



City of Jonesboro

Municipal Center
300 S. Church Street
Jonesboro, AR 72401

Council Agenda City Council

Tuesday, September 20, 2016

5:30 PM

Municipal Center

PUBLIC SERVICES COMMITTEE MEETING AT 4:30 P.M.

Council Chambers, Municipal Center

PUBLIC SAFETY COMMITTEE MEETING AT 5:00 P.M.

Council Chambers, Municipal Center

PUBLIC HEARING AT 5:20 P.M.

Regarding the abandonment of 10 feet of a 15 foot utility easement at 2217 Masters Drive as requested by Charles & Melinda Porter

NOMINATING & RULES COMMITTEE SPECIAL CALLED MEETING AT 5:25 P.M.

Council Chambers, Municipal Center

1. CALL TO ORDER BY MAYOR PERRIN AT 5:30 P.M.

2. PLEDGE OF ALLEGIANCE AND INVOCATION

3. ROLL CALL BY CITY CLERK DONNA JACKSON

4. SPECIAL PRESENTATIONS

COM-16:072 Proclamation presentation by Mayor Perrin to Jane McDaniel for Pink for the Cure Day 2016

Sponsors: Mayor's Office

COM-16:074 Presentation by the new Arkansas State University Chancellor, Doug Whitlock

Sponsors: Mayor's Office

COM-16:075 Presentation by Mayor Perrin to Kyle Clemmons, 2016 Rio 4x400 Gold Medalist Winner

Sponsors: Mayor's Office

5. CONSENT AGENDA

All items listed below will be voted on in one motion unless a council member requests a separate action on one or more items.

- MIN-16:116** Minutes for the City Council meeting on September 6, 2016
Attachments: [Minutes](#)
- RES-16:113** A RESOLUTION REQUESTING FREE UTILITY SERVICES FROM CITY WATER AND LIGHT FOR A WELCOME TO JONESBORO SIGN
Sponsors: Engineering
Legislative History
9/6/16 Public Works Council Recommended to Council
Committee
- RES-16:114** A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF JONESBORO TO MAINTAIN THE TRAFFIC SIGNAL INSTALLED IN THE FOLLOWING PROJECT: JOB 100822 HENSON RD. RR SIGNAL UPGRADE & TRAFFIC SIGNAL (JONESBORO) (S)
Sponsors: Engineering
Legislative History
9/6/16 Public Works Council Recommended to Council
Committee
- RES-16:120** A RESOLUTION AUTHORIZING THE CITY OF JONESBORO TO ENTER INTO AN AGREEMENT WITH THE EAST ARKANSAS PLANNING AND DEVELOPMENT DISTRICT FOR THE 2015 GENERAL IMPROVEMENT FUNDS (GIF) FOR THE MIRACLE LEAGUE PROJECT
Sponsors: Grants
Attachments: [Grant 20155906 - Miracle League - 08162016](#)
Legislative History
9/14/16 Finance & Administration Recommended to Council
Council Committee
- RES-16:124** A RESOLUTION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING AGREEMENT WITH MID-SOUTH HEALTH SYSTEMS TO COLLABORATE IN THE REHABILITATION ACTIVITIES FOR RESIDENTIAL FACILITIES FOR THE 2016 CDBG ACTION PLAN
Sponsors: Grants
Attachments: [MOU for MidSouth Health](#)
Legislative History
9/14/16 Finance & Administration Recommended to Council
Council Committee
- RES-16:125** A RESOLUTION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING AGREEMENT WITH FOUNDATION CARE, LLC (DAVID E. PURYEAR CENTER) TO COLLABORATE IN THE REHABILITATION ACTIVITIES FOR THE FACILITY IMPROVEMENTS FOR THE 2016 CDBG ACTION PLAN
Sponsors: Grants
Attachments: [MOU for Foundation Care, LLC.](#)
Legislative History

9/14/16 Finance & Administration Recommended to Council
Council Committee

RES-16:127 A RESOLUTION AUTHORIZING THE ENTRY INTO AN AGREEMENT TO ISSUE BONDS FOR THE PURPOSE OF SECURING AND DEVELOPING INDUSTRIAL FACILITIES WITHIN THE CITY OF JONESBORO, ARKANSAS, TO BE LEASED TO FRITO-LAY, INC., PURSUANT TO THE AUTHORITY OF THE LAWS OF THE STATE OF ARKANSAS, INCLUDING PARTICULARLY AMENDMENT 65 TO THE ARKANSAS CONSTITUTION AND THE MUNICIPALITIES AND COUNTIES INDUSTRIAL DEVELOPMENT REVENUE BOND LAW.

Attachments: [Notice of Public Hearing \(Frito-Lay\)](#)
[PILOT Agreement \(Frito-Lay\)](#)
[Agreement to Issue Bonds \(Frito-Lay\)](#)

Legislative History

9/14/16 Finance & Administration Recommended to Council
Council Committee

6. NEW BUSINESS

ORDINANCES ON FIRST READING

ORD-16:058 AN ORDINANCE AMENDING APPENDIX 7 OF THE STORMWATER DRAINAGE DESIGN MANUAL

Sponsors: Engineering

Attachments: [ARR50000 - 2021](#)

Legislative History

9/6/16 Public Works Council Recommended to Council
Committee

ORD-16:059 AN ORDINANCE AMENDING CHAPTER 112 OF THE JONESBORO MUNICIPAL CODE

Sponsors: Engineering

Legislative History

9/6/16 Public Works Council Recommended to Council
Committee

ORD-16:062 AN ORDINANCE ADOPTING BY REFERENCE THE REPETITIVE LOSS AREA ANALYSIS (RLAA), CONSISTENT WITH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) COMMUNITY RATING SYSTEM (CRS) REQUIREMENTS

Sponsors: Engineering

Legislative History

9/6/16 Public Works Council Recommended to Council
Committee

ORD-16:064 AN ORDINANCE TO AUTHORIZE THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS UNDER THE MUNICIPALITIES AND COUNTIES INDUSTRIAL DEVELOPMENT REVENUE BOND LAW FOR THE PURPOSE OF

SECURING AND DEVELOPING INDUSTRY; TO AUTHORIZE THE SALE OF THE BONDS AND THE APPROVAL OF A BOND PURCHASE AGREEMENT AND PAYMENT IN LIEU OF TAXES AGREEMENTS IN CONNECTION THEREWITH; TO AUTHORIZE THE EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE BONDS; TO AUTHORIZE AND PRESCRIBE CERTAIN MATTERS PERTAINING TO THE PROJECT, THE ACQUISITION, CONSTRUCTION, AND EQUIPPING THEREOF, AND THE FINANCING THEREOF; TO AUTHORIZE THE EXECUTION AND DELIVERY OF LEASE AGREEMENTS RELATING TO THE PROJECT; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Attachments: [PILOT Agreement \(FMH Conveyors\) \(2\)](#)
[PILOT Agreement \(HMD Jonesboro\)](#)
[Recognition Nondisturbance and Attornment Agreement - FMH](#)
[Recognition Nondisturbance and Attornment Agreement - HMD](#)
[Trust Indenture -- FMH HMD](#)
[Bond Purchase Agreement - FMH HMD](#)
[Lease Agreement \(FMH\)](#)
[Lease Agreement \(HMD\)](#)

EMERGENCY CLAUSE

Legislative History

9/14/16	Finance & Administration Council Committee	Recommended to Council
---------	---	------------------------

ORD-16:065 AN ORDINANCE ABANDONING 10' OF 15' UTILITY EASEMENT ALONG REAR PROPERTY LINE FOR 25 LINEAL FEET LOCATED AT 2217 MASTERS DRIVE AS REQUESTED BY CHARLES & MELINDA PORTER

Attachments: [Extra documentation](#)
[Petition](#)
[Plats](#)
[Utility Letters](#)
[Engineering & Planning Letter](#)

ORD-16:066 AN ORDINANCE TO AMEND CHAPTER 117, KNOWN AS THE ZONING ORDINANCE PROVIDING FOR CHANGES IN ZONING BOUNDARIES FOR PROPERTY LOCATED AT 3710 E. JOHNSON AS REQUESTED BY STONEBRIDGE CONSTRUCTION

Attachments: [rezoning plat.pdf](#)
[Staff Summary RZ 16-21 3710 East Johnson Ave - City Council.pdf](#)
[3701 E Johnson Consent Order.pdf](#)
[3701 East Johnson Bldg 1-Permit Set.pdf](#)
[Aerial View of Location.pdf](#)
[Appeal Letter filed 05-29-12.pdf](#)
[Application.pdf](#)
[Legislation Details \(With Text\).pdf](#)
[MAPC Record of Proceedings.pdf](#)
[Plat of Survey.pdf](#)
[Photographs from July 17, 2012, meeting.pdf](#)

7. UNFINISHED BUSINESS*ORDINANCES ON SECOND READING*

ORD-16:057 AN ORDINANCE REPEALING A CERTAIN ORDINANCE ACCEPTING LANDS ANNEXED TO THE CITY OF JONESBORO, ARKANSAS, BY ORDER OF THE COUNTY COURT OF CRAIGHEAD COUNTY, ARKANSAS; ASSIGNING SAID ANNEXED TERRITORIES TO WARD 2; DECLARING THE ZONING FOR THE ANNEXED TRACT; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

Attachments: [Survey](#)
[1989 Order of Annexation](#)
[Ordinance 2242](#)
[County Judge's Letter](#)
[Letter from CWL](#)
[Aerial Photo](#)
[Letter Requesting Deannexation](#)

*EMERGENCY CLAUSE***Legislative History**

9/6/16 City Council Postponed Temporarily

ORD-16:063 AN ORDINANCE AUTHORIZING THE CITY OF JONESBORO TO AMEND THE 2016 ANNUAL BUDGET FOR THE POLICE DEPARTMENT

Sponsors: Police Department

Legislative History

9/6/16 City Council Held at one reading

8. MAYOR'S REPORTS

COM-16:071 Airport financial report for August, 2016

Sponsors: Municipal Airport Commission

Attachments: [Financial Report](#)

9. CITY COUNCIL REPORTS**10. PUBLIC COMMENTS**

Public Comments are limited to 5 minutes per person for a total of 15 minutes.

11. ADJOURNMENT



City of Jonesboro

300 S. Church Street
Jonesboro, AR 72401

Legislation Details (With Text)

File #: COM-16:072 **Version:** 1 **Name:** Proclamation for Pink for the Cure Day 2016
Type: Other Communications **Status:** To Be Introduced
File created: 9/8/2016 **In control:** City Council
On agenda: **Final action:**
Title: Proclamation presentation by Mayor Perrin to Jane McDaniel for Pink for the Cure Day 2016
Sponsors: Mayor's Office
Indexes: Presentations
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Proclamation presentation by Mayor Perrin to Jane McDaniel for Pink for the Cure Day 2016



City of Jonesboro

300 S. Church Street
Jonesboro, AR 72401

Legislation Details (With Text)

File #: COM-16:074 **Version:** 1 **Name:** Presentation by ASU Chancellor Doug Whitlock
Type: Other Communications **Status:** To Be Introduced
File created: 9/12/2016 **In control:** City Council
On agenda: **Final action:**
Title: Presentation by the new Arkansas State University Chancellor, Doug Whitlock
Sponsors: Mayor's Office
Indexes: Presentations
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Presentation by the new Arkansas State University Chancellor, Doug Whitlock



City of Jonesboro

300 S. Church Street
Jonesboro, AR 72401

Legislation Details (With Text)

File #: COM-16:075 **Version:** 1 **Name:** Presentation to Kyle Clemmons
Type: Other Communications **Status:** To Be Introduced
File created: 9/13/2016 **In control:** City Council
On agenda: **Final action:**
Title: Presentation by Mayor Perrin to Kyle Clemmons, 2016 Rio 4x400 Gold Medalist Winner
Sponsors: Mayor's Office
Indexes: Presentations
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Presentation by Mayor Perrin to Kyle Clemmons, 2016 Rio 4x400 Gold Medalist Winner



City of Jonesboro

300 S. Church Street
Jonesboro, AR 72401

Legislation Details (With Text)

File #: MIN-16:116 **Version:** 1 **Name:**
Type: Minutes **Status:** To Be Introduced
File created: 9/8/2016 **In control:** City Council
On agenda: **Final action:**
Title: Minutes for the City Council meeting on September 6, 2016
Sponsors:
Indexes:
Code sections:
Attachments: [Minutes](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Minutes for the City Council meeting on September 6, 2016



City of Jonesboro

Municipal Center
300 S. Church Street
Jonesboro, AR 72401

Meeting Minutes City Council

Tuesday, September 6, 2016

5:30 PM

Municipal Center

PUBLIC WORKS COMMITTEE MEETING AT 5:00 P.M.

1. CALL TO ORDER BY MAYOR PERRIN AT 5:30 P.M.

2. PLEDGE OF ALLEGIANCE AND INVOCATION

3. ROLL CALL BY CITY CLERK DONNA JACKSON

Present 11 - Darrel Dover; Ann Williams; Charles Frierson; Chris Moore; John Street; Mitch Johnson; Gene Vance; Chris Gibson; Rennell Woods; Todd Burton and Robert Long

Absent 1 - Charles Coleman

4. SPECIAL PRESENTATIONS

[COM-16:059](#)

Presentation by Mayor Perrin to Brian Fulkerson with Atlas Asphalt

Sponsors: Mayor's Office

Mayor Perrin stated Mr. Fulkerson was not able to attend the meeting.

This item was Filed.

[COM-16:065](#)

Presentation to Jason Ruth with the City of Jonesboro Sanitation Department

Sponsors: Mayor's Office

Mayor Perrin presented Mr. Ruth with a Key to the City.

This item was Filed.

[COM-16:070](#)

Presentation by Larry Jackson, Employee Representative Chairman

Sponsors: Mayor's Office

Mr. Jackson, chairman of the Employee Representative Committee, discussed the current pay proposal as proposed by the Police Department. He stated the non-uniform employees support a fair pay plan for all city workers. Non-uniform employees met during two meetings last Friday with the Employee Representative Committee. They would like equitable treatment for all employees. Quality of life is a key factor that brings people, businesses and factories to Jonesboro and that is a service the non-uniform employees provide to the citizens. Therefore, equal and fair

treatment among all departments would be fair. When one group is divided up, it breaks up the family of employees.

