERETT AVE. in WARD 2. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE and contains approximately 0.12 acres. The request is to vacate 0.04 acres of access easement.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

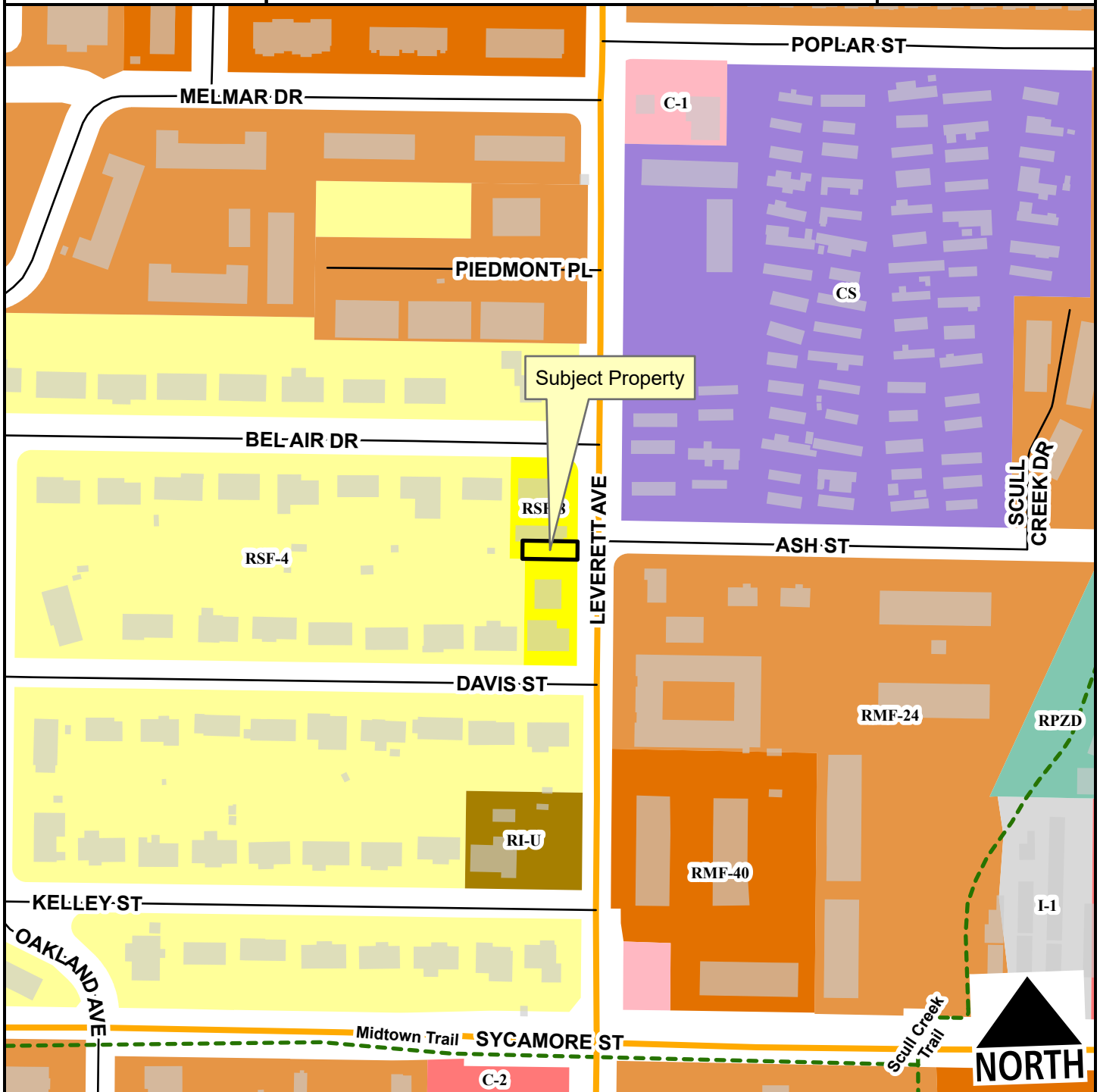
Comments:

VAC-2025-0006

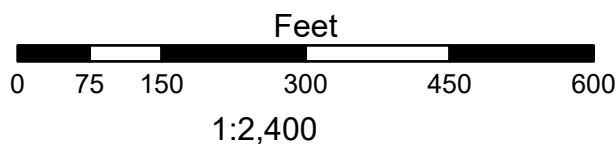
1795 N LEVERETT AVE

VAC-2025-0006
EXHIBIT 'A'

Close Up View



- Neighborhood Link
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail



- RSF-4
- RSF-8
- RI-U
- RMF-24
- RMF-40
- I-1 Heavy Commercial and Light Industrial
- C-1
- C-2
- Community Services
- Commercial, Industrial, Residential

Access Easement Description:

A PART OF LOT NUMBERED 9B IN BLOCK NUMBERED (2) OF BEL AIR ACRES SECOND ADDITION, FAYETTEVILLE, ARKANSAS AS SHOWN ON A PLAT OF A LOT SPLIT FILED AS DOCUMENT 2012-2675, OF THE LAND RECORDS OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT NINE (9) BLOCK TWO (2) OF BEL AIR ACRES SECOND ADDITION; THENCE N87°04'50"W 75.72 FEET ALONG THE SOUTH LINE OF SAID LOT 9B TO A SET ½" IRON REBAR; THENCE N02°50'18"E 25.00 FEET TO A POINT; THENCE S87°04'50"E 75.62 FEET TO A POINT ON THE EAST LINE OF SAID LOT NINE (9), BLOCK TWO (2); THENCE S02°36'16"W 25.00 FEET OT THE POINT OF BEGINNING, CONTAINING 1891.7 SQUARE FEET, MORE OR LESS.

Dear Fayetteville City Council,

I am writing to formally request the removal of a shared access easement on my property located at 1795 N Leverett Ave. This easement was originally established to provide access to a neighboring property, but circumstances have changed, making the easement no longer necessary. The reasons for this request are as follows:

1. The neighboring property has since constructed its own driveway, providing direct access to the public road.
2. The easement is no longer being used for its intended purpose of dual property access.
3. Removing the easement would allow me and my neighbor to fully utilize our properties and prevent any misalignment with future owners should either property be sold.

Our neighbor at 1789 N Leverett Ave is in full agreement with this request.

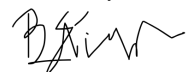
I understand that this process requires the following documents that you will find attached in the online application:

- Two surveys of the property showing the exact location of the easement
- A legal description of the area to be vacated
- Notification to the adjacent property owner and his signed consent

I am prepared to provide any additional documentation or information required to process this request. I believe that vacating this easement is in the best interest of all parties involved and would not adversely affect public welfare or access.

Thank you for your time and consideration of this matter. I look forward to discussing this request further and answering any questions you may have.

Sincerely,



Brent Etlinger

Owner, HogWildHousing LLC

PETITION

PETITION TO VACATE AN ACCESS EASEMENT LOCATED IN A PART OF LOT NUMBERED 9B IN BLOCK NUMBERED TWO OF BEL AIR ACRES SECOND ADDITION IN THE CITY OF FAYETTEVILLE, ARKANSAS

TO: The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the access easement hereinafter sought to be vacated, lying in a part of lot numbered 9B in block numbered two of Bel Air Acres Second Addition in the City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an access easement which is described as follows:

A part of lot numbered 9B in block numbered two (2) of Bel Air Acres Second Addition, Fayetteville, Arkansas, as shown on a plat of a lot split filed as document 2012-2675, of the land records of Washington County, Arkansas, and being more particularly described as follows: beginning at the southeast corner of lot nine (9), block two (2) of Bel Air Acres Second Addition; thence N87°04'50"W 75.72 feet along the south line of said lot 9B to a set 1/2" iron rebar; thence N02°50'18"E 25.00 feet to a point; thence S87°04'50"E 75.62 feet to a point on the east line of said lot nine (9), block two (2); thence S02°36'16"W 25.00 feet to the point of beginning, containing 1891.7 square feet, more or less.

That abutting real estate and the public interest and welfare would not be adversely affected by the vacation of the portion of the above described access easement.

The petitioners pray that the City of Fayetteville, Arkansas, vacate the above described access easement, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the appropriate property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, vacate the above described access easement, and that title to said real estate sought to be vacated be vested in the appropriate property owners as provided by law.

Dated this 26 day of February, 2025.

Hog Wild Husings LLC

Printed Name

By: Brent Etlinger - Managing Member

Signature



500-16N-30W-0-04-330-72-1612

500-16N-30W-0-04-330-72-1612



MEETING OF MARCH 11, 2025

TO: Mayor Rawn and City Council

THRU: Keith Macedo, Interim Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Donna Wonsower, Planner

SUBJECT: **REZONING-2025-0001: (903 W. NORTH ST./JORDAN GROUP LLC, 444):**

RECOMMENDATION:

City Planning staff and the Planning Commission recommend approval of a request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:

The subject property is in central Fayetteville at the intersection of W. North Street and N. Storer Avenue. The property is zoned R-O, Residential Office and overall contains approximately 0.11 acres over three parcels. The property is developed with a 1700-square foot, vacant structure that County records indicate was used as a veterinary hospital. No overlay districts or other natural features are present on site, but there is an approximately 20% downward slope from south to W. North Street, and there is significant tree canopy on the undeveloped portions of the site. A site improvement plan for a ten-unit townhome development which includes a larger 0.50-acre subject area is currently under review (SIP-2024-0008) and an associated right-of-way vacation request was approved by City Council on February 18, 2025 (VAC-2024-0027).

Request: The request is to rezone the subject property from R-O, Residential Office to RMF-40, Residential Multifamily, Forty Units per Acre.

Public Comment: Staff did not receive any public comment relating to the rezoning request.

Land Use Compatibility: Staff finds that the requested rezoning is compatible with surrounding land uses. The subject property is located near central Fayetteville north of the University of Arkansas main campus. The RMF-40 zoning designation requested for this property matches the properties to the south, east, and west, and is generally surrounded by either multifamily residential or commercial uses when considering the wider area. The subject property is also near institutional uses such as Saint James Baptist Church, the University of Arkansas, and Leverett Elementary School, and neighborhood services such as Harps Grocery and the Razorback Greenway. Staff finds that rezoning the corner to align with the surrounding zoning is unlikely to negatively impact surrounding properties.

Land Use Plan Analysis: Staff finds that a rezoning to RMF-40 would be consistent with the City's adopted land use plans. City Plan 2040's Future Land Use Map designates the property as City Neighborhood. The property also has 11 attributes in the infill matrix and is located approximately 800 feet from a Tier 2 center at the intersection of W. North St. and N. Garland Ave. City Plan 20240 describes Tier 2 centers as "exist[ing] to

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

provide services and employment to residents within two to three miles [and] characterized by housing that ranges from one- to three-story detached dwellings, duplexes, row houses, and mid-rise apartments.” Staff finds that the requested RMF-40 zoning is in line with this designation and would allow for increased development in character with surrounding properties and its proximity to a regional high activity link street.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040’s Infill Matrix indicates a score of **11** for this site. The following elements of the matrix contribute to the score:

1. Adequate Fire Response (Station 2, located at 138 W. North St.)
2. Near Sewer Main (6-inch main in N. Storer Ave.)
3. Near Water Main (10-inch main in W. North St.)
4. Near Grocery Store (Harps)
5. Near Public School (Leverett Elementary)
6. Near U of A Campus
7. Near City Park (Scull Creek Parkland)
8. Near Paved Trail (Garland Ave Trail, Razorback Greenway.)
9. Near Razorback Transit Stop (Colonial Arms, South Creekside, Harps)
10. Appropriate Future Land Use
11. Sufficient Intersection Density

DISCUSSION:

At the February 24, 2025 Planning Commission meeting, a vote of 6-0-0 forwarded the request to City Council with a recommendation of approval. Commissioner Payne motioned and Commissioner Werner seconded. There was no discussion and no members of the public spoke at the meeting.

BUDGET/STAFF IMPACT:

NA

ATTACHMENTS: SRF (#3) , Exhibit A (#4), Exhibit B (#5), Staff Report (#6)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2025-262

REZONING-2025-0001: (903 W. NORTH ST./JORDAN GROUP LLC, 444):

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2025-01 FOR APPROXIMATELY 0.11 ACRES LOCATED AT 903 WEST NORTH STREET IN WARD 2 FROM R-O, RESIDENTIAL-OFFICE TO RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from R-O, Residential-Office to RMF-40, Residential Multi-Family, 40 Units Per Acre.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.

City of Fayetteville Staff Review Form

2025-262

Item ID

3/18/2025

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jonathan Curth

2/28/2025

DEVELOPMENT REVIEW (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN-2025-0001: Rezoning (903 W. NORTH ST/JORDAN GROUP LLC, 444): Submitted by BATES & ASSOCIATES for property located at 903 W. NORTH ST in WARD 2. The property is zoned R-O, RESIDENTIAL-OFFICE and contains approximately 0.11 acres. The request is to rezone the property to RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

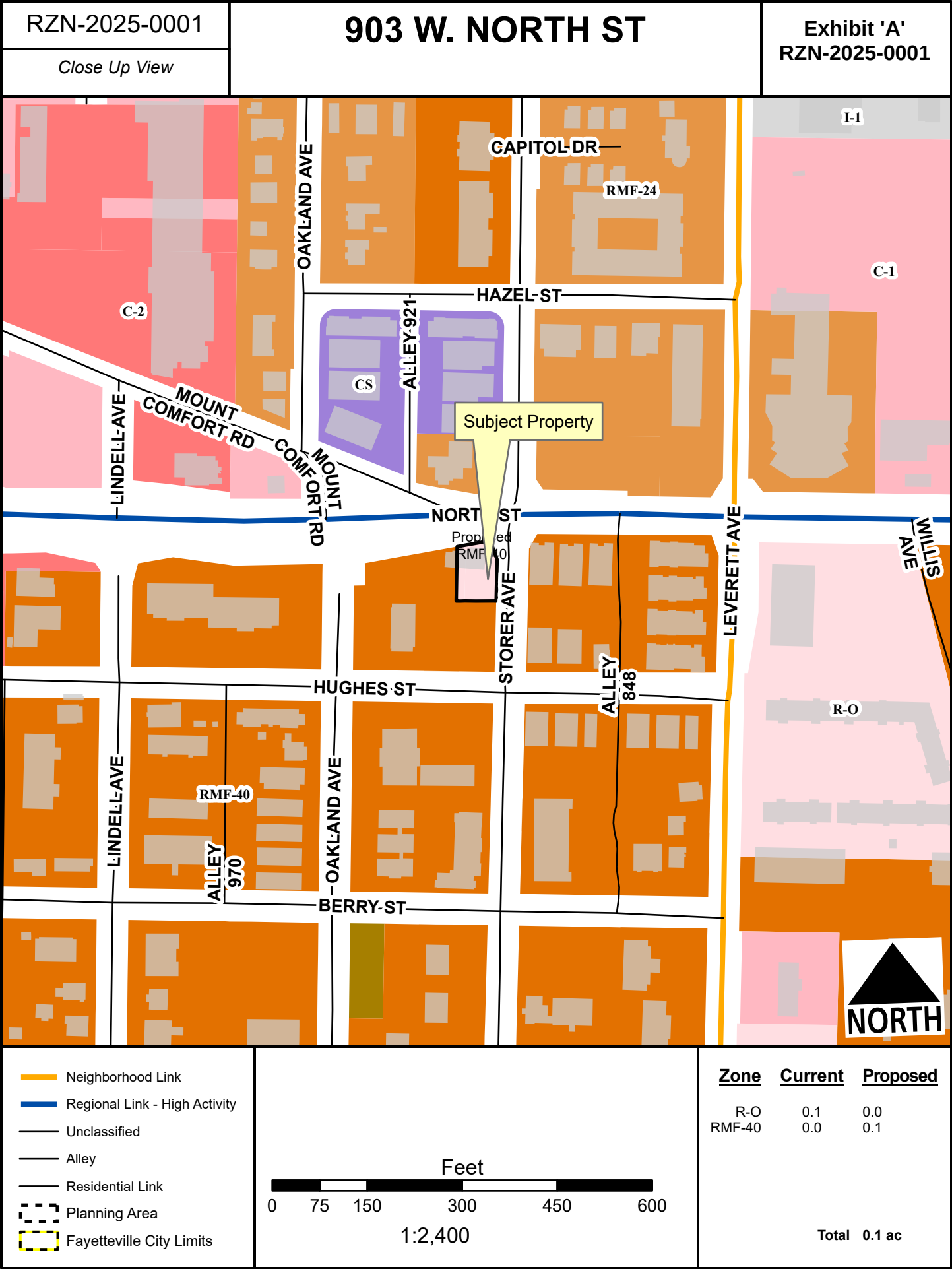
Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



RZN-2025-0001

Close Up View

903 W. NORTH ST

Exhibit 'A'
RZN-2025-0001

CAPITOL DR

RMF-24

I-1

C-1

C-2

CS

Subject Property

NORTH ST

Proposed
RMF-40

HUGHES ST

RMF-40

ALLEY
970

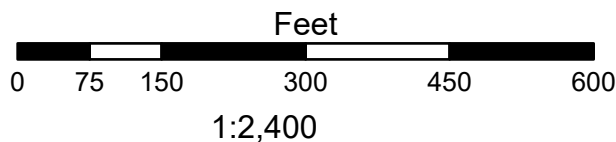
BERRY ST

ALLEY
848

R-O



- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Planning Area
- Fayetteville City Limits



Zone	Current	Proposed
R-O	0.1	0.0
RMF-40	0.0	0.1

Total 0.1 ac

Exhibit 'B'
RZN-2025-0001

LEGAL DESCRIPTION FOR PROPOSED REZONE (PARCELS #765-10316-000,
#765-10318-000 AND #765-10321-000):

A PART OF LOTS 1 AND 2, BLOCK 2 OF ROSE HILL ADDITION TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS N02°55'56"E 112.47' AND S86°50'37"E 163.20' FROM AN EXISTING REBAR MARKING THE SOUTHWEST CORNER OF LOT 5 OF SAID BLOCK 2 AND RUNNING THENCE N03°09'48"E 76.21' TO THE SOUTH RIGHT-OF-WAY OF WEST NORTH STREET, THENCE ALONG SAID RIGHT-OF-WAY N83°29'04"E 52.00' TO AN EXISTING REBAR, THENCE CONTINUING ALONG SAID RIGHT-OF-WAY S18°07'22"E 32.11', THENCE LEAVING SAID RIGHT-OF-WAY S03°27'23"W 55.02', THENCE N86°50'37"W 62.64' TO THE POINT OF BEGINNING, CONTAINING 0.11 ACRES, MORE OR LESS. SUBJECT TO THAT PORTION IN NORTH STORER AVENUE MASTER STREET PLAN RIGHT-OF-WAY ON THE EAST SIDE OF HEREIN DESCRIBED TRACT AND ALSO SUBJECT TO ALL OTHER EASEMENTS AND RIGHTS-OF-WAY OF RECORD.



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: February 24, 2025 (UPDATED WITH MEETING RESULTS)

SUBJECT: **RZN-2025-0001: Rezoning (903 W. NORTH ST/JORDAN GROUP LLC, 444):** Submitted by BATES & ASSOCIATES for property located at 903 W. NORTH ST. The property is zoned R-O, RESIDENTIAL-OFFICE and contains approximately 0.11 acres. The request is to rezone the property to RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE

RECOMMENDATION:

Staff recommends forwarding **RZN-2025-0001** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2025-0001** to the City Council with a recommendation of approval."*

BACKGROUND:

The subject property is in central Fayetteville at the intersection of W. North Street and N. Storer Avenue. The property is zoned R-O, Residential Office and overall contains approximately 0.11 acres over three parcels. The property is developed with a 1700 sq. ft. vacant structure that County records indicate was used as a veterinary hospital, but which is currently vacant. No overlay districts or other natural features are present on site, but there is an approximately 20% change in grade moving as the property moves south from W. North Street, and there is significant tree canopy on the undeveloped portions of the site. A site improvement plan for a ten-unit townhome development which includes a larger 0.50-acre subject area is currently under review (SIP-2024-0008) and an associated right-of-way vacation request was approved by City Council on February 18, 2025 (VAC-2024-0027). Surrounding land uses and zoning are depicted below in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Commercial/Mixed-Density Residential	C-1, Neighborhood Commercial; C-2, Thoroughfare Commercial; CS, Community Services; RMF-24, Residential Multi-Family, 24 Units Per Acre
South	Multi-Family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre
East	Multi-Family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre
West	Multi-Family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre

Request: The request is to rezone the subject property from R-O, Residential Office to RMF-40, Residential Multifamily, Forty Units per Acre.

Public Comment: Staff has not received any public comment at this time.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW:

Streets: The subject property has frontage to W. North St. and N. Storer Ave. W. North St. is a partially improved regional link high activity street with asphalt paving, curb and gutter, storm drain, and sidewalk at back of curb. N. Storer Ave. is a partially improved residential link street with asphalt paving and curb and gutter along the property's frontage. Any street or drainage improvements required in these areas would be determined at the time of development proposal.

Water: Public water is available to the subject property. There is an existing 6-inch water main present at the southeast corner of the property along N. Storer Ave.

Sewer: Sanitary Sewer is available to the subject property. There is an existing 10-inch sanitary sewer main along the south side of W. North St.