Non-uniform employees would also like to see some form of step-plan. There aren't ranks to promote non-uniform employees like the uniform departments have. Johanson's range is set up with a minimum, midpoint (which you should be at with 10 years of service) and maximum (which you should reach at 20 years of service). This plan is not working. Part of this problem, he thinks, is due to the raises and longevity that all employees received earlier this year that acted like bonuses and is not part of the base pay. He thinks that is something to look at. Mr. Jackson explained there is no pathway to succeed, which needs to be cleared.

Lastly, the non-uniform employees would like more with regards to their retirement. Some non-uniform employees are living off of subsidies because they don't make enough with their daily jobs. Right now, the city will match 5% if the employee contributes 5%. If an employee is on subsidies and cannot contribute to their retirement, then they will not have a retirement with the city. The employees would like the city to contribute 5% and then match 5-10%.

Mr. Jackson stated these needs need to be addressed if the employees are going to be considered part of the city family. They are not here to boycott. They didn't bring any backhoes or tractors or mowers to put in the parking lot and boycott and cause a problem. They are just asking the Council to look at what they have and treat them fairly. He stated police and fire matter greatly, but blue collar workers also matter.

This item was Filed.

5. CONSENT AGENDA

Approval of the Consent Agenda

A motion was made by Councilman Chris Moore, seconded by Councilman Chris Gibson, to Approve the Consent Agenda. The motioned PASSED

Aye: 11 - Darrel Dover; Ann Williams; Charles Frierson; Chris Moore; John Street; Mitch Johnson; Gene Vance; Chris Gibson; Rennell Woods; Todd Burton and Robert Long

Absent: 1 - Charles Coleman

MIN-16:105 Minutes for the City Council meeting on August 16, 2016

Attachments: [Minutes](#)

This item was APPROVED on the consent agenda.

MIN-16:111 City Council Special Called Meeting Minutes for August 29, 2016

Attachments: [Pay Plan Review Minutes.pdf](#)

This item was APPROVED on the consent agenda.

RES-16:105 A RESOLUTION AUTHORIZING THE CITY OF JONESBORO TO ENTER INTO AN AGREEMENT WITH THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) FOR THE EXECUTION OF THE FY2016 CDBG ACTION

PLAN

Sponsors: Grants

Attachments: [HUD Letter for Approval](#)
[Authority to Use Grant Funds FY2016](#)
[HUD-COJ FY2016 Agreement](#)

This item was APPROVED on the consent agenda.

Enactment No: R-EN-089-2016

RES-16:106

A RESOLUTION APPROVING THE IMPLEMENTATION OF THE 2016 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC SERVICE PROGRAM AGREEMENT WITH HISPANIC COMMUNITY SERVICES, INC.

Sponsors: Grants

Attachments: [HCSI 2016Contract.pdf](#)

This item was APPROVED on the consent agenda.

Enactment No: R-EN-090-2016

RES-16:107

A RESOLUTION APPROVING THE IMPLEMENTATION OF THE 2016 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC SERVICE PROGRAM AGREEMENT WITH NEW LIFE EMPOWERMENT DEVELOPMENT CENTERS, INC.

Sponsors: Grants

Attachments: [NLEDC 2016Contract.pdf](#)

This item was APPROVED on the consent agenda.

Enactment No: R-EN-091-2016

RES-16:108

A RESOLUTION APPROVING THE IMPLEMENTATION OF THE 2016 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC SERVICE PROGRAM AGREEMENT WITH NEA COMMUNITY ATHLETICS

Sponsors: Grants

Attachments: [NEAAthletics_2016Contract.pdf](#)

This item was APPROVED on the consent agenda.

Enactment No: R-EN-092-2016

RES-16:109

A RESOLUTION APPROVING THE IMPLEMENTATION OF THE 2016 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC SERVICE PROGRAM AGREEMENT WITH THE LEARNING CENTER OF NORTHEAST ARKANSAS, INC.

Sponsors: Grants

Attachments: [TLC 2016Contract.pdf](#)

This item was **APPROVED** on the consent agenda.

Enactment No: R-EN-093-2016

RES-16:110

A RESOLUTION APPROVING THE IMPLEMENTATION OF THE 2016 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC SERVICE PROGRAM AGREEMENT WITH WEST END NEIGHBORHOOD ASSOCIATION

Sponsors: Grants

Attachments: [WENA_2016Contract.pdf](#)

This item was **APPROVED** on the consent agenda.

Enactment No: R-EN-094-2016

RES-16:111

A RESOLUTION APPROVING THE IMPLEMENTATION OF THE 2016 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC SERVICE PROGRAM AGREEMENT WITH CITY YOUTH MINISTRIES

Sponsors: Grants

Attachments: [CYM_2016Contract.pdf](#)

This item was **APPROVED** on the consent agenda.

Enactment No: R-EN-095-2016

RES-16:116

A RESOLUTION OF THE CITY OF JONESBORO, ARKANSAS AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH SG360 JANITORIAL SERVICES

Sponsors: Mayor's Office

Attachments: [SG3060 Municipal Building Janitorial Agreement 8.23.16](#)

This item was **APPROVED** on the consent agenda.

Enactment No: R-EN-096-2016

RES-16:117

A RESOLUTION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING AGREEMENT WITH HABITAT OF HUMANITY OF GREATER JONESBORO TO COLLABORATE IN REHABILITATION AND DEMOLITION ACTIVITIES OF CERTAIN PROPERTIES FOR THE 2016 CDBG ACTION PLAN

Sponsors: Grants

Attachments: [MOU for CDBG & Habitat for Humanity](#)

This item was **APPROVED** on the consent agenda.

Enactment No: R-EN-097-2016

RES-16:119

A RESOLUTION AUTHORIZING THE CITY OF JONESBORO TO ENTER INTO AGREEMENT WITH THE ARKANSAS STATE POLICE AND ACCEPT THE 2017 STEP GRANT

Sponsors: Grants and Police Department

Attachments: [STEP 2017 Sub-agreement](#)
[Sub-agreement provisions and terms](#)

This item was APPROVED on the consent agenda.

Enactment No: R-EN-098-2016

RES-16:121

A RESOLUTION OF THE CITY OF JONESBORO, ARKANSAS AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH INTERIORS BY DESIGN, LLC TO WORK WITH LEADERSHIP JONESBORO TO RENOVATE WINTER WONDERLAND

Sponsors: Mayor's Office

Attachments: [Interior Design Contract.pdf](#)

This item was APPROVED on the consent agenda.

Enactment No: R-EN-099-2016

6. NEW BUSINESS

COM-16:063

Decision by the City Council regarding the request by Aniefiok Jacob to operate a city cab

Attachments: [Cab Request](#)

NOTE: NO NEW INFORMATION HAS BEEN PROVIDED TO THE CITY CLERK'S OFFICE

Mayor Perrin noted there is nothing to discuss since Mr. Jacob has not presented any new information. He explained they made it clear at the last meeting Mr. Jacob needed to get with the City Clerk's Office.

This item was Filed.

ORDINANCES ON FIRST READING

ORD-16:052

AN ORDINANCE TO AMEND ORDINANCE 46-70 TO EXEMPT CITY APPROVED SHOOTING RANGES FROM THE LOUD NOISE ORDINANCE

Sponsors: Police Department

Councilman Street offered the ordinance for first reading by title only.

Councilman Moore motioned, seconded by Councilman Street, to suspend the rules and waive the second and third readings. All voted aye.

A motion was made by Councilman Chris Moore, seconded by Councilman Todd Burton, that this matter be Passed . The motion PASSED with the following vote.

Aye: 11 - Darrel Dover;Ann Williams;Charles Frierson;Chris Moore;John Street;Mitch Johnson;Gene Vance;Chris Gibson;Rennell Woods;Todd Burton and Robert Long

Absent: 1 - Charles Coleman

Enactment No: O-EN-045-2016

ORD-16:057

AN ORDINANCE REPEALING A CERTAIN ORDINANCE ACCEPTING LANDS ANNEXED TO THE CITY OF JONESBORO, ARKANSAS, BY ORDER OF THE COUNTY COURT OF CRAIGHEAD COUNTY, ARKANSAS; ASSIGNING SAID ANNEXED TERRITORIES TO WARD 2; DECLARING THE ZONING FOR THE ANNEXED TRACT; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

Attachments: [Survey](#)
[1989 Order of Annexation](#)
[Ordinance 2242](#)
[County Judge's Letter](#)
[Letter from CWL](#)
[Aerial Photo](#)

Councilman Street offered the ordinance for first reading by title only.

Councilman Moore stated this property is in his ward. It was explained to him the land doesn't have utility access from City Water & Light, but it is adjacent to Craighead Electric service. The property owners are asking that the property be de-annexed in order to gain utility access from Craighead Electric. Councilman Johnson asked if this was brought in under the mass annexation years ago. Councilman Moore answered yes. Mayor Perrin agreed, adding the property was annexed into the city in 1989. Councilman Street stated he spoke with an individual at CWL who indicated to him the cost would be very high to hook up with CWL, so CWL had no problem with the de-annexation. Councilman Moore also noted the property owners have an interested buyer for the property.

Craig McDaniel, representing the South Trust on the property, discussed the de-annexation. They have had this property for five or six years. It was almost sold three years ago, but it was going to be very expensive to get CWL utilities to the property. They have an interested buyer who wants to build a house on part of the property and have a cattle/horse farm on the other part.

City Attorney Carol Duncan stated it was her understanding the annexation was recent when she reviewed it. The statute requires it to be de-annexed within an eight-year time frame after annexation. Now hearing that the property was annexed into Jonesboro in 1989, she has legal questions. City Attorney Duncan explained the statute that was referred to in the ordinance specifies an eight-year time frame. Councilman Frierson stated that doesn't mean the property can't be de-annexed; rather, it just means it would be easier within that time frame. City Attorney Duncan stated since that is the statute referred to in the ordinance that is what she is going by.

A motion was made by Councilman Chris Moore, seconded by Councilman John Street, that this matter be Postponed Temporarily until the next City Council meeting so the City Attorney can review the ordinance. The motion PASSED with the following vote.

Aye: 11 - Darrel Dover; Ann Williams; Charles Frierson; Chris Moore; John Street; Mitch Johnson; Gene Vance; Chris Gibson; Rennell Woods; Todd Burton and Robert Long

Absent: 1 - Charles Coleman

ORD-16:060

AN ORDINANCE APPROVING THE PURCHASE OF A JOHN DEERE EXCAVATOR FOR THE STREET DEPARTMENT, APPROPRIATING FUNDS, AND DECLARING

AN EMERGENCY

Sponsors: Finance and Streets

Mayor Perrin asked that the ordinance be pulled from the agenda. There was some equipment left off the delivery. They are working to get that corrected. If the price changes, the ordinance may need to be amended. It was then indicated by someone in the audience that the ordinance could be postponed indefinitely because the equipment is not going to be purchased at all.

A motion was made by Councilman Mitch Johnson, seconded by Councilman Chris Moore, that this matter be Postponed Indefinitely . The motion PASSED with the following vote.

Aye: 11 - Darrel Dover;Ann Williams;Charles Frierson;Chris Moore;John Street;Mitch Johnson;Gene Vance;Chris Gibson;Rennell Woods;Todd Burton and Robert Long

Absent: 1 - Charles Coleman

ORD-16:061

AN ORDINANCE TO AFFIRM THE RULING OF THE CRAIGHEAD COUNTY CIRCUIT COURT AND AMEND CHAPTER 117, KNOWN AS THE ZONING ORDINANCE FOR THE CITY OF JONESBORO, PROVIDING FOR CHANGES IN ZONING BOUNDARIES FROM R-1 TO R-8 FOR PROPERTY LOCATED ON AGGIE ROAD AS REQUESTED BY DEAN TYRER

City Attorney Duncan explained she asked for this ordinance be presented to the City Council. It's a cleanup ordinance. She doesn't think the court requires this ordinance, but in order for it to be entered into the system it needs an ordinance number. The court rezoned the property, but MAPC added some restrictions to the property that were not in the court order. Both sides are in agreement with the restrictions, but it needs to be documented for future reference. The ordinance reads as it did before.

Councilman Moore offered the ordinance for first reading by title only.

Councilman Moore motioned, seconded by Councilman Frierson, to suspend the rules and waive the second and third readings. All voted aye.

A motion was made by Councilman Charles Frierson, seconded by Councilman Chris Moore, that this matter be Passed . The motion PASSED with the following vote.

Aye: 11 - Darrel Dover;Ann Williams;Charles Frierson;Chris Moore;John Street;Mitch Johnson;Gene Vance;Chris Gibson;Rennell Woods;Todd Burton and Robert Long

Absent: 1 - Charles Coleman

Enactment No: O-EN-046-2016

RESOLUTIONS TO BE INTRODUCED**RES-16:118**

RESOLUTION TO SET A PUBLIC HEARING REGARDING THE ABANDONMENT OF 10 FEET OF A 15 FOOT UTILITY EASEMENT AT 2217 MASTERS DRIVE AS REQUESTED BY CHARLES & MELINDA PORTER

- Attachments:** [Plats](#)
[Petition](#)
[Utility Letters](#)
[Engineering & Planning Letter](#)
[Extra documentation](#)

A motion was made by Councilman John Street, seconded by Councilman Chris Moore, that this matter be Passed . The motion PASSED with the following vote.

Aye: 11 - Darrel Dover;Ann Williams;Charles Frierson;Chris Moore;John Street;Mitch Johnson;Gene Vance;Chris Gibson;Rennell Woods;Todd Burton and Robert Long

Absent: 1 - Charles Coleman

Enactment No: R-EN-100-2016

7. UNFINISHED BUSINESS

ORDINANCES ON THIRD READING

ORD-16:055

AN ORDINANCE TO AUTHORIZE THE CITY OF JONESBORO TO AMEND THE 2016 BUDGET AND MOVE \$7,810,000 FROM THE GENERAL FUND TO CAPITAL IMPROVEMENT FUND FOR STIP PROJECTS

Sponsors: Finance and Mayor's Office

- Attachments:** [STIP Projects](#)
[2016-2020 STIP Craighead County](#)

A motion was made by Councilman Chris Moore, seconded by Councilman Chris Gibson, that this matter be Passed . The motion PASSED with the following vote.