Drainage: No protected streams, FEMA Floodplain, or hydric soils are identified on the subject property. No portion of the subject property lies within the Hillside/Hilltop Overlay District.

Fire: Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development. Station 2, located at 138 W. North St., protects this site. The property is located approximately 0.6 miles from the fire station with an anticipated drive time of approximately 2 minutes using existing streets. The anticipated response time would be approximately 4.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck.

Police: The Police Department did not comment on this request.

Tree Preservation:

The proposed zoning district, RMF-40, Residential Multifamily, 40 Units per Acre, requires **20% minimum canopy preservation**. The current zoning district, R-O, Residential Office, requires **20% minimum canopy preservation**.

CITY PLAN 2040 FUTURE LAND USE PLAN: City Plan 2040 Future Land Use Plan designates the property within the proposed rezone as **City Neighborhood**.

City Neighborhood areas are more densely developed than residential neighborhood areas and provide a mix of non-residential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multi-family. Non-residential and commercial uses are primarily located at street intersections and along major corridors. Ideally, commercial uses would have a residential component and vary in size, variety and intensity. The street network should have a high number of intersections creating a system of small blocks with a high level of connectivity between neighborhoods. Building setbacks and landscaping are urban in form with street trees typically being located within the sidewalk zone.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of 11 for this site with a weighted score of 12.5. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 2, located at 138 W. North St.)
- Near Sewer Main (6-inch main in N. Storer Ave.)
- Near Water Main (10-inch main in W. North St.)
- Near Grocery Store (Harps)
- Near Public School (Leverett Elementary)
- Near U of A Campus
- Near City Park (Scull Creek Parkland)
- Near Paved Trail (Garland Ave Trail, Razorback Greenway.)
- Near Razorback Transit Stop (Colonial Arms, South Creekside, Harps)
- Appropriate Future Land Use
- Sufficient Intersection Density

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: ***Land Use Compatibility:*** Staff finds that the requested rezoning is compatible with surrounding land uses. The subject property is located near central Fayetteville just north of the University of Arkansas main campus. The subject area directly abuts the requested zoning district to the south, east, and west, and is generally surrounded by either multifamily residential or commercial uses when considering the wider area. The subject property is also near institutional uses such as Saint James Baptist Church, the University of Arkansas, and Leverett Elementary School, and neighborhood services such as Harps Grocery and the Razorback Greenway. Staff finds that rezoning the corner to align with the surrounding zoning is unlikely to negatively impact surrounding properties.

Land Use Plan Analysis: Staff finds that a rezoning to RMF-40 would be consistent with the City's adopted land use plans. City Plan 2040's Future Land Use Map designates the property as City Neighborhood. The property also has a high infill score of 11 and is located approximately 800 feet from a Tier 2 center at the intersection of W. North St. and N. Garland Ave. City Plan 20240 describes Tier 2 centers as "exist[ing] to provide services and employment to residents within two to three miles [and] characterized by housing that ranges from one- to three- story detached dwellings, duplexes, row houses, and mid-rise apartments." Staff finds that this rezoning is in line with this designation. Staff finds that a rezoning to RMF-40 would allow for increased development that would be in character with surrounding properties and its proximity to a regional high activity link street.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Staff finds that there is sufficient justification for rezoning the property from R-O to RMF-40. Staff finds that the proposed rezoning is compatible with surrounding properties and consistent with the City's future land use plans.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: A rezoning from R-O to RMF-40 would only increase the number of permitted units within the rezoning area from two units to four when considering its size, staff finds this is unlikely to appreciably increase traffic danger or congestion.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed rezoning has the potential to slightly alter the population density since it would allow for more intense residential development. However, the property currently has access to public streets, water, and sewers, and any necessary improvements would be determined at the time of development. Fayetteville Public Schools did not comment on this request.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

RECOMMENDATION: Planning staff recommends forwarding RZN-2025-0001 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
Date: <u>February 24, 2025</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: PAYNE	"I move to forward RZN-2025-0001 to the City Council with a recommendation of approval."		
Second: WERNER			
Vote: 6-0-0			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.17 District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre
 - §161.20 Residential Office
- Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.17 District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre

(A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by CUP
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupation
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	Forty (40) or less
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(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	30 feet
Two (2) family	30 feet
Three (3) family or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	2,500 square feet

Two (2) family	3,000 square feet
Three (3) family or more	7,000 square feet
Fraternity or Sorority	1 acre

(3) *Land Area Per Dwelling Unit.*

Manufactured Home	3,000 square feet
Fraternity of Sorority	500 square feet per resident

(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*
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* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

- (G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

- (H) *Minimum Buildable Street Frontage.* 50% of the lot width.

(Code 1965, App. A., Art. 5(IV); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81; Ord. No. 1747, 6-29-70; Code 1991, §160.034; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 8, 9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21; Ord. No. 6658, §7(Exh. F), 5-2-23)

Editor's note(s)—Ord. No. 6710, §1, adopted November 21, 2023, determines that Ordinance 6427 (Sunset Clause) and Ord. No. 6625 (extending Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2024, unless prior to that date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section.

161.20 District R-O, Residential Office

(A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses. The intent of this district is to allow administrative approval if the developer decides to use urban form, in compliance with the build-to zone and minimum buildable street frontage as specified herein.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 25	Offices, studios, and related services
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park*
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities*
Unit 42	Clean technologies
Unit 45	Small scale production

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and Area Regulations.* (Per dwelling unit for residential structures)

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a manufactured home park	50 feet
Single-family	60 feet
Two (2) family	60 feet
Three (3) or more	90 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 square feet
Townhouses:	
Development	10,000 square feet
Individual lot	2,500 square feet
Single-family	6,000 square feet
Two (2) family	6,500 square feet
Three (3) or more	8,000 square feet
Fraternity or Sorority	1 acre

(3) *Land Area Per Dwelling Unit.*

Manufactured home	3,000 square feet
Townhouses & apartments:	
No bedroom	1,000 square feet
One bedroom	1,000 square feet
Two (2) or more bedrooms	1,200 square feet
Fraternity or Sorority	500 square feet per resident

(E) *Setback Regulations.*

Front	15 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Front, in the Hillside Overlay District	15 feet
Side	10 feet
Side, when contiguous to a residential district	15 feet
Side, in the Hillside Overlay District	8 feet
Rear, without easement or alley	25 feet
Rear, from center line of public alley	10 feet
Rear, in the Hillside Overlay District	15 feet

Urban Form Setback Regulations:

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line
Side	5 feet
Side-zero lot line*	A setback of less than 5 feet (zero lot line) is permitted on one (1) interior side, provided a maintenance agreement is filed.** The remaining side setback(s) shall be 10 feet
Rear	None
Rear when contiguous to a single family residential district	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	5 stories
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If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) Urban form minimum buildable street frontage: 50% of the lot width.

(Code No. 1965, App. A., Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4726, 7-19-05; Ord. No. 4943, 11-07-06; Ord. No. 5079, 11-20-07; Ord. No. 5195, 11-6-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5735 1-20-15; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 7—9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6164, §§1, 2, 3, 4-2-19; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

Editor's note(s)—Ord. No. 6710, §1, adopted November 21, 2023, determines that Ordinance 6427 (Sunset Clause) and Ord. No. 6625 (extending Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2024, unless prior to that date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section.



January 28th , 2025

Planning Staff
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Storer Townhomes Rezoning

Dear Planning Staff,

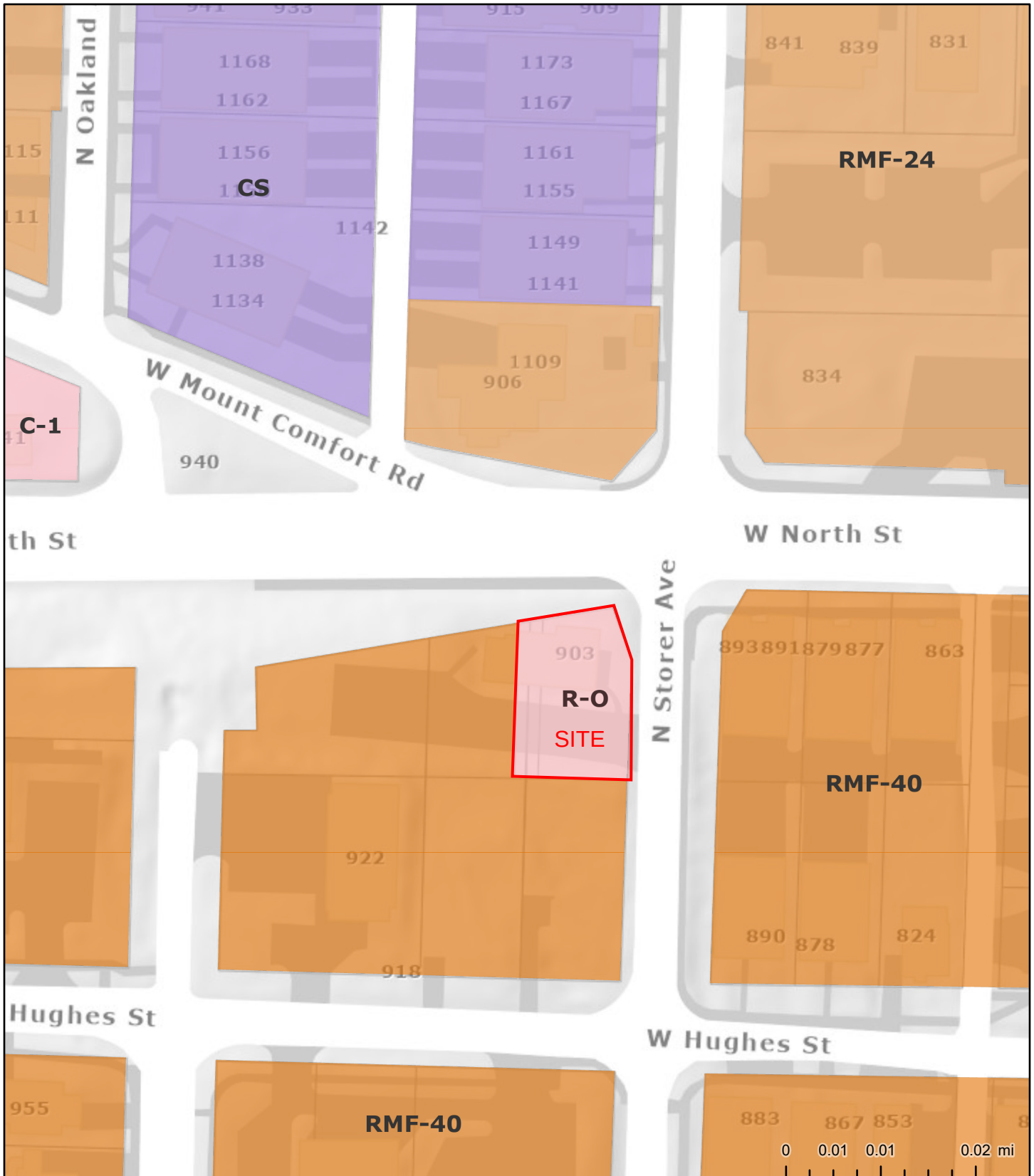
The existing adjacent properties are currently zoned as RMF-40 and RMF-24. We are proposing the rezone from R-O to RMF-40 which meets the adjacent land use. The exhibit on the next page is depicting the existing zoning as well as the neighboring properties. The proposed request for the rezone will not adversely affect the surrounding land use due to the request matching the adjacent properties current zoning.

If you have any questions or require additional information, please feel free to contact me at your convenience.

Sincerely,

Bates & Associates, Inc.

Geoffrey Bates
President of Engineering



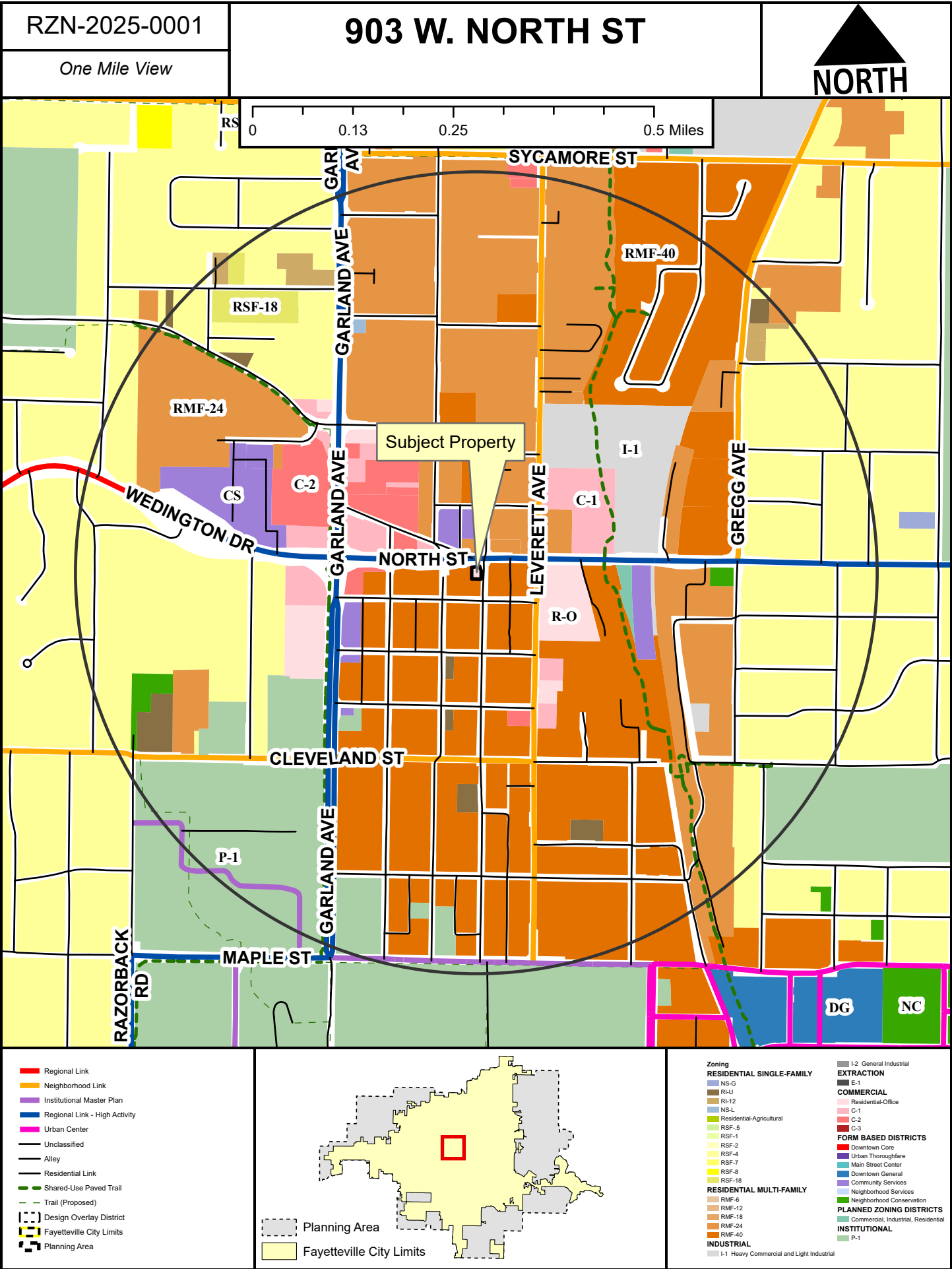
- | | |
|---|--|
| RMF-24 | C-1 |
| RMF-40 | CS |
| R-O | |