Aye: 11 - Darrel Dover;Ann Williams;Charles Frierson;Chris Moore;John Street;Mitch Johnson;Gene Vance;Chris Gibson;Rennell Woods;Todd Burton and Robert Long

Absent: 1 - Charles Coleman

Enactment No: O-EN-047-2016

COM-16:068

Proposed Police Pay Plan

- Attachments:** [Proposed Police Pay Plan.pdf](#)

This item was Filed.

Councilman Johnson motioned, seconded by Councilman Street, to suspend the rules and place ORD-16:063 on the agenda. All voted aye.

ORD-16:063

AN ORDINANCE AUTHORIZING THE CITY OF JONESBORO TO AMEND THE

2016 ANNUAL BUDGET FOR THE POLICE DEPARTMENT

Sponsors: Police Department

Councilman Street offered the ordinance for first reading by title only.

Councilman Dover requested that Chief Financial Officer Suzanne Allen run numbers for a step plan for every city employee at three different levels – adding 3% to the cells, 5% and 6% - to determine the cost. He added it would be to increase the minimum, midpoint and max 3%, 5% or 6% with the midpoint being at 10 years and maximum at 20 years. Councilman Dover made that motion, seconded by Councilman Johnson. All voted aye. Councilman Dover asked that the information be put together by Friday. Mayor Perrin added they will send out the information to everybody.

Councilman Dover reiterated that he is referring to increasing the cells. Councilman Woods questioned what he meant by “cells.” Councilman Dover explained that would be the minimum, midpoint and maximum. He further explained the numbers should show an increase of 3%, 5% and 6% to come up with a total cost. He added if an employee has been at the city for ten years, they would be at the midpoint. If they’ve been here twelve years, they would be at 20% between the midpoint and maximum. If they’ve been here twenty years, they’ll be at the maximum. Councilman Moore clarified that would be based on current years of service as of Friday. Councilman Dover answered yes. Councilman Dover then requested the information be sent out to everyone on the City Council.

A motion was made by Councilman Darrel Dover, seconded by Councilman John Street, that this matter be Held at one reading . The motion PASSED with the following vote:

Aye: 10 - Darrel Dover;Ann Williams;Charles Frierson;Chris Moore;John Street;Gene Vance;Chris Gibson;Rennell Woods;Todd Burton and Robert Long

Nay: 1 - Mitch Johnson

Absent: 1 - Charles Coleman

8. MAYOR'S REPORTS

Mayor Perrin reported on the following items:

The city sold \$22 million in building permits last month. Residential was at 46% with commercial being at 54%. The majority of that was due to the construction of duplexes on Patrick Street, which is classified as residential as opposed to commercial.

Condemnations through last month were 16 by owners, 3 by the city, 6 renovations and 2 through grants. 16 condemnations are in process for a total of 43. They should be in the same range as this time last year.

The Street Department has been busy with striping. They did 17.95 last month with 130 miles striped year to date. The new machine makes the striping much easier.

Ditch mowing is at about 30% of the total. It will probably be November before the project is done.

He read a letter from a citizen praising the Sanitation Department for their work. He read another letter commending the Street Department for their work.

They had a pre-construction meeting regarding Phase II of the Craighead Forest Park Trail. They should be surveying the area now.

They will be meeting with ADEM to discuss the mitigation plan. The plan has been down in Little Rock. They will be visiting Little Rock to find out the status of the plan.

The Ward 3 meeting will be Thursday at the Central Fire Station at 6:00 p.m.

The new Welcome to Jonesboro sign on Highway 18 is up and has been painted.

He gave an update concerning the home ice property. The appeal is coming up. The property is unsafe and unsightly. City Attorney Duncan explained the circuit judge granted the city's motion to dismiss the case, but then they appealed the decision to the Court of Appeals in Little Rock. They have 15 days to file the final response brief, but she doesn't know how long it will take to get a ruling from the Court of Appeals. On the property itself, the owners have been given a warning and some deadlines regarding removing some property. If the city has to do the cleanup, then they will either bill the owners or put a lien on the property. She noted that's only dealing with the exterior of the building. Mayor Perrin explained there are trailers and trucks on the property that need to be hauled off. City Attorney Duncan added Code Enforcement is waiting until the timeline has been reached concerning the inoperable vehicles, then the city will be able to clean up the property.

Councilman Moore noted Bill Smith had asked if the current lawsuit prohibits the city from enforcing Code Enforcement ordinances. City Attorney Duncan answered no. She thinks the lawsuit stops the city from condemning the building, but not from enforcing our other ordinances. She added Code Enforcement is just waiting on the deadlines in order to do something about cleaning up the property. Code Enforcement Officer Wayne Rogers explained they already had the truck in the front removed and have taken bids to mow and clean up the whole property. The bids open tomorrow. There is a fence in the front, but it keeps getting knocked down.

Councilman Moore then asked if a lien would be place on the property. City Attorney Duncan answered yes, when it comes to mowing if the property owners don't pay then the city will place a lien on the property. She added she also thinks there's a process that would allow the city to sell any valuables on the property in order to offset the cost of the cleanup. If it brings in more than the cleanup costs, then the property owners are entitled to the leftover money. Mr. Rogers noted the deadline for mowing is this week. City Attorney Duncan noted there are two deadlines for the property, one for the mowing, the other for the inoperable vehicles. She doesn't think the deadline for the inoperable vehicles is this week.

Councilman Moore then asked if the building itself is secure. Mayor Perrin answered no. The fence is down, so citizens can enter the property. It is not safe or secure. Councilman Moore questioned whether the city can secure the building. City Attorney Duncan stated she doesn't think the city can do anything with the building now that it's in litigation without making a request. She stated she will look into that. One thing that hinders the fire marshal is that when the building is not in use, then they can't just enter the building unless they know of a danger. Councilman Moore stated Mr. Smith has indicated he thinks someone is living there because he keeps seeing a red vehicle parked there.

9. CITY COUNCIL REPORTS

Councilman Street motioned, seconded by Councilman Dover, to suspend the rules

and place RES-16:115 on the agenda. All voted aye.

RES-16:115

A RESOLUTION OF THE CITY OF JONESBORO, ARKANSAS TO ACCEPT THE LOW BID AND ENTER INTO A CONTRACT WITH ALL SCAPES IRRIGATION & LAWN CARE, LLC FOR THE BELT STREET/EAST WORD AVENUE SIDEWALKS (BID NO. 2016:29)

Sponsors: Engineering

Attachments: [Contract Documents 2016 29](#)
[Bid Tab](#)

A motion was made by Councilman John Street, seconded by Councilman Mitch Johnson, that this matter be Passed . The motion PASSED with the following vote:

Aye: 11 - Darrel Dover; Ann Williams; Charles Frierson; Chris Moore; John Street; Mitch Johnson; Gene Vance; Chris Gibson; Rennell Woods; Todd Burton and Robert Long

Absent: 1 - Charles Coleman

Enactment No: R-EN-083-2016

Councilman Dover motioned, seconded by Councilman Johnson, to suspend the rules and place RES-16:123 on the agenda. All voted aye.

RES-16:123

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF AN AIRPORT IMPROVEMENT PROGRAM (AIP) PROJECT NO. 3-05-0033-021-2016 FROM THE FEDERAL AVIATION ADMINISTRATION (FAA)

Sponsors: Municipal Airport Commission and Grants

Attachments: [3-05-0033-021-2016 \(AIP\)](#)

A motion was made by Councilman Chris Gibson, seconded by Councilman Rennell Woods, that this matter be Passed . The motion PASSED with the following vote:

Aye: 11 - Darrel Dover; Ann Williams; Charles Frierson; Chris Moore; John Street; Mitch Johnson; Gene Vance; Chris Gibson; Rennell Woods; Todd Burton and Robert Long

Absent: 1 - Charles Coleman

Enactment No: R-EN-084-2016

Councilman Burton noted the ditch work and cleaning maps are on the website now so they can be viewed by the public. He thanked the communications director for getting that on the website.

Councilman Moore thanked the person responsible for painting the Welcome to Jonesboro sign on Dan Avenue. Mayor Perrin stated he thinks the Street Department painted it.

10. PUBLIC COMMENTS

Haley Stout, a resident on West Nettleton, spoke on behalf of the spouses of Jonesboro police officers. She thanked Councilman Johnson and the Public Safety Committee for working with the officers to come up with a pay plan that will bring the officers up to a more competitive market value and allow the department to better recruit and maintain officers for many years. She also thanked each Council member for the time spent listening to the plan proposals and the subsequent discussions. The step plan will allow officers to know where they will be financially in 3, 5, 10 even 20 years whether they stay in patrol or set their goals to a higher rank. They feel like the proposed plan will make Jonesboro comparable to other cities our size in the state. The fact that the non-uniform employees now want the plan shows that it is doable and workable. The spouses are there to show support for the job the officers do every day. She asked the Council to support the pay proposal. She noted the officers have been asking for this plan for two years. She asked that the officers be taken care of and then the rest of the employees be worked on.

Heath Loggains, a resident in Brookland, stated he has heard in committee's for five years that things would be postponed. During those same five years, he has been a single father and relied on second, third and fourth jobs just to make ends meet. He lived a modest lifestyle. Due to a knee injury, he lost his side jobs. He was on administrative leave last year and lost every security job he had. During that time he had to go through a grand jury process and had to explain to his kid why his dad was all over the news. But, his fellow officers supported him and kept in contact with him. He has been an officer for 9 years and is a field training officer. Last year, his take home salary was \$27,000. He is now at \$33,981, but should be at almost midpoint since he has been here 9 years. One of his trainees that he has had for six days is being paid \$32,429. Mr. Loggains noted it's not just him; it's all of the officers. He commended the non-uniform employees for saying they want something to. He added Councilman Dover postpones items and causes an officer and their family to suffer. He explained the city is growing, but no one mentions that. Paying the officers more will not break the city because the city is growing. He used to have trainees making more money than him. The only reason he makes more than his current trainee is because of the bonus and longevity pay that was given out at the beginning of the year. The city is losing officers to smaller cities and the state police. He asked the city to take into consideration while they are deliberating that there's only a \$1,500 difference between him, a 9-year officer, and a trainee who has only been with the city for 3 months.

Employee Representative Chairman Larry Jackson returned to the podium stated they feel for the Police Department and when they have problems. He noted the officer is making \$31,000, \$32,000, but the non-uniforms have employees that start at \$21,000. There are dangers in every job. Until recently, there was many, if not more, street and sanitation workers that were hit by vehicles, injured or killed than police officers. If history repeats itself, when this is done the Fire Department will want what the Police Department gets and then there won't be enough money left over for the non-uniforms. He asked for consideration be given to not just one department, but all departments. Mr. Jackson noted there was the Salary Committee that considered all departments, but now the committee is not working anymore and he wants to know why. That committee did a great job in getting benefits for every employee, but now it's not working where they can continue their job.

11. ADJOURNMENT

A motion was made by Councilman Rennell Woods, seconded by Councilman Mitch Johnson, that this meeting be Adjourned . The motion PASSED with the following vote.

Aye: 11 - Darrel Dover;Ann Williams;Charles Frierson;Chris Moore;John Street;Mitch Johnson;Gene Vance;Chris Gibson;Rennell Woods;Todd Burton and Robert Long

Absent: 1 - Charles Coleman

_____ **Date:** _____

Harold Perrin, Mayor

Attest:

_____ **Date:** _____

Donna Jackson, City Clerk



Legislation Details (With Text)

File #:	RES-16:113	Version:	1	Name:	Free utility request for Welcome to Jonesboro sign on Highland Drive
Type:	Resolution	Status:		Status:	Recommended to Council
File created:	8/15/2016	In control:		In control:	Public Works Council Committee
On agenda:		Final action:		Final action:	
Title:	A RESOLUTION REQUESTING FREE UTILITY SERVICES FROM CITY WATER AND LIGHT FOR A WELCOME TO JONESBORO SIGN				
Sponsors:	Engineering				
Indexes:	Utility service from CWL				
Code sections:					
Attachments:					

Date	Ver.	Action By	Action	Result
9/6/2016	1	Public Works Council Committee		

A RESOLUTION REQUESTING FREE UTILITY SERVICES FROM CITY WATER AND LIGHT FOR A WELCOME TO JONESBORO SIGN

WHEREAS, the City of Jonesboro is requesting that City Water and Light provide free utilities at the following location:

9724 E. Highland Drive

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF JONESBORO, ARKANSAS THAT:

Section 1: That City Water and Light requested by this resolution to provide free utilities to the location listed above.

Section 2: To permit such services to be provided without charge, the City of Jonesboro hereby affirms to City Water and Light that the ultimate use of CWL utilities so provided is now and shall remain a use or purpose which the City is engaged in as part of its governmental or proprietary functions under authority to it by state law.



Legislation Details (With Text)

File #: RES-16:114 **Version:** 2 **Name:** Willingness to maintain traffic signal on at railroad crossing on Henson Road
Type: Resolution **Status:** Recommended to Council
File created: 8/15/2016 **In control:** Public Works Council Committee
On agenda: **Final action:**

Title: A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF JONESBORO TO MAINTAIN THE TRAFFIC SIGNAL INSTALLED IN THE FOLLOWING PROJECT: JOB 100822 HENSON RD. RR SIGNAL UPGRADE & TRAFFIC SIGNAL (JONESBORO) (S)

Sponsors: Engineering
Indexes: Other
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
9/6/2016	2	Public Works Council Committee		

A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF JONESBORO TO MAINTAIN THE TRAFFIC SIGNAL INSTALLED IN THE FOLLOWING PROJECT: JOB 100822 HENSON RD. RR SIGNAL UPGRADE & TRAFFIC SIGNAL (JONESBORO) (S)

WHEREAS, the City of Jonesboro understands Federal-aid Elimination of Hazards at Railway-Highway Crossings funds will pay for the construction of the railroad crossing improvements and the installation of the traffic signal; and

WHEREAS, the City of Jonesboro will be responsible for the traffic signal upon completion of the construction of the project.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF JONESBORO, ARKANSAS THAT:

Section 1: The City will participate in accordance with its designated responsibility in this project, which includes providing electrical service, maintenance of the traffic signal and associated control equipment.

Section 2: The City pledges its full support and hereby authorizes the Arkansas State Highway and Transportation Department to initiate action to implement this project.



Legislation Details (With Text)

File #:	RES-16:120	Version:	1	Name:	Agreement with EAPPD for the Miracle League Project
Type:	Resolution	Status:		Status:	Recommended to Council
File created:	8/26/2016	In control:		In control:	Finance & Administration Council Committee
On agenda:		Final action:			
Title:	A RESOLUTION AUTHORIZING THE CITY OF JONESBORO TO ENTER INTO AN AGREEMENT WITH THE EAST ARKANSAS PLANNING AND DEVELOPMENT DISTRICT FOR THE 2015 GENERAL IMPROVEMENT FUNDS (GIF) FOR THE MIRACLE LEAGUE PROJECT				
Sponsors:	Grants				
Indexes:	Contract, Grant				
Code sections:					
Attachments:	Grant 20155906 - Miracle League - 08162016				

Date	Ver.	Action By	Action	Result
9/14/2016	1	Finance & Administration Council Committee		

A RESOLUTION AUTHORIZING THE CITY OF JONESBORO TO ENTER INTO AN AGREEMENT WITH THE EAST ARKANSAS PLANNING AND DEVELOPMENT DISTRICT FOR THE 2015 GENERAL IMPROVEMENT FUNDS (GIF) FOR THE MIRACLE LEAGUE PROJECT
WHEREAS, the City Council approved RES-16:060 on May 17, 2016 to apply for General Improvement Funds for surveillance system and remaining installation cost for the pavilion for the Miracle League Park, and

WHEREAS, the City of Jonesboro was awarded the FY2015 GIF Grant in the amount of \$7,000 in state funding for the aforementioned items in the initial grant application, and

WHEREAS, the City of Jonesboro will accept all accounting and reporting responsibilities for said grant during the grant period of one year.

NOW, THEREFORE, LET IT BE RESOLVED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS THAT:

SECTION 1: The City of Jonesboro will enter into agreement with the East Arkansas Planning and Development District in the amount of \$7,000.

SECTION 2: The Mayor and the City Clerk are hereby authorized by the City Council for the City of Jonesboro to execute all documents necessary to effectuate this agreement.

East Arkansas Planning & Development District
General Improvement Fund Grant Program
Grant Agreement

Grantee: City of JonesboroGrant #: 20155906Grant Amount: \$7,000.00Purpose: **Funds will be used to install a surveillance system.****GRANTOR**

East Arkansas Planning & Development District
PO Box 1403
Jonesboro, AR 72403
Phone: 870.932.3957

GRANTEE

City of Jonesboro
PO Box 1845
Jonesboro, AR 72403
Phone: 870-336-7229

1. PURPOSE

This Agreement is entered into by East Arkansas Planning & Development District (EAPDD), herein referred to as Grantor, and City of Jonesboro, herein referred to as Grantee. The Grantor has received General Improvement Funds from the Arkansas General Assembly to be utilized to assist local public governmental jurisdictions and/or non-profit organizations to plan, develop, promote, and/or implement economic and community development projects/activities designed to improve the economic, community and/or social well-being of the citizens of Arkansas. Projects should complement Arkansas's Economic and Community Development Goals and Objects. The Grantee agrees to implement and complete a General Improvement Fund Program project within one year of award date and in accordance with the provisions of this Agreement. In the event that Grantee fails to fully expend such sum within such one year period as a result of unforeseen circumstances beyond the control of the Grantee, then Grantor shall have the option, in its sole discretion, to extend such expenditure period for a reasonable period of time as determined by Grantor in its sole discretion.

2. LEGAL AUTHORITY

By signing this Agreement the Grantee certifies that it possesses legal authority to accept grant funds under the General Improvement Fund program. The act of signing will also certify that the Grantee will comply with all parts of this Agreement, and the Grantee accepts full legal responsibility for properly implementing the project described in the original grant application documents and agrees to expend funds in accordance with the original grant application form.

3. FINANCIAL MANGEMENT AND ACCOUNTING

The Grantee will establish and/or maintain a financial management and accounting system, which conforms to generally accepted accounting principles and complies with requirements of the State Purchasing Law, the General Accounting and Budgetary Procedures Law, and other applicable fiscal control laws of this State and regulations promulgated by the Department of Finance and Administration shall be observed in connection with the utilization of said grant funds.

4. RECORD KEEPING

Grantee will maintain records of all project expenditures on file for a period of three years or until the Grantee's audit for the period in which grant funds were utilized have been conducted. The Grantor and duly authorized officials of the State will have full access and the right to examine any pertinent documents of the Grantee or persons or organizations with which the Grantee may contract, which involve transactions related to this Agreement.

5. REPORTING

The Grantee agrees to provide Grantor with all documentation regarding grant expenditures and a final close-out report within sixty (60) days of project completion on which grant funds have been utilized.

6. INDEMNIFICATION

The Grantee agrees to follow all local and state laws and regulations. Furthermore, the Grantee agrees to hold harmless and indemnify the Grantor from any and all claims, suits, and actions arising from any act, omission, noncompliance, or misuse of grant funds by the Grantee or any employee or agent in the performance of this Grant Agreement.

7. POLITICAL ACTIVITY

No portion of the funds provided hereunder will be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot issue.

8. TERMINATION FOR CAUSE

This agreement may be terminated by Grantor, in its sole discretion, in whole or in part, prior to the completion of project activities when the Grantor determines that continuation is not feasible or would not produce beneficial results commensurate with the further expenditure of funds. The Grantee will not incur new obligations for the terminated portion after the written notice from Grantor, and will cancel as many outstanding obligations as possible. The Grantor will make funds available to the Grantee to pay for allowable expenses incurred before the effective date of termination. If the Grantee fails to comply with the terms of this Agreement, or fails to use the grant for solely those purposes set forth therein, the Grantor may:

- (a) After written notice to the Grantee, suspend the grant and withhold any further payment or prohibit the Grantor from incurring additional obligations of grant funds, pending corrective action by the Grantee or a decision to terminate.
- (b) Terminate the grant, in whole or in part, at any time before the final grant payment is made. The Grantor will promptly notify the Grantee in writing of its determination to terminate, the reason for such termination, and the effective date of the termination. Payments made to the Grantee or recoveries by the Grantor will be in accordance with the legal rights and liabilities of the parties. Grantee agrees that regardless of its designation of any third party or parties to undertake all or part of the grant project, Grantee remains primarily liable and responsible for the recovery of and reimbursement to Grantor of any grant proceeds owed to Grantor as a result of any failure by the Grantee to comply with the terms of this Agreement.

9. RECOVERY OF GRANT FUNDS

In the event of a violation of the terms of this Agreement by the Grantee, the Grantor may institute actions to recover all or part of the project funds paid to the Grantee. Grantee shall be liable for all attorney fees and other costs incurred by Grantor in pursuing such remedies.

10. ENFORCEMENT

If the Grantor determines that a Grantee's performance fails to meet the terms and conditions of this Grant Agreement, several courses of action may be pursued in order to resolve the problem. The Grantor may take any one or more of the following actions, in its sole discretion:

- (a) Request additional information from the Grantee to verify the nature of inadequate performance;
- (b) Conduct a site visit to examine pertinent records and recommend remedial courses of action;
- (c) Issue a letter of warning, advising the Grantee of the deficiency, recommendations for corrections, date by which performance must be corrected and notice that more serious sanctions may be imposed if the situation continues or is repeated;
- (d) Suspend funding for questioned activities until remedies are effected;
- (e) Require reimbursement of funds improperly spent, including a demand that Grantee institute all necessary legal proceedings, at its expense, to recover funds improperly spent by any third party performing on behalf of the Grantee;
- (f) Institute appropriate legal actions against Grantee to recover improperly spent grant funds; and/or
- (g) Condition future receipt of EAPDD GIF Program funds upon assurances of corrective action and special conditions.

11. CONFLICT OF INTEREST

The Grantee shall secure all such services in accordance with applicable State law and the provisions of this Agreement, and shall notify the Grantor, in writing, of the method utilized to secure services, the name and address of the services provider(s), the scope of work anticipated, and the terms of compensation. No officer or employee of the Grantor, no member, officer, or employee of the Grantee or its designees or agents, no member of the governing body of the jurisdiction in which the project is undertaken or located, and no other official of such locality or localities who exercises any function or responsibilities with respect to the project during this tenure, will have any personal or pecuniary gain or interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the project assisted under this contract agreement. The Grantee will incorporate, or cause to incorporate, in all such contracts or subcontract a provision prohibiting such interest pursuant to the purpose of this provision. The Grantor reserves the right to waive certain provision of this clause in the event of a situation, once justified as unavoidable by the Grantee, and approved by the Grantor in writing which necessitates such a waiver.

12. METHOD OF PAYMENT

The Grantor shall make payment of authorized grant funds upon proper execution of this Grant Agreement by the Grantee. The Grantor reserves the right to determine the most appropriate distribution of payments, based upon the nature of the approved project. The method of payment may include either a one-time disbursement or a number of cost reimbursements based upon submitted invoices. In no

Grantee: City of Jonesboro

Grant #: 20155906

event will the total amount of grant funds to the Grantee for allowable expenses incurred in relation to the project exceed the amount noted on Page 1 of this Agreement as the Grant Amount.

13. PROCUREMENT PROCEDURES

The Grantee agrees to comply with all procurement procedures required by applicable State and Federal laws and will maintain a record of this compliance.

14. MODIFICATIONS

The Grant Agreement may not be modified, without the prior written consent of Grantor and Grantee.

15. WAIVERS

No conditions or provisions of the Agreement may be waived unless approved by the Grantor in writing.

This Agreement is entered into as of the Grantor's signature date below, and is considered to be in effect until the Grantor notifies the Grantee in writing that the Agreement is terminated.

Approved for the Grantor

Approved for the Grantee

BY:

BY:

East Arkansas Planning & Development
District

City of Jonesboro

Melissa Rivers
Executive Director

Harrold Perrin

Date

Date



Legislation Details (With Text)

File #:	RES-16:124	Version:	1	Name:	Memo of Understanding with Mid-South Health for rehab activities
Type:	Resolution	Status:		Status:	Recommended to Council
File created:	9/6/2016	In control:		In control:	Finance & Administration Council Committee
On agenda:		Final action:			
Title:	A RESOLUTION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING AGREEMENT WITH MID-SOUTH HEALTH SYSTEMS TO COLLABORATE IN THE REHABILITATION ACTIVITIES FOR RESIDENTIAL FACILITIES FOR THE 2016 CDBG ACTION PLAN				
Sponsors:	Grants				
Indexes:	Contract				
Code sections:					
Attachments:	MOU for MidSouth Health				

Date	Ver.	Action By	Action	Result
9/14/2016	1	Finance & Administration Council Committee		

A RESOLUTION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING AGREEMENT WITH MID-SOUTH HEALTH SYSTEMS TO COLLABORATE IN THE REHABILITATION ACTIVITIES FOR RESIDENTIAL FACILITIES FOR THE 2016 CDBG ACTION PLAN

WHEREAS, by RES-16:105 for the agreement between HUD and the City for the approval of the 2016 CDBG Action Plan was approved on September 6, 2016; and

WHEREAS, the City has approved the submission of the 2016 CDBG Action Plan that included the rehabilitation of three housing units are brought into standardized and healthy environments for low to moderate income individuals with mental disabilities as prescribed in the National Objectives set forth by HUD, and

WHEREAS, Mid-South Health Systems has agreed to provide these services for CDBG by performing rehabilitation efforts of the said properties in order for these individuals to live in standardized and healthy homes that will prevent homelessness which is set forth by federal, state and local laws and regulations.

NOW, THEREFORE, LET IT BE RESOLVED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS THAT:

SECTION 1: The City of Jonesboro will enter into a Memorandum of Understanding agreement with the Mid-South Health Systems for the performance of the aforementioned homelessness prevention activities for the FY2016 CDBG Action Plan.

SECTION 2: The Mayor and City Clerk are hereby authorized by the City Council for the City of Jonesboro to execute all documents necessary to effectuate this agreement.



MEMORANDUM OF UNDERSTANDING
IMPROVEMENT OF RESIDENTIAL FACILITY WITHIN THE
CITY OF JONESBORO
BETWEEN CITY GOVERNMENT AND PRIVATE NON-
PROFIT ORGANIZATION TO PREVENT HOMELESSNESS

This Memorandum of Understanding (“MOU”) is entered into jointly by the City of Jonesboro (City) and Mid-South Health Systems (MSHS).

I. Purpose

The purpose of this MOU is to formalize the commitment among the listed entities to work in a partnering process to coordinate and leverage funds to complete the shared projects that apply jointly to the entities in order to provide sustainable living environment in conjunction with the Community Development Block Grant (CDBG) funds. This partnership will facilitate a coordinated effort that ensures the residential facilities are remediated and brought to standard according to the federal, state and local laws. This MOU shall be applicable to projects outlined in the 2016 CDBG Action Plan.

II. Background

The goal of the 2016 CDBG Action Plan (“Project”) is to meet the CDBG program’s National Objectives by (1) benefit to low- and- moderate income persons; (2) aid in the prevention or elimination of slums or blight; and (3) ensure community development needs having a particular urgency, as defined in 24 CFR§570.208. Among other things, the project will include rehabilitation of residential facilities for the 2016 CDBG program year. Funding for the Project under this MOU will be derived from several funding sources, which includes federal, state and local contributions. As a result, the City and MSHS are required to comply with all federal, state and local regulations with use of federal funding.

The need for coordination to streamline the project for the reconstruction is seen as necessary by the parties to fulfill as mandated through National Objectives set forth by U.S. Department of Housing and Urban Development for the CDBG program.