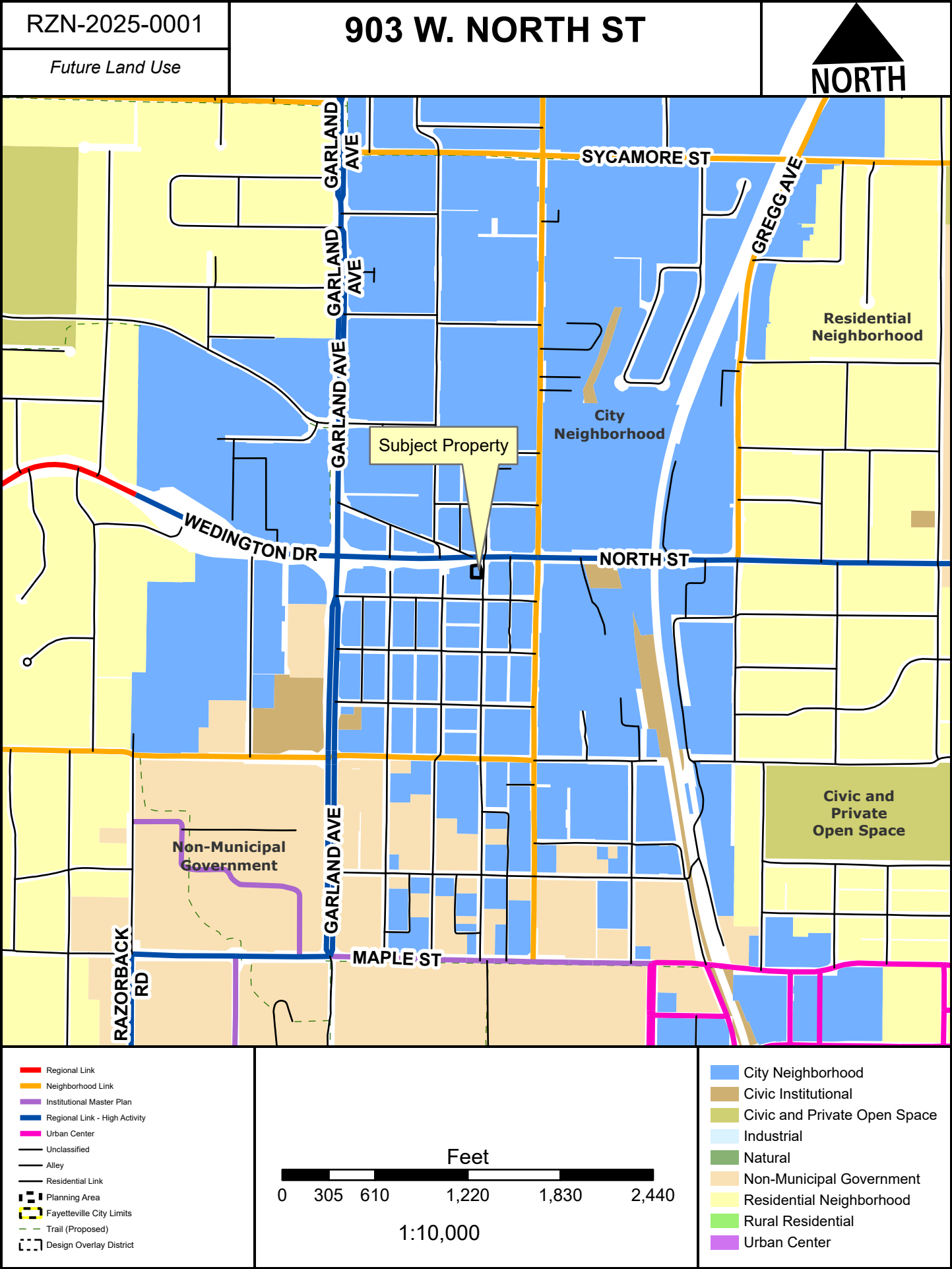
Exhibit

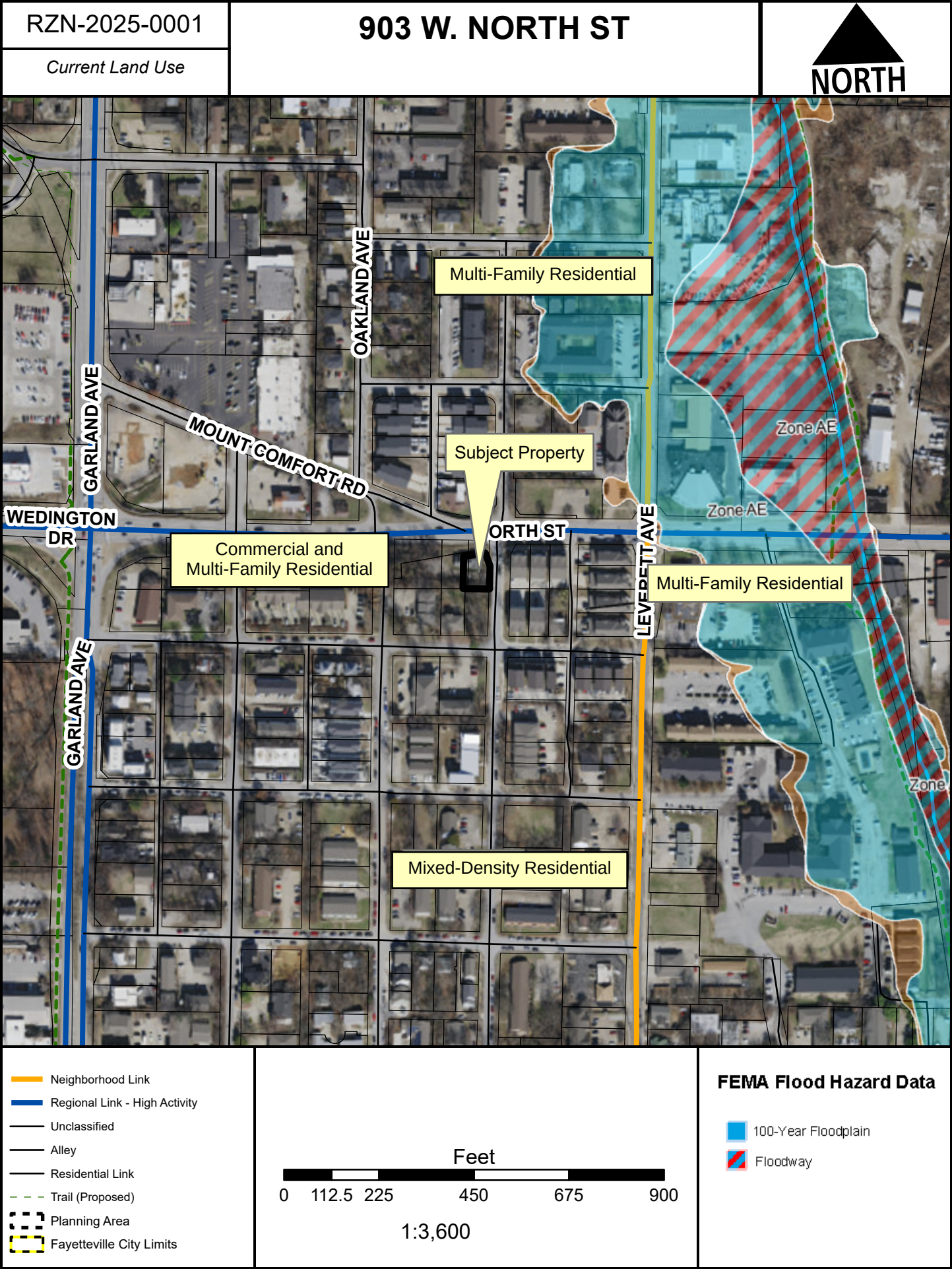
Fayetteville, AR

The data contained herein was compiled from various sources for the sole use and benefit of the City of Fayetteville Geographic Information System and the public agencies it serves. Any use of the data by anyone other than the City of Fayetteville is at the sole risk of the user; and by acceptance of this data, the user does hereby agree to indemnify the City of Fayetteville and hold the City of Fayetteville harmless from and without liability for any claims, actions, cost for damages of any nature, including the city's cost of defense, asserted by user or by another arising from the use of this data. The City of Fayetteville makes no express or implied warranties with reference to the data. No word, phrase, or clause found herein shall be construed to waive that tort immunity set forth under Arkansas law.

Created: 1/15/2025
Credits: City of Fayetteville, AR
Map Author:









MEETING OF MARCH 11, 2025

TO: Mayor Rawn and City Council

THRU: Keith Macedo, Interim Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

SUBJECT: **REZONING-2024-0058: (123 E. 15TH ST./KOMANDER, 602):**

RECOMMENDATION:

City Planning Staff and the Planning Commission recommend approval of a request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:

The subject property is situated in south Fayetteville on the south side of 15th Street/Highway 16, just southeast of Walker Park. It includes 3.14 acres that constitute the northernmost portion of a larger eight-acre property which is currently zoned R-A, Residential-Agricultural. The property received its current zoning designation through a rezoning which was approved in 2020 (Ord. 6290). Prior to the rezoning, the eight-acre property was split-zoned with the northern third of the property being zoned R-A; the middle third zoned RMF-24, Residential Multi-Family, 24 Units per Acre; and the southern third zoned I-1, Heavy Commercial and Light Industrial.

Request: The request is to rezone the subject property from R-A, Residential-Agricultural to DG, Downtown General.

Public Comment: To date, staff has not received any public comment regarding this request.

Land Use Compatibility: Staff finds the proposed rezoning to be compatible with the surrounding area. The subject property is located along a major thoroughfare, 15th Street/Highway 16, and is bordered by a mix of land uses, including single-family residences, a mobile home park, and a manufacturing facility. The property's current zoning, R-A, is primarily intended to protect agricultural land until an orderly transition to urban development may occur, while preserving open space. The proposed zoning, DG, is designed to allow for a flexible range of uses, including public open spaces, less intense residential development, and small-scale businesses. Staff finds that the uses permitted by right in DG, such as single- or multi-family residences, restaurants, professional offices, and small-scale production, align with the surrounding development and zoning patterns. Further, a rezoning from R-A to DG would promote a more urban development pattern which staff finds to be appropriate in this location. Where R-A requires traditional setbacks with buildings located a certain distance away from property lines, DG is a form-based district which requires buildings to be located closer to the street. A rezoning to DG would also allow for smaller lot width and area requirements, as well as less restrictive density maximums when compared to R-A. R-A requires a minimum lot width of 200 feet and a minimum lot area of 2 acres, while DG requires a minimum lot width of 18 feet for residential uses and it has no

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

lot area minimum. R-A has a density maximum of ½ unit per acre, while DG has no set density limitation.

Land Use Plan Analysis: Staff finds the applicant's request to be consistent with the City's adopted land use plans. City Plan 2040's Future Land Use Map designates the subject property as Industrial Area and Natural Area. Staff finds the proposed rezoning to be aligned with those designations, since it would allow the northernmost portion of the underlying property to be rezoned to a district that allows greater flexibility in terms of land uses, setbacks, and bulk and area regulations, while keeping the southernmost portion of the site, which contains a protected stream and FEMA-designated floodplain, in R-A zoning. Staff finds that the proposed rezoning could support Goals 1 and 4 of City Plan 2040 by allowing for infill development in close proximity to trails and bus routes.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range of **5-6** for this site. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 9, 2250 S. School Ave.)
- Near Water Main (12-inch main, 15th Street)
- Near Sewer Main (8-inch mains, on site)
- Near City Park (Walker Park)
- Near Paved Trail (Walker Park Trail, Frisco Trail)
- Near ORT Bus Stop (Route 20)

DISCUSSION:

At the February 24, 2025 Planning Commission meeting, a motion to forward this item with a recommendation of approval passed with a unanimous vote of 6-0-0. Commissioners offered little comment on the item, finding the request compatible. Commissioners did ask about the southern boundary line and whether it would create issues with zoning enforcement; staff confirmed it would not, and the applicant confirmed its alignment with the floodplain. No members of the public spoke at the meeting.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF (#3) , Exhibit A (#4), Exhibit B (#5), Planning Commission Staff Report (#6)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2025-275

REZONING-2024-0058: (123 E. 15TH ST./KOMANDER, 602):

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2024-58 FOR APPROXIMATELY 3.14 ACRES LOCATED AT 123 EAST 5TH STREET IN WARD 1 FROM R-A, RESIDENTIAL-AGRICULTURAL TO DG, DOWNTOWN GENERAL

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from R-A, Residential-Agricultural to DG, Downtown General.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.

City of Fayetteville Staff Review Form

2025-275

Item ID

3/18/2025

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jonathan Curth

2/28/2025

DEVELOPMENT REVIEW (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN-2024-0058: Rezoning (123 E. 15TH ST./KOMANDER, 602): Submitted by JOHANN KOMANDER for property located at 123 E. 15TH ST. in WARD 1. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 3.14 acres. The request is to rezone the property to DG, DOWNTOWN GENERAL.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

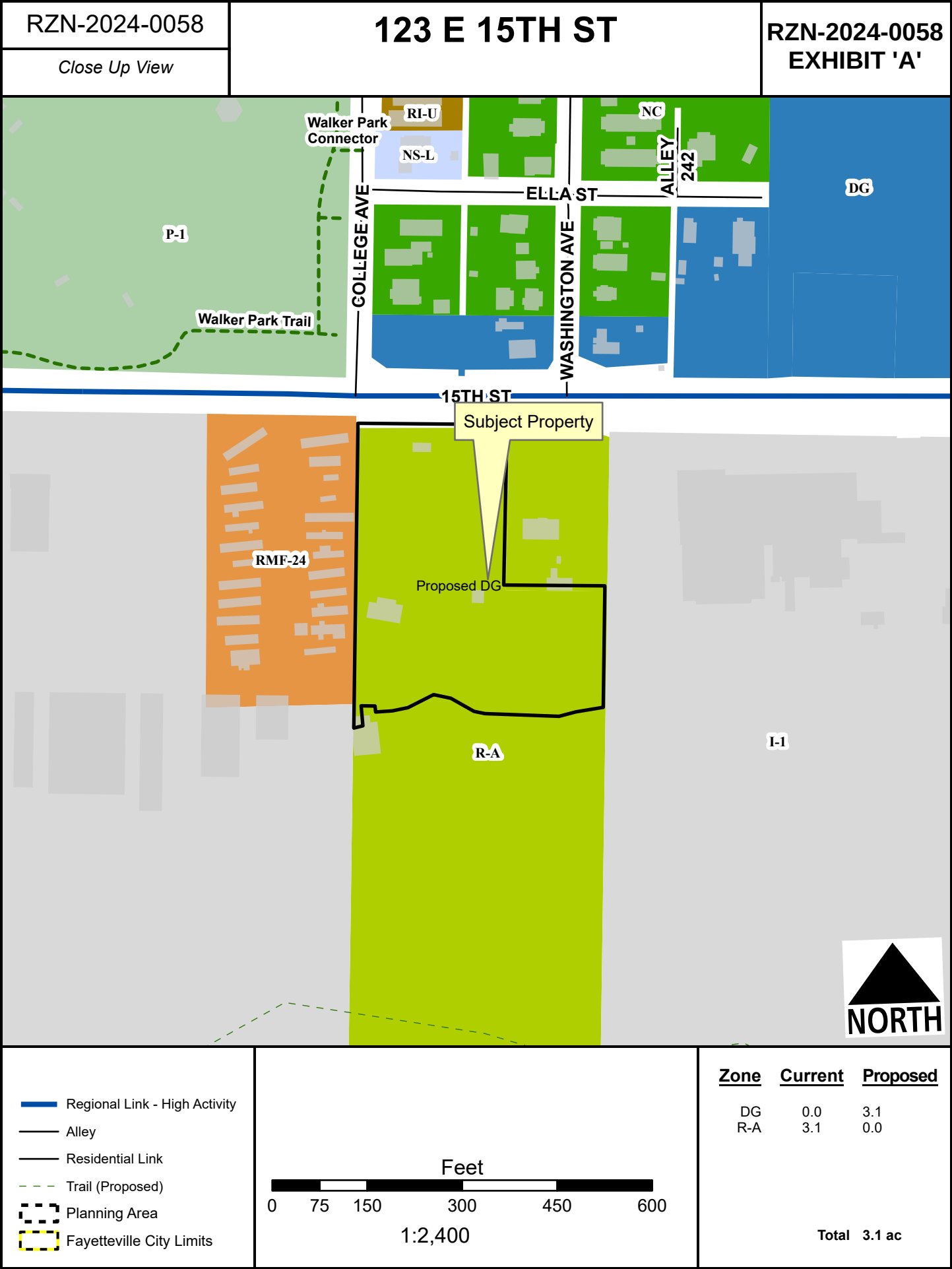
Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