III. Statutory and Regulatory Authority

WHEREAS, federal funds from the United States Government under Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383; and

WHEREAS, Title VIII of the Civil Rights Act of 1968, as amended in 1988, or the Fair Housing Act (FHA) prohibits discrimination in the sale, rental, and financing of dwellings and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18) and disability.

WHEREAS, Title VI of the Civil Rights Act of 1964 prohibits the discrimination on the basis of race, color or national origin in programs and activities receiving federal financial assistance.

WHEREAS, Title II of the Americans with Disabilities Act of 1990 prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals.

WHEREAS, Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability in any program or activities receiving federal financial assistance.

WHEREAS, Executive Order 11063 prohibits discrimination in the sale, leasing, rental, or disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

WHEREAS, Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency) eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally assisted and federally conducted programs and activities.

WHEREAS, in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland “Anti-Kickback” Act (40 U.S.C. 276a-276a-5; 40 USC 327 and 40 USC 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of services through federally funded activities.

NOW, THEREFORE:

IV. Commitment of the Entities

To facilitate preparation of the facility improvement, the City and MSHS hereby commit as follows:

- MSHS must notify and submit appropriate documentation indicating the qualification of residents, as applicable.
- MSHS must comply with City’s policy and procedures in accordance with 24 CFR §570 and 2 CFR §200, as applicable.
- MSHS shall maintain all records required by the Federal regulations specified in 24 CFR §570.506 that are pertinent to the aforementioned activities.
- MSHS shall maintain real property inventory records, which clearly identify properties purchased, improved, or sold that receive federal financial assistance. Those properties shall continue to meet eligibility criteria and shall conform to the “changes in use” restrictions in 24 CFR §570.503(b) (8), as applicable.

- All records pertaining to the Project shall be made available to the City, the Federal agency and their designees, at any time during normal business hours, as deemed necessary, to audit, and make excerpts or transcripts of all relevant data.
- MSHS shall hold harmless, defend and indemnify the City, its agents, and employees from any suits and actions: including attorney's fees, all costs of litigation, and judgment brought against the City as a result of loss, damage or injury to persons or property arising out of or resulting from MSHS direct use and operation of programs in connection with the MSHS's performance or nonperformance of the services or subject matter called for in this MOU only if as a result of the MSHS's negligent or intentional acts.
- MSHS shall comply with the bonding and insurance requirements as outlined in 24 CFR §§84.31 and 84.48 and 2 CFR §§200.304, 200.310 and 200.447.
- The City may amend, in its discretion, this MOU to conform to all Federal, state or local governmental laws and regulations as deemed necessary. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of the MOU, such modifications will be incorporated only by written amendment signed by both parties.
- In accordance with 2 CFR §200.213, non-federal entities are subject to the non-procurement debarment and suspension regulations that restrict awards, sub-awards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in CDBG programs or activities. MSHS and its agents under this MOU shall be registered with System for Award Management (SAM) prior to the commencement of activities.
- MSHS agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR §570.606(b); (b) the requirements of 24 CFR §570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR §570.606(b) (2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for CDBG-assisted projects. MSHS also agrees to comply with applicable City ordinances, variances and policies concerning the displacement of persons from their residences.
- MSHS agrees to comply with the non-discrimination practices regarding employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR §570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are applicable.
- Both parties shall maintain documentation that demonstrates compliance with hour and wage requirements according to all federal, state and local laws and regulations. Such documentation shall be readily available upon request.

- MSHS shall not enter into any subcontracts with any agency or individual in the performance of this MOU without the written consent of the City prior to the execution of such agreement. MSHS will monitor all subcontracted services on a regular basis to assure compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of actions taken in correction areas of noncompliance. MSHS shall initiate all of the provisions of this MOU in its entirety to be included in any subcontract executed in the performance of said Project. MSHS shall undertake to ensure that all subcontracts consent to the performance of this MOU shall be awarded upon a fair and open competitive basis. Executed copies of all subcontracts shall be directed to the City along with documentation concerning the selection process as applicable.
 - MSHS agrees to abide by the provisions of 24 CFR §570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance. No persons having such a financial interest shall be employed or retained by either party hereunder. These conflict of interest provisions include any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or MSHS that are receiving funds under the CDBG Entitlement program.
1. Both Parties agrees to comply with the following requirements insofar as they apply to the performance of this MOU:

Air and Water

- Clean Air Act, 42 U.S. C., 7401 *et seq.*
- Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued hereunder; and
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Entity shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

Lead-Based Paint

Any construction or rehabilitation of residential structures with assistance provided under this MOU shall be subject to HUD Lead-Based Paint Regulations at 24 CFR §570.608, and 24 CFR Part 35. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed

prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures must be undertaken.

Historic Preservation

Compliance with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 38 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this MOU. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

IV. Conclusion

In signing this MOU, the undersigned recognize and accept the roles and responsibilities assigned to each party. Each of the parties agrees to pursue maximum cooperation and communication to ensure that the Project fully comply with all applicable federal requirements and minimizes duplication of effort.

City of Jonesboro

Mid-South Health Systems

Mayor

Executive Director

City Clerk

Date

Date



Legislation Details (With Text)

File #:	RES-16:125	Version:	1	Name:	Memo of Understanding with David Puryear Center for rehab activities
Type:	Resolution	Status:		Status:	Recommended to Council
File created:	9/6/2016	In control:		In control:	Finance & Administration Council Committee
On agenda:		Final action:			
Title:	A RESOLUTION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING AGREEMENT WITH FOUNDATION CARE, LLC (DAVID E. PURYEAR CENTER) TO COLLABORATE IN THE REHABILITATION ACTIVITIES FOR THE FACILITY IMPROVEMENTS FOR THE 2016 CDBG ACTION PLAN				
Sponsors:	Grants				
Indexes:	Contract				
Code sections:					
Attachments:	MOU for Foundation Care, LLC.				

Date	Ver.	Action By	Action	Result
9/14/2016	1	Finance & Administration Council Committee		

A RESOLUTION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING AGREEMENT WITH FOUNDATION CARE, LLC (DAVID E. PURYEAR CENTER) TO COLLABORATE IN THE REHABILITATION ACTIVITIES FOR THE FACILITY IMPROVEMENTS FOR THE 2016 CDBG ACTION PLAN

WHEREAS, by RES-16:105 for the agreement between HUD and the City for the approval of the 2016 CDBG Action Plan was approved on September 6, 2016; and

WHEREAS, the City has approved the submission of the 2016 CDBG Action Plan that included the rehabilitation of driveway and park area are brought into a standardized and sustainable environment for low to moderate income individuals with developmental disabilities as prescribed in the National Objectives set forth by HUD, and

WHEREAS, Foundation Care, LLC has agreed to provide these services for CDBG by performing rehabilitation efforts of the said property in order for these individuals to live in standardized and sustainable residence that is set forth by federal, state and local laws and regulations.

NOW, THEREFORE, LET IT BE RESOLVED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS THAT:

SECTION 1: The City of Jonesboro will enter into a Memorandum of Understanding agreement with the Foundation Care, LLC. for the performance of the aforementioned facility improvement activities for the FY2016 CDBG Action Plan.

SECTION 2: The Mayor and City Clerk are hereby authorized by the City Council for the City of Jonesboro to execute all documents necessary to effectuate this agreement.



MEMORANDUM OF UNDERSTANDING

IMPROVEMENT OF RESIDENTIAL FACILITY WITHIN THE CITY OF JONESBORO BETWEEN CITY GOVERNMENT AND PRIVATE NON- PROFIT ORGANIZATION TO PROVIDE SUSTAINABLE LIVING ENVIRONMENT

This Memorandum of Understanding (“MOU”) is entered into jointly by the City of Jonesboro (City) and Foundation Care, Inc. (FC).

I. Purpose

The purpose of this MOU is to formalize the commitment among the listed entities to work in a partnering process to coordinate and leverage funds to complete the shared projects that apply jointly to the entities in order to provide sustainable living environment in conjunction with the Community Development Block Grant (CDBG) funds. This partnership will facilitate a coordinated effort that ensures the residential facility is remediated and brought to standard according to the federal, state and local laws. This MOU shall be applicable to projects outlined in the 2016 CDBG Action Plan.

II. Background

The goal of the 2016 CDBG Action Plan (“Project”) is to meet the CDBG program’s National Objectives by (1) benefit to low- and- moderate income persons; (2) aid in the prevention or elimination of slums or blight; and (3) ensure community development needs having a particular urgency, as defined in 24 CFR§570.208. Among other things, the project will include resurfacing of driveway and parking area of a residential facility for the 2016 CDBG program year. Funding for the Project under this MOU will be derived from several funding sources, which includes federal, state and local contributions. As a result, the City and FC are required to comply with all federal, state and local regulations with use of federal funding.

The need for coordination to streamline the project for the reconstruction is seen as necessary by the parties to fulfill as mandated through National Objectives set forth by U.S. Department of Housing and Urban Development for the CDBG program.

III. Statutory and Regulatory Authority

WHEREAS, federal funds from the United States Government under Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383; and

WHEREAS, Title VIII of the Civil Rights Act of 1968, as amended in 1988, or the Fair Housing Act (FHA) prohibits discrimination in the sale, rental, and financing of dwellings and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status

(including children under age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18) and disability.

WHEREAS, Title VI of the Civil Rights Act of 1964 prohibits the discrimination on the basis of race, color or national origin in programs and activities receiving federal financial assistance.

WHEREAS, Title II of the Americans with Disabilities Act of 1990 prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals.

WHEREAS, Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability in any program or activities receiving federal financial assistance.

WHEREAS, Executive Order 11063 prohibits discrimination in the sale, leasing, rental, or disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

WHEREAS, Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency) eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally assisted and federally conducted programs and activities.

WHEREAS, in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland “Anti-Kickback” Act (40 U.S.C. 276a-276a-5; 40 USC 327 and 40 USC 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of services through federally funded activities.

NOW, THEREFORE:

IV. Commitment of the Entities

To facilitate preparation of the facility improvement, the City and FC hereby commit as follows:

- FC must notify and submit appropriate documentation indicating the qualification of residents, as applicable.
- FC must comply with City’s policy and procedures in accordance with 24 CFR §570 and 2 CFR §200, as applicable.
- The City will enter in an agreement with the contractor(s) for certain activities of the Project and will be making direct payments to said contractor(s).
- FC shall maintain all records required by the Federal regulations specified in 24 CFR §570.506 that are pertinent to the aforementioned activities.

- FC shall maintain real property inventory records, which clearly identify properties purchased, improved, or sold that receive federal financial assistance. Those properties shall continue to meet eligibility criteria and shall conform to the “changes in use” restrictions in 24 CFR §570.503(b) (8), as applicable.
- All records pertaining to the Project shall be made available to the City, the Federal agency and their designees, at any time during normal business hours, as deemed necessary, to audit, and make excerpts or transcripts of all relevant data.
- FC shall hold harmless, defend and indemnify the City, its agents, and employees from any suits and actions: including attorney’s fees, all costs of litigation, and judgment brought against the City as a result of loss, damage or injury to persons or property arising out of or resulting from FC direct use and operation of programs in connection with the FC’s performance or nonperformance of the services or subject matter called for in this MOU only if as a result of the FC’s negligent or intentional acts.
- FC shall comply with the bonding and insurance requirements as outlined in 24 CFR §§84.31 and 84.48 and 2 CFR §§200.304, 200.310 and 200.447.
- The City may amend, in its discretion, this MOU to conform to all Federal, state or local governmental laws and regulations as deemed necessary. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of the MOU, such modifications will be incorporated only by written amendment signed by both parties.
- In accordance with 2 CFR §200.213, non-federal entities are subject to the non-procurement debarment and suspension regulations that restrict awards, sub-awards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in CDBG programs or activities. FC and its agents under this MOU shall be registered with System for Award Management (SAM) prior to the commencement of activities.
- FC agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR §570.606(b); (b) the requirements of 24 CFR §570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR §570.606(b) (2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for CDBG-assisted projects. FC also agrees to comply with applicable City ordinances, variances and policies concerning the displacement of persons from their residences.
- FC agrees to comply with the non-discrimination practices regarding employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR §570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are applicable.

- Both parties shall maintain documentation that demonstrates compliance with hour and wage requirements according to all federal, state and local laws and regulations. Such documentation shall be readily available upon request.
 - FC shall not enter into any subcontracts with any agency or individual in the performance of this MOU without the written consent of the City prior to the execution of such agreement. FC will monitor all subcontracted services on a regular basis to assure compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of actions taken in correction areas of noncompliance. FC shall initiate all of the provisions of this MOU in its entirety to be included in any subcontract executed in the performance of said Project. FC shall undertake to ensure that all subcontracts consent to the performance of this MOU shall be awarded upon a fair and open competitive basis. Executed copies of all subcontracts shall be directed to the City along with documentation concerning the selection process as applicable.
 - FC agrees to abide by the provisions of 24 CFR §570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance. No persons having such a financial interest shall be employed or retained by either party hereunder. These conflict of interest provisions include any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or FC that are receiving funds under the CDBG Entitlement program.
1. Both Parties agrees to comply with the following requirements insofar as they apply to the performance of this MOU:

Air and Water

- Clean Air Act, 42 U.S. C., 7401 *et seq.*
- Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued hereunder; and
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Entity shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

Lead-Based Paint

Any construction or rehabilitation of residential structures with assistance provided under this MOU shall be subject to HUD Lead-Based Paint Regulations at 24 CFR §570.608, and 24 CFR Part 35. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures must be undertaken.

Historic Preservation

Compliance with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 38 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this MOU. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

IV. Conclusion

In signing this MOU, the undersigned recognize and accept the roles and responsibilities assigned to each party. Each of the parties agrees to pursue maximum cooperation and communication to ensure that the Project fully comply with all applicable federal requirements and minimizes duplication of effort.

City of Jonesboro

Foundation Care, Inc.

Mayor

Executive Director

City Clerk

Date

Date



Legislation Details (With Text)

File #: RES-16:127 **Version:** 1 **Name:** Agreement to issue bonds for Frito-Lay
Type: Resolution **Status:** Recommended to Council
File created: 9/8/2016 **In control:** Finance & Administration Council Committee
On agenda: **Final action:**

Title: A RESOLUTION AUTHORIZING THE ENTRY INTO AN AGREEMENT TO ISSUE BONDS FOR THE PURPOSE OF SECURING AND DEVELOPING INDUSTRIAL FACILITIES WITHIN THE CITY OF JONESBORO, ARKANSAS, TO BE LEASED TO FRITO-LAY, INC., PURSUANT TO THE AUTHORITY OF THE LAWS OF THE STATE OF ARKANSAS, INCLUDING PARTICULARLY AMENDMENT 65 TO THE ARKANSAS CONSTITUTION AND THE MUNICIPALITIES AND COUNTIES INDUSTRIAL DEVELOPMENT REVENUE BOND LAW.

Sponsors:

Indexes: Bonds - revenue/development

Code sections:

Attachments: [Notice of Public Hearing \(Frito-Lay\)](#)
[PILOT Agreement \(Frito-Lay\)](#)
[Agreement to Issue Bonds \(Frito-Lay\)](#)

Date	Ver.	Action By	Action	Result
9/14/2016	1	Finance & Administration Council Committee		

A RESOLUTION AUTHORIZING THE ENTRY INTO AN AGREEMENT TO ISSUE BONDS FOR THE PURPOSE OF SECURING AND DEVELOPING INDUSTRIAL FACILITIES WITHIN THE CITY OF JONESBORO, ARKANSAS, TO BE LEASED TO FRITO-LAY, INC., PURSUANT TO THE AUTHORITY OF THE LAWS OF THE STATE OF ARKANSAS, INCLUDING PARTICULARLY AMENDMENT 65 TO THE ARKANSAS CONSTITUTION AND THE MUNICIPALITIES AND COUNTIES INDUSTRIAL DEVELOPMENT REVENUE BOND LAW.

WHEREAS, the City of Jonesboro, Arkansas, is authorized under the provisions of Amendment 65 to the Arkansas Constitution and the Municipalities and Counties Industrial Development Revenue Bond Law, Ark. Code Ann. §§ 14-164-201 to -224 (the “Act”), to own, acquire, construct, equip, and lease facilities to secure and develop industry by the issuance of bonds payable from the revenues derived from such facilities; and

WHEREAS, Frito-Lay, Inc. (the “Company”) has evidenced its interest in acquiring, constructing, and equipping an industrial facility within the City through the issuance of bonds (the “Bonds”) under the authority of the Act; and

WHEREAS, the City desires to assist the Company in order to secure and develop industry within the City and to issue its bonds under the provisions of the Act; and

WHEREAS, it is desirable that the City enter into an Agreement to Issue Bonds for such purpose.

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

Section 1. The Mayor and the City Clerk of the City are hereby authorized to enter into an Agreement to Issue Bonds in substantially the form and substance attached as Exhibit A.

Section 2. Subject to compliance with the statutory notice requirements, a Payment in Lieu of Taxes Agreement (a “PILOT Agreement”) shall be considered for approval at the meeting of the City Council at which the ordinance authorizing the issuance of the Bonds is considered for approval.

Section 3. The City shall hold a public hearing on the question of the issuance of the Bonds on October 4, 2016. The City Clerk and bond counsel shall coordinate the publication of the notice of public hearing.

Section 4. Severability. In the event any title, section, paragraph, item, sentence, clause, phrase, or word of this resolution is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this resolution, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this resolution.

Section 5. Repealer. All ordinances or resolutions of the City in conflict herewith are hereby repealed to the extent of such conflict.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the Jonesboro, Arkansas City Council on the question of the issuance of not to exceed \$150,000,000 in aggregate principal amount of City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (Frito-Lay Project), Series 2016, or such other series as are otherwise designated (the "Bonds"), immediately prior to a regular meeting of the City Council to be held at 5:25 p.m. on October 4, 2016 at the Municipal Center, 300 South Church Street, Jonesboro, Arkansas. The Bonds will be issued to secure and develop the acquisition and construction of warehouse and manufacturing facilities, infrastructure and improvements and the acquisition and installation of equipment for the preparation, processing, packaging, handling and storage of food products to be located at 2810 Quality Way, Jonesboro, Arkansas (the "Project") relating to the operations of Frito-Lay, Inc. (the "Company"). The Project will be leased by the City to the Company. Any person interested may appear and express their views on the proposed issuance of the Bonds, and such views and comments will be considered by the Council. This notice is given pursuant to the Arkansas Revenue Bond Act of 1987 and the Municipalities and Counties Industrial Development Revenue Bond Law.

Dated this 20th day of September, 2016.

City of Jonesboro, Arkansas

/s/ Harold Perrin, Mayor

PAYMENT IN LIEU OF TAXES AGREEMENT

City of Jonesboro, Arkansas
300 South Church Street
Jonesboro, Arkansas 72401

Dated: _____, 2016

Attention: Mayor

Re: Not to exceed \$150,000,000 City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (Frito-Lay Project), Series 2016 (the "Bonds")

Ladies and Gentlemen:

The City of Jonesboro, Arkansas (the "City") proposes to issue the Bonds identified above in one or more series under the provisions of the Municipalities and Counties Industrial Development Revenue Bond Law, Ark. Code Ann. §§ 14-164-201 *et seq.* (the "Act") for the purpose of securing and developing a substantial industrial project consisting of the acquisition and construction of warehouse and manufacturing facilities, infrastructure and improvements and the acquisition and installation of equipment for the preparation, processing, packaging, handling and storage of food products to be located at 2810 Quality Way, Jonesboro, Arkansas relating to the operations of Frito-Lay, Inc. (the "Project"). The Project will be leased and by the City to Frito-Lay, Inc. (the "Company") pursuant to a Lease Agreement (the "Lease Agreement") for a period of 20 years for rentals sufficient to pay debt service on the Bonds. The Company will use the Project as facilities for the warehousing and production of food products. The Project, as defined herein, is the "Leased Premises" as defined in the Lease Agreement.

Article IV of the Lease Agreement provides that the Company is obligated to pay all taxes and assessments levied and assessed on the Project during the term of the Lease Agreement. The Company is informed and understands that, notwithstanding the provision of Article IV of the Lease Agreement, under Article 16, Section 5 of the Constitution of the State of Arkansas, as interpreted by the Arkansas Supreme Court in *Wayland v. Snapp*, 233 Ark. 57, 334 S.W. 2d 633 (1960), and *Pulaski County v. Jacuzzi Bros. Div.*, 332 Ark. 91, 964 S.W.2d 788 (1998), and Ark. Code Ann. §§ 14-164-701 *et seq.*, the Project will be exempt from ad valorem taxes because it is owned by the City and used for a public purpose within the meaning of the applicable Constitutional and statutory provisions affording the exemption.

Thus, the Company understands that it, as Lessee of the Project owned by the City, will, in fact, pay no ad valorem taxes on the Project under the provisions of Article IV of the Lease Agreement. The taxing authorities (defined below) have indicated a reluctance to lose all tax revenues which would otherwise be received by it if the property involved was privately owned.

Therefore, to induce the City to proceed with the issuance of the Bonds for the purpose indicated, which will inure to the benefit of the Company, and for other valuable

consideration, the receipt and sufficiency of which is hereby acknowledged, the Company agrees with the City pursuant to this Payment in Lieu of Taxes Agreement (the "Agreement") as follows:

1. In lieu of ad valorem property taxes, the Company will pay to the City an annual sum equal to 35% of the amount which would be payable as ad valorem taxes that would have to be paid on the Project to the State of Arkansas, Craighead County, the Nettleton School District, and/or other political subdivisions of the State of Arkansas (the "taxing authorities") if the Project were not exempt from ad valorem taxes under the provisions of Article 16, Section 5 of the Constitution of the State of Arkansas, as interpreted by the Supreme Court of the State of Arkansas in *Wayland v. Snapp, supra*, and *Pulaski County v. Jacuzzi Bros. Div., supra*, and Ark. Code Ann. §§ 14-164-701 *et seq.* Payments are due not later than October 10 each year commencing after completion of construction. Payments not paid when due shall bear interest at 5% per annum until paid.

The payment is based on the land, buildings, improvements and equipment comprising the Leased Premises, excluding licensed vehicles. Any expansion or improvement of the Project will become subject to this Agreement using the same formula for the term of the Bonds.

2. The payments to be made pursuant to paragraph 1 are intended to be in lieu of all ad valorem taxes that would have to be paid on the Project to the taxing authorities if the Project were not exempt from ad valorem taxes under the provisions of Article 16, Section 5 of the Constitution of the State of Arkansas, as interpreted by the Supreme Court of the State of Arkansas in *Wayland v. Snapp, supra*, and *Pulaski County v. Jacuzzi Bros. Div., supra*, and Ark. Code Ann. §§ 14-164-701 *et seq.*, but are not intended to be in lieu of (i) any licenses, occupation or privilege tax, or fee imposed upon the Company for or with respect to its right to carry on its business in the State of Arkansas, (ii) any special benefit or local improvement tax or assessment, or (iii) fees or charges for utility services rendered, such as for water or sewer services.

3. The City agrees to distribute each payment under paragraph 1 among the taxing authorities in the proportion that the millage collected bears to the total millage collected by all during the year of distribution, unless all such taxing authorities, including without limitation the school district, shall otherwise agree and document the alternate basis upon which the payments shall be distributed.

4. The City and the Company agree to cooperate in sustaining the enforceability of this Agreement. However, if by reason of a change in the Constitution of the State of Arkansas, a change by the Supreme Court of the State of Arkansas in its interpretation of the Constitution, a change by the General Assembly of the State of Arkansas, or otherwise, the Company is required to pay any tax for which the payments specified in paragraph 1 are intended to be in lieu, the Company may deduct the aggregate of any such payments made by it from any amount herein agreed to be paid under paragraph 1. Furthermore, inasmuch as the payments in paragraph 1 herein agreed to be made are intended to be in lieu of taxes, it is agreed that said payments

shall not as to any year be in an amount greater than would otherwise be payable for such year in ad valorem taxes, in the aggregate, on account of its ownership of the Project.

5. Representatives of the Company will confer at least annually with the Craighead County Assessor and determine the assessed valuation of the real and personal properties comprising the Project. The determination shall be made by mutual agreement if possible, and if not, shall be made by the Craighead County Assessor as though the Project were privately owned. Because the valuation of such property is a key factor in calculating payments due, the City agrees to cooperate with the Company in any reasonable challenge to the valuation assigned to such property by the Craighead County Assessor to the fullest extent permitted by Arkansas law.

It is recognized by the City and the Company that the payments described in paragraph 1 hereof are to be calculated on the basis of annual amounts that would otherwise be payable as ad valorem taxes under Arkansas law on the Leased Premises if such property were on the tax rolls. The amount to be paid each year shall be determined by applying the millage that would be applicable to the Project for that year if the Project were privately owned. The Company shall be entitled to any refund occasioned by overpayment or a reduction in millage which requires a refund by the taxing authorities.

6. This Agreement shall terminate and be of no further force and effect from and after the date that the Lease Agreement shall terminate for any purpose other than a default on the part of the Company, including, but not limited to, the transfer of ownership of the Leased Premises to the Company. If such termination shall be at a point constituting a portion of a year, the Company shall pay for the year in which termination occurred that portion of the specified annual payment that the number of days in such year that the Project was exempt prior to the terminations bears to 365 days (366 days in a leap year).

7. This Agreement shall be binding upon the successors and assigns of the Company, but no assignment shall be effective to relieve the Company of any of its obligations hereunder unless expressly authorized and approved in writing by the City.

8. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original.

9. This Agreement shall be governed by, and interpreted in accordance with, the laws of the state of Arkansas.

When executed, this Agreement shall constitute a valid and binding contract between the Company and the City.

Very truly yours,

FRITO-LAY, INC.

By: _____
_____, _____

ACCEPTED:

CITY OF JONESBORO, ARKANSAS

By: _____
Harold Perrin, Mayor

ATTEST:

Donna Jackson, City Clerk

AGREEMENT TO ISSUE BONDS

THIS AGREEMENT is made as of [September ____], 2016, by and between the City of Jonesboro, Arkansas, a city of the first class under the laws of the State of Arkansas (the "City") and Frito-Lay, Inc. (the "Company"), for the purpose of carrying out the purposes set forth in the Municipalities and Counties Industrial Development Revenue Bond Law, Ark. Code Ann. §§ 14-164-201 *et seq.* (the "Act").

WITNESSETH:

WHEREAS, the City is authorized by Amendment 65 to the Arkansas Constitution and the Act to own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, or contract concerning, or otherwise deal in or dispose of any land, buildings, or facilities of any and every nature that can be used in securing or developing industry within or near the City; and

WHEREAS, the City has determined that such purposes may be served by cooperation with the Company in the acquisition, construction, and equipping of an industrial facility within the City, consisting of the acquisition and construction of warehouse and manufacturing facilities, infrastructure and improvements and the acquisition and installation of equipment for the preparation, processing, packaging, handling and storage of food products (the "Project"); and

WHEREAS, the City and the Company desire to cooperate in the acquisition, constructing, and equipping of the Project and to secure and develop the Project with the proceeds of revenue bonds of the City (the "Bonds") to be issued in one or more series pursuant to the Act in an aggregate principal amount now estimated not to exceed \$150,000,000; and

WHEREAS, the City and the Company intend to enter into a lease agreement relating to the real and personal property constituting the Project, which contemplates that the Project will be leased to and operated by the Company and that the rental payments due thereunder together with other moneys available therefor shall be sufficient to pay debt service on the Bonds and all related costs.

NOW, THEREFORE, in consideration of the premises, mutual benefits, covenants, and agreements herein expressed and other good and valuable

consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Company agree as follows:

1. Proceedings. All proceedings in connection with the issuance of the Bonds shall be consistent with the requirements of the Act. All references contained herein to the issuance of the Bonds shall be subject to compliance with the formalities of the Act when the facts required to do so are determined.