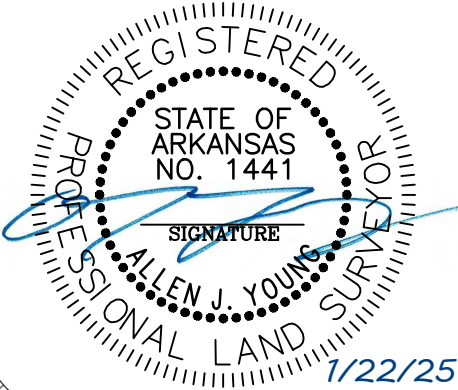
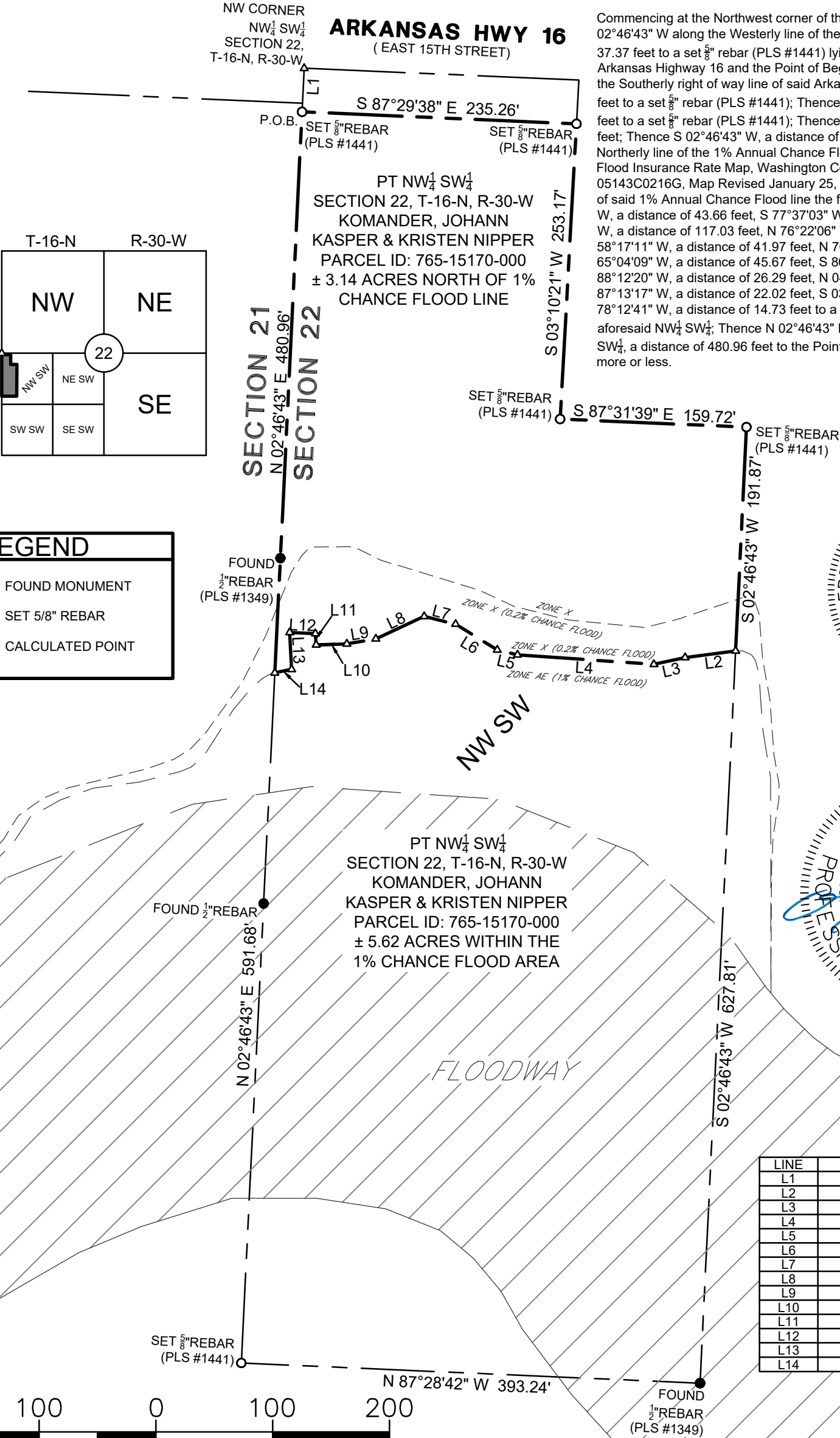


Parent Tract:

Part of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, T-16-N, R-30-W, Washington County,
Arkansas per Warranty Book: 2022, and Page: 13663.

Rezone Description:

Part of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, T-16-N, R-30-W, Washington County,
Arkansas, being more particularly described as follows:



Certification
I, Allen J. Young, certify that a Boundary Survey was performed on the Property shown hereon by a D.C.I. Field Crew under my supervision and this drawing is an accurate representation of the Survey results. All property corners not found are set in accordance with existing found monuments in the area.

Allen J. Young
Arkansas Registered Professional
Land Surveyor No. 1441
Date 1/22/25

Notes:
Based on scaled map location and graphic plotting only, a portion of the property shown hereon is in the Floodway and in Flood Zone AE, which is a Special Flood Hazard Area subject to inundation by the 1% Annual Chance Flood (100 year flood), according to Flood Insurance Rate Map, Washington County, Arkansas, Map Number 05143C0216G, Map Revised January 25, 2024.
Bearings are based on Arkansas State Plane Coordinates - North Zone, NAD83 (NSRS2011), per GPS observation.
Rights of way and Easements are shown hereon as per documents provided to the surveyor. Additional Rights of way and Easements recorded or not a part of the public record, may or may not exist that affect the subject property.

DEVELOPMENT		CONSULTANTS		INCORPORATED	
B-1	25-101	PROJECT TITLE		REVISIONS	
		123 E 15TH STREET - REZONE			
		FAYETTEVILLE, ARKANSAS			
		BOUNDARY SURVEY			
SHEET NO.		DATE		SCALE	
25-101		01-22-2025		1" = 100'	
PROJECT NO.		DATE		SCALE	
				1" = 100'	



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: February 24, 2025 (updated with results)

SUBJECT: **RZN-2024-0058: Rezoning (123 E. 15TH ST./KOMANDER, 602):**
Submitted by JOHANN KOMANDER for property located at 123 E. 15TH ST. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 3.14 acres. The request is to rezone the property to DG, DOWNTOWN GENERAL.

RECOMMENDATION:

Staff recommends forwarding **RZN-2024-0058** to the City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2024-0058** to the City Council with a recommendation of approval."*

BACKGROUND:

The subject property is situated in south Fayetteville on the south side of 15th Street/Highway 16, just southeast of Walker Park. It includes 3.14 acres that constitute the northernmost portion of a larger eight-acre property which is currently zoned R-A, Residential-Agricultural. The property received its current zoning designation through a rezoning which was approved in 2020 (Ord. 6290). Prior to the rezoning, the eight-acre property was split-zoned with the northern third of the property being zoned R-A; the middle third zoned RMF-24, Residential Multi-Family, 24 Units per Acre; and the southern third zoned I-1, Heavy Commercial and Light Industrial. Surrounding land uses and zoning are depicted below in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential, Undeveloped	DG, Downtown General
South	Undeveloped	R-A, Residential-Agricultural
East	Single-Family Residential, Industrial	R-A, Residential-Agricultural, I-1, Heavy Commercial and Light Industrial
West	Mobile Home Park, Mini-Storage	RMF-24, Residential Multi-Family, 24 Units per Acre, I-1, Heavy Commercial and Light Industrial

Request: The request is to rezone the subject property from R-A, Residential-Agricultural to DG, Downtown General.

Public Comment: To date, staff has not received any public comment regarding this request.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW:

- Streets:** The subject property has frontage along 15th Street (Arkansas Highway 16), a Regional High-Activity Link Street. The street is fully improved with asphalt paving, bike lanes, curb and gutter, storm drain, greenspace, and sidewalk. Any street improvements required in this area would be determined at the time of development proposal.
- Water:** Public water is available to the subject property. There is an existing 12-inch water main present along the south side of 15th Street that can serve this property.
- Sewer:** Sanitary sewer is available to the subject property. There are two eight-inch sanitary sewer mains, one that runs along the west property line and one that runs between the two parcels included in the request, that can provide sewer service. There are also two sewer transmission mains, a 30-inch and a 42-inch, that exist on the property about 350 feet south of 15th Street.
- Drainage:** No portion of the subject property lies within the Hillside/Hilltop Overlay District or a FEMA-designated floodplain and no protected streams are present. Hydric soils, however, are present on the north portion of the subject area near 15th Street. Hydric soils are a known indicator of wetlands. However, for an area to be classified as wetlands, it may also need other characteristics such as hydrophytes (plants that grow in water), and shallow water during parts of the year. Hydric soils can be found across many areas of Fayetteville, including valleys, floodplains, and open prairies. It's important to identify these natural resources during development, so when these soils are identified on a property, further environmental studies will be required at the time of development. Before permits will be issued for the property a statement/report from an environmental professional must be provided summarizing the existence of wetlands on the property. If this statement/report indicates that wetlands may be present on site, a USACE Determination of Jurisdictional Wetlands will be required. Any improvements or requirements for drainage will be determined at the time of development submittal.
- Fire:** Station 9, located at 2250 S. School Ave., protects this site. The property is located approximately one mile from the fire station with an anticipated drive time of approximately two minutes using existing streets. The anticipated response time would be approximately 4.2 minutes. Fire Department response time is calculated based on the drive time plus one minute for dispatch and 1.2 minutes for turn-out time. Within the city limits, the Fayetteville Fire Department has a response time goal of six minutes for an engine and eight minutes for a ladder truck. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.
- Police:** The Police Department did not comment on this request.
- Tree Preservation:** The proposed zoning district, DG, Downtown General, requires **10% minimum canopy preservation**. The current zoning district, R-A, Residential-Agricultural, requires **25% minimum canopy preservation**.

CITY PLAN 2040 FUTURE LAND USE PLAN: City Plan 2040 Future Land Use Plan designates the property within the proposed rezone as **Industrial Area** and **Natural Area**.

Industrial Areas are those areas where buildings by their intrinsic functions, disposition or configuration, cannot conform to one of the other designated areas and/or its' production process requires the area to be separated from other uses.