2. Acquisition, Construction, and Equipping. The City and the Company will cooperate in causing to be commenced and continued the required acquisition, construction, and equipping of the Project, and the Company may provide, or cause to be provided, the necessary interim financing to permit work on the Project to commence and continue expeditiously pending the issuance of Bonds. Not later than the date of issuance of the Bonds, the Company will convey and transfer or cause to be conveyed and transferred to the City, the Project or portions thereof previously acquired, constructed, and equipped. There shall also be conveyed to the City any easements and rights-of-way necessary to permit construction, equipping, installation, operation, and maintenance of the Project. The City acknowledges that the Project, or portions of the Project, may be subject to liens or security interests in favor of third party creditors at the time that the Project is transferred to the City.

3. Lease. The City and the Company will enter into a lease agreement (the "Lease") relating to the real and personal property constituting the Project, which contemplates that the Project will be leased to and operated by the Company and that the rental payments due thereunder together with other moneys available shall be sufficient to pay debt service on the Bonds and all related costs. The Lease shall include such terms and conditions as are agreed to by the City and the Company, including, but not limited to, purchase options for nominal consideration and transferability of ownership.

4. Sale of Bonds, Security. The City will take such steps as are necessary to issue, sell, and deliver the Bonds, pursuant to the terms of the Act, for the purposes of financing the costs of the Project, in each case only upon receipt of the written designation by the Company of the purchasers thereof, such Bonds to be in such series, to be in such principal amount, to mature in such amount and times, to bear

interest at such rate or rates, to be payable on such dates, and to have such optional and mandatory redemption features and prices as are determined by the City and approved in writing by the Company. The City further agrees that it will enter into the Lease with the Company for the purpose of providing rental payments sufficient, with other amounts available from the Company or directly or indirectly from the proceeds of the Bonds, to pay the principal of and interest on the Bonds as they become due, and pledging and otherwise securing the payment of such rental payments for the benefit of the holder(s) of the Bonds. The City will cooperate in consummating the transactions so contemplated.

5. Bonds to be Special Obligations. The City shall have no financial responsibility with respect to the Project, the Bonds, or the costs associated with either, and the Bonds shall be special obligations of the City and shall never constitute a general obligation, indebtedness, or pledge of the credit of the City within the meaning of any constitutional or statutory provision and shall never be paid in whole or in part out of any funds raised or to be raised by taxation or any other revenues or other funds of the City except those (including unexpended Bond proceeds) derived from or in connection with the sale or lease of the Project as provided for herein.

6. Conditions of Issuance. The Bonds may be issued either at one time or in several series from time to time, in such aggregate principal amount or amounts as the Company shall request in writing; provided, however, that all conditions of the Act shall have been met.

7. Costs to be Financed. The costs of the Project may include any costs permissible under the Act, including but not limited to reasonable and necessary costs, expenses, and fees incurred by the City in connection with the issuance of the Bonds or in connection with the Project, including, but not limited to, fees and out-of-pocket expenses of Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C. (“bond counsel”) and other counsel to the Company. The City will upon request provide or cause to be provided any data or information which may be reasonably required to verify any of the costs, expenses, and fees enumerated above.

8. Termination. In the event that the Bonds shall not be sold within three years from the date hereof, this Agreement shall automatically terminate unless the parties

hereto shall agree in writing to its extension for a further period of time specified in such writing, which agreement on the part of the City shall not be unreasonably withheld. The Company may unilaterally terminate this Agreement without liability to the City (except for any amounts due and owing by the Company to the City arising out of the transactions occurring on or before the time of such termination, which shall be promptly paid by the Company to the City) by giving notice by ordinary mail, postage prepaid, to the City specifying therein the date of termination, which may be the date of the notice.

9. Protection to the City. The Company shall pay all of the City's costs and expenses reasonably and necessarily incurred in connection with this Agreement or any other related document or instrument.

10. Ad Valorem Taxation Exemption. The City and the Company recognize that under the Arkansas Constitution and decisions of the Supreme Court of Arkansas and in accordance with Ark. Code Ann. §§ 14-164-701 to -704, the Project will be exempt from ad valorem taxation. The City agrees that the Company shall be required to enter into a Payment in Lieu of Taxes Agreement (a "PILOT Agreement") with the City providing for payments in lieu of a portion of the ad valorem taxes that would otherwise be levied by local public bodies with taxing authority. The City and the Company agree that the final form of PILOT Agreement will be considered for approval at the meeting of the City Council at which the ordinance authorizing the issuance of the Bonds is considered for approval, subject to compliance with the terms of the Act, including, but not limited to statutory notice requirements.

11. Purpose and Effect. The Bonds are to be issued, sold, and delivered under the authority of the Act and all related actions and documents shall be in conformity therewith. The City intends this Agreement to be the expression of its present intent, pursuant to the terms hereof, to issue the Bonds in an aggregate amount not to exceed \$150,000,000 and to expend the Bond proceeds to defray the costs of the Project.

12. Assignment. The Company may assign this Agreement in whole or in part to an affiliate of the Company without the prior written consent of the City and to an entity which is not an affiliate of the Company with the prior written consent of the City, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, no

assignment and no dealings or transactions between the City and any assignee shall relieve the Company of any of its obligations under this Agreement.

IN WITNESS WHEREOF, the City of Jonesboro, Arkansas, acting pursuant to a Resolution of its City Council, has caused its name to be hereunto subscribed by its Mayor and City Clerk and the Company has caused its corporate name to be subscribed hereto by its duly authorized officer, all as of the year and date first above written.

CITY OF JONESBORO, ARKANSAS

ATTEST:

APPROVED:

Donna Jackson, City Clerk

Harold Perrin, Mayor

FRITO-LAY, INC.

By: _____

Name: _____

Title: _____



Legislation Details (With Text)

File #:	ORD-16:058	Version:	1	Name:	Amend the Stormwater Drainage Design Manual
Type:	Ordinance	Status:		Status:	First Reading
File created:	8/18/2016	In control:		In control:	Public Works Council Committee
On agenda:		Final action:		Final action:	
Title:	AN ORDINANCE AMENDING APPENDIX 7 OF THE STORMWATER DRAINAGE DESIGN MANUAL				
Sponsors:	Engineering				
Indexes:	Technical Code				
Code sections:					
Attachments:	ARR50000 - 2021				

Date	Ver.	Action By	Action	Result
9/6/2016	1	Public Works Council Committee		

AN ORDINANCE AMENDING APPENDIX 7 OF THE STORMWATER DRAINAGE DESIGN MANUAL WHEREAS, , the City Council adopted The Stormwater Drainage Design Manual on December 18, 2008 (ORD-08:099);

WHEREAS, Appendix 7, ADEQ Permit No. ARR150000 of the Stormwater Drainage Manual, will expire on October 31, 2016 and shall be replaced with the most current permit.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS THAT:

SECTION 1: That ORD-08:099 was adopted by the City Council on December 18, 2008 (ORD-08:099).

SECTION 2. That Appendix 7, ADEQ Permit No. ARR150000 of the Stormwater Drainage Design Manual, is replaced in its entirety with an updated copy of the permit (attached).

SECTION 3: That the Mayor and the City Clerk are hereby authorized by the City Council for the City of Jonesboro to adopt the above referenced amendment to the Stormwater Drainage Design Manual.

**AUTHORIZATION TO DISCHARGE STORMWATER UNDER
THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE
ARKANSAS WATER AND AIR POLLUTION CONTROL ACT**

In accordance with the provisions of the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. 8-4-101 et seq.), and the Clean Water Act (33 U.S.C. 1251 et seq.), an

Operator of Facilities with Stormwater Discharges Associated with Construction Activity

is authorized to discharge to all receiving waters except as stated in Part I.B.11 (Exclusions).

For facilities that are eligible for coverage under this General Permit (GP), the Department sends a cover letter (Notice of Coverage with tracking permit number which starts with ARR15) and a copy of the permit to the facility. The cover letter includes the Department's determination that a facility is covered under the GP and may specify alternate requirements outlined in the permit.

Effective Date: November 1, 2016

Expiration Date: October 31, 2021



Caleb J. Osborne
Associate Director, Office of Water Quality
Arkansas Department of Environmental Quality



Issue Date

PART I PERMIT REQUIREMENTS

Information in **Part I** is organized as follows:

Section A: Definitions with Included Commentary

Section B: Coverage Under this Permit:

1. Permitted Area
2. Eligibility
3. Responsibilities of the Operator
4. Where to Submit
5. Requirements for Qualifying Local Program (QLP)
6. Requirements for Coverage
7. Notice of Intent (NOI) Requirements
8. Posting Notice of Coverage (NOC)
9. Applicable Federal, State or Local Requirements
10. Allowable Non-Stormwater Discharges
11. Limitations on Coverage (Exclusions)
12. Short Term Activity Authorization (STAA)
13. Effluent Limitation Guidelines (ELG)
14. Natural Buffer Zones
15. Waivers from Permit Coverage
16. Notice of Termination (NOT)
17. Responsibilities of the Operator of a Larger Common Plan of Development for a Subdivision
18. Change in Operator
19. Late Notifications
20. Failure to Notify
21. Maintenance
22. Releases in Excess of Reportable Quantities
23. Attainment of Water Quality Standards
24. Requiring an Individual Permit

SECTION A: DEFINITIONS WITH INCLUDED COMMENTARY

1. "**ADEQ**" or "**Department**" is referencing the Arkansas Department of Environmental Quality. The Department is the governing authority for the National Pollutant Discharge Elimination System program in the state of Arkansas.
2. "**Arkansas Pollution Control and Ecology Commission**" shall be referred to as APCEC throughout this permit.
3. "**Automatic Coverage**" is for those sites that are defined as a small construction site.
4. "**Best Management Practices (BMPs)**" schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to Waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control construction site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. According to the EPA BMP manual, the use of hay-bales in concentrated flow areas is not recommended as a best management practice.
5. "**Cognizant Official**" a duly authorized representative, as defined in Part II.B.9.B.
6. "**Commencement of Construction**" the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction-related activities.
7. "**Contaminated**" means a substance the entry of which into the MS4, Waters of the State, or Waters of the United States may cause or contribute to a violation of Arkansas water quality standards.
8. "**Control Measure**" as used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to Waters of the State.
9. "**Construction Site**" an area upon which one or more land disturbing construction activities occur that in total will disturb one acre or more of land, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan such that the total disturbed area is one acre or more.
10. "**CWA**" the Clean Water Act or the Federal Water Pollution Control Act.
11. "**Dedicated Portable Asphalt Plant**" a portable asphalt plant that is located on or contiguous to a construction site that provides asphalt only to the construction site on which the plant is located or adjacent to. The term does not include facilities that are subject to the asphalt emulsion effluent guideline limitations at 40 CFR Part 443.
12. "**Dedicated Portable Concrete Plant**" a portable concrete plant that is located on or contiguous to a construction site and that provides concrete only to the construction site on which the plant is located on or adjacent to.
13. "**Detention Basin**" a detention basin is an area where excess stormwater is stored or held temporarily and then slowly drains when water levels in the receiving channel recede. In essence, the water in a detention basin is temporarily detained until additional room becomes available in the receiving channel.
14. "**Director**" the Director, Arkansas Department of Environmental Quality, or a designated representative.
15. "**Discharge**" when used without qualification means the "discharge of a pollutant".

16. "**Discharge of Stormwater Associated with Construction Activity**" as used in this permit, refers to a discharge of pollutants in stormwater runoff from areas where soil disturbing activities (e.g., clearing, grading, or excavation), construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling), or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

17. "**Discharge-Related Activities**" as used in this permit, include: activities that cause, contribute to, or result in stormwater point source pollutant discharges, including but not limited to: excavation, site development, grading and other surface disturbance activities; management of solid waste and debris; and measures to control stormwater including the construction and operation of BMPs to control, reduce or prevent stormwater pollution.

18. "**Disturbed area**" the total area of the site where any construction activity is expected to disturb the ground surface. This includes any activity that could increase the rate of erosion, including, but not limited to, clearing, grubbing, grading, excavation, demolition activities, haul roads, and areas used for staging. Also included are stockpiles of topsoil, fill material and any other stockpiles with a potential to create additional runoff.

19. "**Drainageway**" an open linear depression, whether constructed or natural, that functions for the collection and drainage of surface water.

20. "**Duly Authorized Representative**" a representative of the Responsible Official meeting the requirements specified in Part II.B.9.B.

21. "**Eligible**" qualified for authorization to discharge stormwater under this general permit.

22. "**Erosion**" the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

23. "**ERW**" Extraordinary Resource Water, in accordance with Regulation 2.

24. "**ESW**" Ecologically Sensitive Waterbodies, in accordance with Regulation 2.

25. "**Facility**" or "**Activity**" any NPDES "point source" or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

26. "**Final Stabilization**":

A. All soil disturbing activities at the site have been completed and either of the two following criteria are met:

- 1) A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 80% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or
- 2) Equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

B. When background native vegetation will cover less than 100% of the ground (e.g., arid areas, beaches), the 80% coverage criteria is adjusted as follows: if the native vegetation covers 50% of the ground, 80% of 50% ($0.80 \times 0.50 = 0.40$) would require 40% total cover for final stabilization. On a beach with no natural vegetation, no stabilization is required.

C. For individual lots in residential construction, final stabilization means that either:

- 1) The homebuilder has completed final stabilization as specified above, or
- 2) The homebuilder has established temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization.

D. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land, staging areas for highway construction, etc.), final stabilization may be accomplished by returning the disturbed land to its pre-construction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to "Waters of the State", and areas which are not being returned to their pre-construction agricultural use shall meet the final stabilization criteria in A, B, or C above.

27. "Grading Activities" as used in this permit are those actions that disturb the surface layer of the ground to change the contouring, surface drainage pattern, or any other slope characteristics of the land without significantly adding or removing on-site rock, soil, and other materials. This can include demolition, excavation, and filling.

28. "Infrastructure" streets, drainage, curbs, utilities, etc.

29. "Impaired Water" a waterbody listed in the current, approved Arkansas 303(d) list.

30. "Landscaping" improving the natural beauty of a piece of land (i.e. entrance of subdivision) through plantings or altering the contours of the ground.