Natural Areas consist of lands approximating or reverting to a wilderness conditions, including those with limited development potential due to topography, hydrology, vegetation or value as an environmental resource. These resources can include stream and wildlife corridors, as well as natural hubs and cores, many of which are identified in the generalized enduring green network. A Natural Area designation would encourage a development pattern that requires conservation and preservation, prevents degradation of these areas, and would utilize the principles of low impact development stormwater infrastructure for all developments. Natural Areas are prime candidates for conservation subdivision design and/or clustered development patterns.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range of **5-6** for this site with a weighted score of **6.5** at the highest level. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 9, 2250 S. School Ave.)
- Near Water Main (12-inch main, 15th Street)
- Near Sewer Main (8-inch mains, on site)
- Near City Park (Walker Park)
- Near Paved Trail (Walker Park Trail, Frisco Trail)
- Near ORT Bus Stop (Route 20)
-

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: ***Land Use Compatibility:** Staff finds the proposed rezoning to be compatible with the surrounding area. The subject property is located along a major thoroughfare, 15th Street/Highway 16, and is bordered by a mix of land uses, including single-family residences, a mobile home park, and a manufacturing facility. The property's current zoning, R-A, is primarily intended to protect agricultural land until an orderly transition to urban development may occur, while preserving open space. The proposed zoning, DG, is designed to allow for a flexible range of uses, including public open spaces, less intense residential development, and small-scale businesses. Staff finds that the uses permitted by right in DG, such as single- or multi-family residences, restaurants, professional offices, and small-scale production, align with the surrounding development and zoning patterns. Further, a rezoning from R-A to DG would promote a more urban development pattern which staff finds to be appropriate in this location. Where R-A requires traditional setbacks with buildings located a certain distance away from property lines, DG is a form-based district which requires buildings to be located closer to the street. A rezoning to DG would also allow for smaller lot width and area requirements, as well as less*

restrictive density maximums when compared to R-A. R-A requires a minimum lot width of 200 feet and a minimum lot area of 2 acres, while DG requires a minimum lot width of 18 feet for residential uses and it has no lot area minimum. R-A has a density maximum of ½ unit per acre, while DG has no set density limitation.

Land Use Plan Analysis: Staff finds the applicant's request to be consistent with the City's adopted land use plans. City Plan 2040's Future Land Use Map designates the subject property as Industrial Area and Natural Area. Staff finds the proposed rezoning to be aligned with those designations, since it would allow the northernmost portion of the underlying property to be rezoned to a district that allows greater flexibility in terms of land uses, setbacks, and bulk and area regulations, while keeping the southernmost portion of the site, which contains a protected stream and FEMA-designated floodplain, in R-A zoning. Staff finds that the proposed rezoning could support Goals 1 and 4 of City Plan 2040 by allowing for infill development in close proximity to trails and bus routes.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Staff finds that there is sufficient justification for rezoning the property from R-A to DG since the proposed rezoning would be generally aligned with the city's future land use plans.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: A rezoning from R-A to DG has the potential to increase vehicular traffic in the area when considering that DG would allow for more dense development. However, staff finds that the property's proximity to nonresidential uses, bus routes, and trails may help reduce the number of vehicle trips generated by future development and limit impacts on vehicular traffic danger and congestion.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Rezoning the property from R-A to DG has the potential to alter the population density since DG would allow for increased residential development. Given the property's proximity to public streets, water, and sewer, staff finds that the proposed rezoning is not likely to undesirably increase the load on public services. Any necessary upgrades or improvements to existing infrastructure would be determined at the time of development. Fayetteville Public Schools did not comment on this request.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

RECOMMENDATION: Planning staff recommends forwarding RZN-2024-0058 to the City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
Date: <u>February 24, 2025</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: Payne		with a recommendation of approval	
Second: Brink			
Vote: 6-0-0			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.03 District R-A, Residential-Agricultural
 - §161.28 Downtown General
- Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.03 District R-A, Residential-Agricultural

- (A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

- (B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes
Unit 41	Accessory dwellings
Unit 43	Animal boarding and training
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 35	Outdoor Music Establishments
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

- (C) *Density.*

Units per acre	One-half (½)
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- (D) *Bulk and Area Regulations.*

Lot width minimum	200 feet
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

- (E) *Setback Requirements.*

Front	Side	Rear
35 feet	20 feet	35 feet

- (F) *Height Requirements.* There shall be no maximum height limits in the R-A District, provided, however, if a building exceeds the height of one (1) story, the portion of the building over one (1) story shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over one (1) story shall be equal to the difference between the total height of that portion of the building and one (1) story.

- (G) *Building area.* None.

161.28 Downtown General

(A) *Purpose.* Downtown General is a flexible zone, and it is not limited to the concentrated mix of uses found in the Downtown Core or Main Street/Center. Downtown General includes properties in the neighborhood that are not categorized as identifiable centers, yet are more intense in use than Neighborhood Conservation. There is a mixture of single-family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. For the purposes of Chapter 96: Noise Control, the Downtown General district is a residential zone.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 40	Sidewalk Cafes
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Dwelling (all unit types)	18 feet
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(2) *Lot Area Minimum.* None.

(E) *Setback Regulations.*

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	None
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Minimum Buildable Street Frontage.* 50% of lot width.

(G) *Building Height Regulations.*

Building Height Maximum	5 stories
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Johann Komander

187 E 9th St
Fayetteville, AR 72701
(479) 651-2047
johann.komander@gmail.com

15th November 2024

City of Fayetteville, AR

Planning Division
125 West Mountain Street
Fayetteville, AR 72701

Dear Fayetteville Planning Division,

My name is Johann Komander and my wife and I own the 9 acre undeveloped lot located at 123 E 15th St. In the Washington County records this property also goes by 1500 S College Ave. It consists of two parcels 765-15170-000 and 765-15171-000.

We are wishing to sell the property and would like to rezone in advance of that so that the property is both already zoned for redevelopment potential and also done so in accordance with the city's long term vision for such a property. This property is located on 15th street, a busy urban thoroughfare, and adjacent to Walker Park, which is anticipated to see major city reinvestment in the coming years. There are also multiple new neighborhoods in various stages of development in the nearby area, such as the Rausch Coleman neighborhood just east of the property on 15th st, as well as new homes in the Jefferson school area, such as the Willow Bend neighborhood. This property is also quite close to the Razorback Greenway and just a 15 minute walk to the downtown square.

Based on these factors, I believe this property is in a desirable location for the city's stated goals of increasing density with more mixed uses in the vicinity of active areas. The City of Fayetteville 2040 plan has a target zoning district for this property of Industrial, which makes sense given the nearby self storage business and Hiland Dairy. However, I think the property now has more mixed use potential now given the new housing stock, planned Walker Park updates, and growing traffic on the street.

For these reasons, I am requesting Downtown General zoning for the upper portion of the property south of 15th street and north of the floodplain. Based on my understanding, this would allow for a variety of housing or commercial uses but also allow for some industrial uses with the proper permitting. This seems to be a commonly used zoning type in the immediate area.

You will see in your records that this property has some history already of more mixed use zoning. When we purchased it in 2019, it had 3 separate zoning types: R-A on the top portion fronting 15th street, RMF-24 on the middle portion, and R-I on the bottom portion in the vicinity of Town Branch Creek. In 2020, we were approved for a request to consolidate all of it to R-A (our intent at the time was to have animals on the property). During that process, the Planning Commission advocated for an upzoning on the upper portion, to accommodate more density and housing development on the 15th street frontage. Ultimately the Commission granted our R-A request given that a portion of property is encumbered by the floodplain, but did at the time desire higher density zoning on the street frontage.

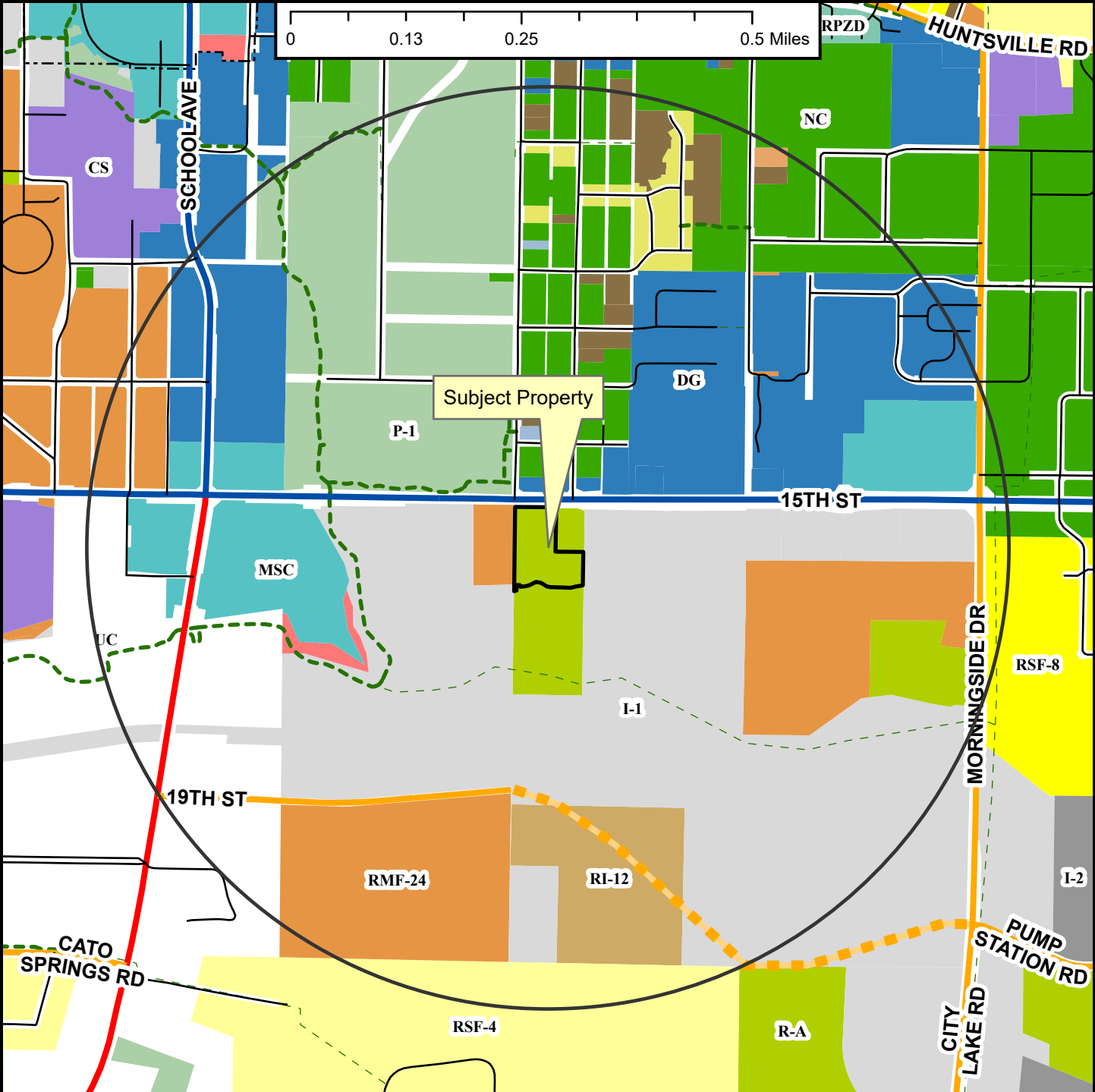
Initially, I applied for a rezone for the full property, but after consulting with planning staff, I have amended my request to rezone only the upper third of the property outside of the floodplain and fronting 15th street. Our primary focus in this request is to allow for this portion of the property to be optimally redeveloped. This would provide maximum flexibility in my view for a potential buyer of the property while also ensuring it is in alignment with the City's long term goals for the neighborhood.

Sincerely,

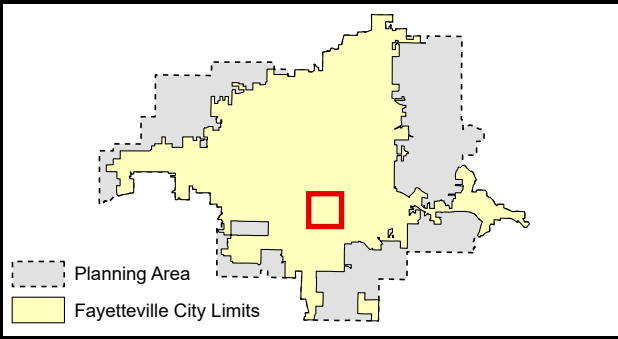
Johann Komander

RZN-2024-0058
<i>One Mile View</i>

123 E 15TH ST



-
- █ Regional Link
 - █ Neighborhood Link
 - █ Regional Link - High Activity
 - █ Unclassified
 - █ Alley
 - █ Residential Link
 - █ Planned Neighborhood Link
 - █ Shared-Use Paved Trail
 - - Trail (Proposed)
 - Design Overlay District
 - Fayetteville City Limits
 - Planning Area



- Zoning**

 - I-2 General Industrial

RESIDENTIAL SINGLE-FAMILY

 - NS-G
 - RM-U
 - RH-12
 - NS-L
 - Residential-Agricultural
 - RSF-.5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18

RESIDENTIAL MULTI-FAMILY

 - RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40

INDUSTRIAL

 - I-1 Heavy Commercial and Light Industrial

EXTRACTION

 - E-1

COMMERCIAL

 - Residential-Office
 - C-1
 - C-2
 - C-3

FORM BASED DISTRICTS

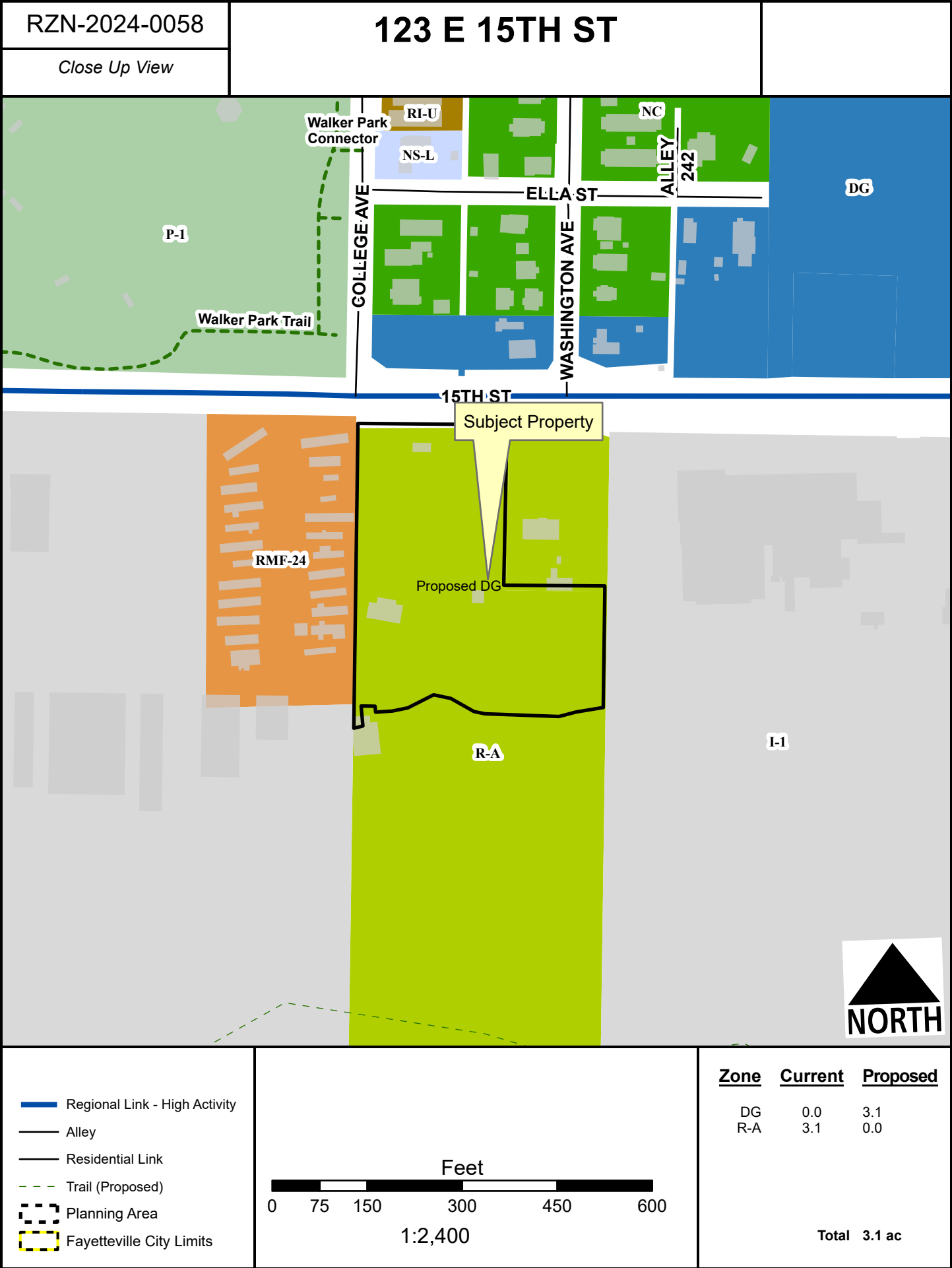
 - Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation

PLANNED ZONING DISTRICTS

 - Commercial, Industrial, Residential

INSTITUTIONAL

 - P-1



Zone Current Proposed

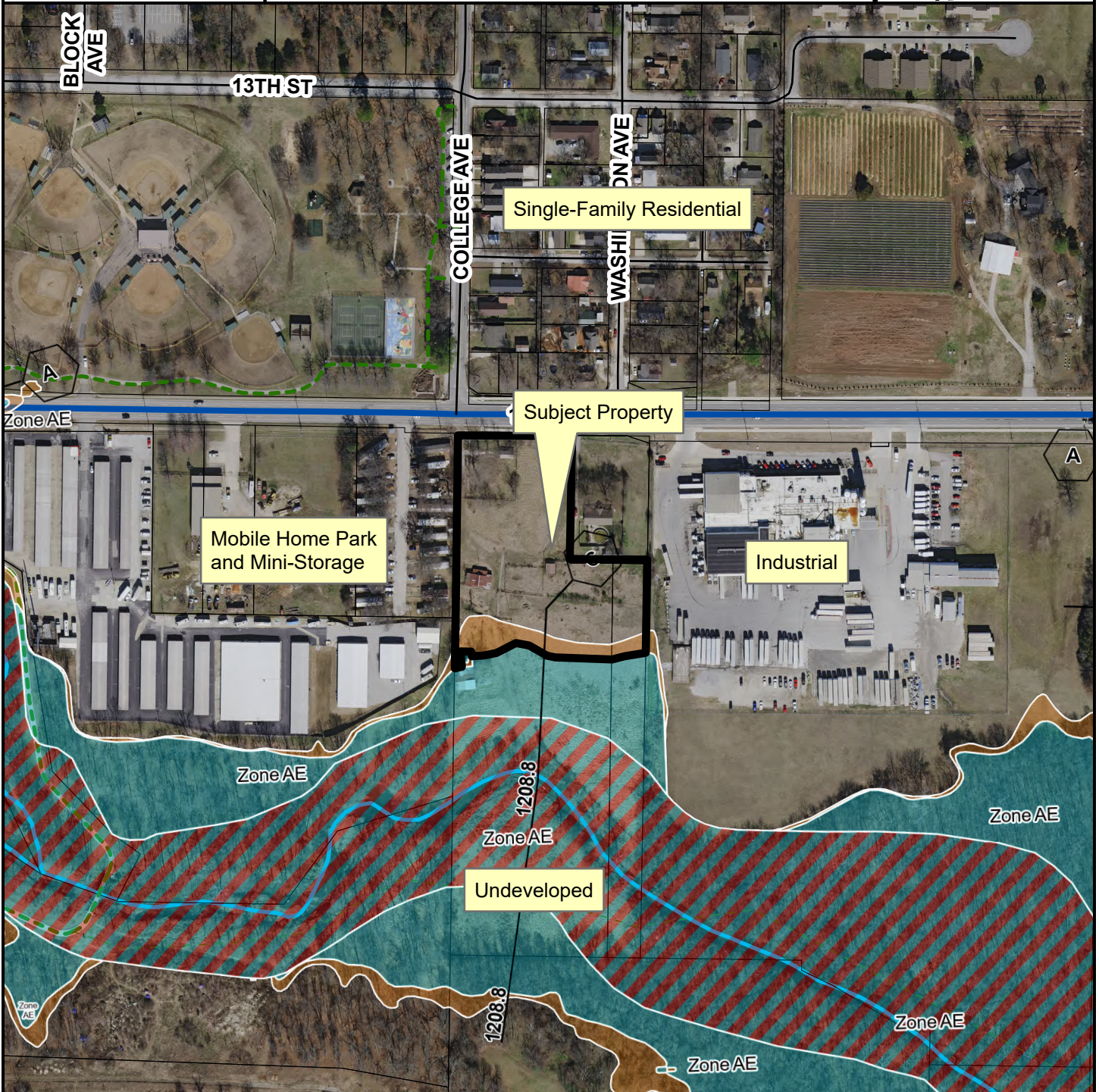
DG 0.0 3.1
R-A 3.1 0.0

Total 3.1 ac

RZN-2024-0058

123 E 15TH ST

Current Land Use



- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