31. "Large and Medium Municipal Separate Storm Sewer System" all municipal separate storm sewer systems that are either:

- A. Located in an incorporated place with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census: or
- B. Located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal, separate storm sewers that are located in the incorporated places, townships or towns within such counties; or
- C. Owned or operated by a municipality other than those described in paragraphs A or B and that are designated by the Director as part of the large or medium municipal separate storm sewer system.

32. "Large Construction Site" construction activity including clearing, grading and excavation, **except** operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres. (Please see Part I.B.15 for partial waivers.)

33. "Larger Common Plan of Development" a contiguous (sharing a boundary or edge; adjacent; touching) area where multiple and distinct construction activities may be taking place at different times on different schedules under one plan. Such a plan might consist of many small projects (e.g. a common plan of development for a residential subdivision might lay out the streets, house lots, and areas for parks, schools and commercial development that the developer plans to build or sell to others for development). All these areas would remain part of the common plan of development or sale. The following items can be used as guidance for deciding what might or might not be considered a "Common Plan of Development or Sale." The "plan" in a common plan of development or sale is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. The applicant shall still meet the definition of operator in order to be required to get permit coverage,

regardless of the acreage that is personally disturbed.

If a smaller project (i.e., less than 1 acre) is part of a large common plan of development or sale (e.g., you are building a residential home on a ½ acre lot in a 40 acre subdivision or are putting in a fast food restaurant on a ¾ acre pad that is part of a 20 acre retail center), permit coverage is required. Under 40 CFR 122.26(b)(2)(vi), smaller parts of a larger common plan of development are automatically authorized under this general permit and should follow the conditions of a site with automatic coverage set forth in this permit (see Part I.B.6.A).

34. "Natural Buffer" for purposes of this permit, an area of undisturbed natural cover surrounding surface waters. Natural cover includes vegetation, exposed rock, or barren ground that exists prior to commencement of construction activities at the site.

35. "NOC" Notice of Coverage.

36. "NOI" Notice of Intent to be covered by this permit.

37. "NOT" Notice of Termination.

38. "NSW" Natural and Scenic Waterways, in accordance with Regulation 2.

39. "Operator"/ "Permittee" for the purpose of this permit and in the context of stormwater associated with construction activity, means any person (an individual, association, partnership, corporation, municipality, state or federal agency) who has the primary management and ultimate decision-making responsibility over the operation of a facility or activity. The operator is responsible for ensuring compliance with all applicable environmental regulations and conditions.

In addition, for purposes of this permit and determining who is an operator, "owner" refers to the party that owns the structure being built. Ownership of the land where construction is occurring does not necessarily imply the property owner is an operator (e.g., a landowner whose property is being disturbed by construction of a gas pipeline or a landowner who allows a mining company to remove dirt, shale, clay, sand, gravel, etc. from a portion of his property). Likewise, if the erection of a structure has been contracted for, but possession of the title or lease to the land or structure is not to occur until after construction, the would-be owner may not be considered an operator (e.g., having a house built by a residential homebuilder).

40. "Outfall" a point source where stormwater leaves the construction site.

41. "Owner" the owner or operator of any "facility or activity" subject to regulation under the NPDES program. In addition, for purposes of this permit and determining who is an operator, "owner" refers to the party that owns the structure being built. Ownership of the land where construction is occurring does not necessarily imply the property owner is an operator (e.g., a landowner whose property is being disturbed by construction of a gas pipeline). Likewise, if the erection of a structure has been contracted for, but possession of the title or lease to the land or structure is not to occur until after construction, the would-be owner may not be considered an operator (e.g. having a house built by a residential homebuilder).

42. "Physically Interconnected" means that one municipal separate storm sewer system is connected to a second municipal separate storm sewer system in such a way that it allows for direct discharges into the second system.

43. "Point Source" any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

44. "**Qualified Local Program**" is a municipal program for stormwater discharges associated with construction sites that has been formally approved by the Department.

45. "**Qualified personnel**" a person knowledgeable in the principles and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact stormwater quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of stormwater discharges from the construction activity.

46. "**Regulated Small Municipal Separate Storm Sewer System**" all municipal separate storm sewer systems that are either:

- A. Located within the boundaries of an "urbanized area" with a population of 50,000 or more as determined by the latest Decennial Census by the Bureau of Census; or
- B. Owned or operated by a municipality other than those described in paragraph A and that serve a jurisdiction with a population of at least 10,000 and a population density of at least 1,000 people per square mile; or
- C. Owned or operated by a municipality other than those described in paragraphs A and B and that contributes substantially to the pollutant loadings of a "physically interconnected" municipal separate storm sewer system.

47. "**Retention Basin**" a basin that is designed to hold the stormwater from a rain event and allow the water to infiltrate through the bottom of the basin. A retention basin also stores stormwater, but the storage of the stormwater would be on a more permanent basis. In fact, water often remains in a retention basin indefinitely, with the exception of the volume lost to evaporation and the volume absorbed into the soils. This differs greatly from a detention basin, which typically drains after the peak of the storm flow has passed, sometimes while it is still raining.

48. "**Runoff Coefficient**" the fraction of total rainfall that will appear at the conveyance as runoff.

49. "**Sediment**" material that settles to the bottom of a liquid.

50. "**Sediment Basin**" a basin that is designed to maintain a 10 year-24 hour storm event for a minimum of 24-hours in order to allow sediment to settle out of the water.

51. "**Small Construction Site**" construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance.

52. "**Stormwater**" stormwater runoff from rainfall, snow melt runoff, and surface runoff and drainage.

53. "**Stormwater Associated with Construction Activity**" the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to construction activity.

54. "**Stormwater Pollution Prevention Plan (SWPPP or SWP3)**" a plan that includes site map(s), an identification of construction/contractor, activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants (BMPs).

55. "**Temporary Sediment Controls**" controls that are installed to control sediment runoff from the site. These could be silt fencing, rock check dams, etc.

56. "Total Maximum Daily Load" or "TMDL" the sum of the individual wasteload allocations (WLAs) for point sources and load allocations (LAs) for non-point sources and natural background. If the receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any non-point sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of mass per time, toxicity, or other appropriate measure.

57. "Uncontaminated" cannot exceed the water quality standards as set forth in APCEC Regulation 2.

58. "Urbanized Area" the areas of urban population density delineated by the Bureau of the Census for statistical purposes and generally consisting of the land area comprising one or more central place(s) and the adjacent densely settled surrounding area that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile as determined by the latest Decennial Census by the Bureau of Census.

59. "Waters of the State" Waters of the State means all streams, lakes, marshes, ponds, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state.

SECTION B: COVERAGE UNDER THIS PERMIT

Introduction

This Construction General Permit (CGP) authorizes stormwater discharges from large and small construction activities that result in a total land disturbance of equal to or greater than one acre. This GP also authorizes discharges from construction activities that result in a total land disturbance of less than five acres where the construction activity is included in a larger common plan, where those discharges enter surface Waters of the State or a Municipal Separate Storm Sewer System (MS4) leading to surface Waters of the State subject to the conditions set forth in this permit. This permit also authorizes stormwater discharges from any other construction activity designated by ADEQ where ADEQ makes that designation based on the potential for contribution to an excursion of a water quality standard or for significant contribution of pollutants to Waters of the State. This permit replaces the permit issued in 2011. The goal of this permit is to minimize the discharge of stormwater pollutants from construction activity. The Operator should make sure to read and understand the conditions of the permit. A copy of the General Stormwater Construction Permit is available on the ADEQ web site at <https://www.adeq.state.ar.us/water/permits/npdes/stormwater/>. You may also obtain a hard copy by contacting the ADEQ's General Permits Section at (501) 682-0623.

1. **Permitted Area.** If a large or small construction activity is located within the State of Arkansas, the operator may be eligible to obtain coverage under this permit.
2. **Eligibility.** Permit eligibility is limited to discharges from “large” and “small” construction activity, or as otherwise designated by ADEQ. This general permit contains eligibility restrictions, as well as permit conditions and requirements. Operators may have to take certain actions to be eligible for coverage under this permit. In such cases, operators shall continue to satisfy those eligibility provisions to maintain permit authorization. If operators do not meet the requirements that are a pre-condition to eligibility, then resulting discharges constitute unpermitted discharges. By contrast, if operators are eligible for coverage under this permit and do not comply with the requirements of the general permit, they may be in violation of the general permit for otherwise eligible discharges.
 - A. This general permit authorizes discharges from construction activities as defined in 40 CFR 122.26(a), 40 CFR 122.26(b)(14)(x), 40 CFR 122.26(b)(15)(i) and 40 CFR Part 450.
 - B. This permit also authorizes stormwater discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, materials storage areas, excavated material disposal areas, borrow areas) provided:
 - 1) The support activity is directly related to a specific construction site that is required to have NPDES permit coverage for discharges of stormwater associated with the construction activity;
 - 2) The support activity is not a commercial operation serving multiple unrelated construction projects by different operators, and does not operate beyond the completion of the construction activity at the last construction project it supports;
 - 3) Pollutant discharges from support activity areas are minimized in compliance with conditions of this permit; and
 - 4) Discharges from the support activity areas shall be identified in a Stormwater Pollution Prevention Plan (SWPPP) stating appropriate controls and measures for the area.
 - C. Other activities may be considered for this permit at the discretion of the Director as defined in 40 CFR 122.26(b)(15)(ii).
3. **Responsibilities of the Operator.** Permittees with operational control are responsible for compliance with all applicable

terms and conditions of this permit as it relates to their activities on the construction site, including protection of endangered species and implementation of BMPs and other controls required by the SWPPP. Receipt of this general permit does not relieve any operator of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

4. **Where to Submit.** The operator shall submit a complete and signed Notice of Intent (NOI), Stormwater Pollution Prevention Plan (SWPPP), and application fee to the Department at the following address:

Arkansas Department of Environmental Quality
Discharge Permits Section
5301 Northshore Drive
North Little Rock, AR 72118-5317

Or by electronic mail (Complete documents (NOI and SWPPP) must be submitted in PDF format) to:

Water-permit-application@adeq.state.ar.us ;

Or through the ADEQ ePortal site which can be found at the following link:

<https://eportal.adeq.state.ar.us/>

NOTE: Notice of Coverage (NOC) will **NOT** be issued until payment has been received by ADEQ.

5. **Requirements for Qualifying Local Program (QLP).** The Department reviews and approves the QLPs to ensure that they meet or supersede both state and federal requirements outlined in this permit and 40 CFR 122.44(s). ADEQ will review the QLP at least every 5 years for recertification. If the Department approves a QLP, then the QLP requirements shall at the minimum meet the Department's requirements. This would include all templates and forms. This permit may be modified to add new QLPs or modify existing QLPs at the Department's discretion. All public notice and other applicable costs incurred by the modification of the permit for the addition or modification of a QLP will be paid by the QLP.

If a small construction site is within the jurisdiction of a QLP, the operator of the small construction site is authorized to discharge stormwater associated with construction activity under QLP permit requirements only.

At the time of issuance of this permit, only the City of Hot Springs is meeting the ADEQ minimum requirements.

6. **Requirements for Coverage.**

- A. **Small Construction Sites.** An operator of a small construction site will be considered to have automatic coverage under this general permit and may discharge without submitting to the Department a Notice of Intent (NOI), Stormwater Pollution Prevention Plan (SWPPP) or fee if the following conditions are met:

- 1) A completed Notice of Coverage (NOC) must be posted at the site prior to commencing construction;
- 2) A Stormwater Pollution Prevention Plan must be prepared in accordance with good engineering practice as described in Reg.6.203(B), and a copy must be maintained at the construction site;
- 3) All permit conditions set forth in this general permit must be followed; and
- 4) The operator is responsible for ensuring that the site is in compliance with any changes or updates of this general permit, by either contacting ADEQ or reviewing the ADEQ website:

<https://www.adeg.state.ar.us/water/permits/npdes/stormwater/>

- B. *Large Construction Sites.* An operator of a large construction site discharging under this general permit shall submit the following items at least 10 business days prior to the commencement of construction:
- 1) An NOI in accordance with the requirements of Part I.B.7 of this permit.
 - 2) A complete SWPPP in accordance with the requirements of Part II.A of this permit.
 - 3) An initial permit fee shall accompany the NOI under the provisions of APCEC Regulation No. 9. Subsequent annual fees will be billed by the Department until the operator has requested a termination of coverage by submitting a Notice of Termination (NOT). Failure to remit the required initial permit fee shall be grounds for the Director to deny coverage under this general permit. Failure to remit the required annual fees shall be grounds for the Director to revoke coverage under this permit.
- C. *Modification of Permit Coverage to Include Additional Acreage.* Any request to increase the total acreage of a construction site shall be accompanied by a \$200 permit modification fee and an updated SWPPP. Any request to only increase the disturbed acreage without changing the total acreage shall be accompanied by an updated SWPPP. A \$200 permit modification fee is not required with an increase in disturbed acreage. The Additional Acreage Request Form can be found at the following link:

<https://www.adeg.state.ar.us/water/permits/npdes/stormwater/>

7. Notice of Intent (NOI) Requirements.

- A. *NOI Form.* Large construction site operators who intend to seek coverage for a stormwater discharge under this general permit shall submit a complete and accurate ADEQ NOI form to the Department (through hard copy, electronic mail at Water-permit-application@adeg.state.ar.us, or the ADEQ ePortal system at <https://eportal.adeg.state.ar.us/>) at least 10 business days prior to the date coverage under this permit is desired. The NOI form **must** be the current version obtained from the stormwater webpage indicated above in Part I.B.

If the NOI is deemed incomplete, the Department will notify the applicant with regard to the deficiencies by a letter, email, or phone within ten (10) business days of the receipt of the NOI. If the operator does not receive a notification of deficiencies from ADEQ's receipt of the NOI, the NOI is deemed complete. If the applicant does not provide the Department with the requested deficiencies within the deadline set by the Department, then the Department will return the NOI, fee and SWPPP back to the applicant.

- B. *Contents of the NOI.* The NOI form contains, at a minimum, the following information:
- 1) Operator (Permittee) information (name, address, telephone and fax numbers, E-mail address)
 - 2) Whether the operator is a federal, state, private, public, corporation, or other entity
 - 3) Application Type: New or renewal
 - 4) Invoice mailing information (name, address, and telephone and fax numbers)
 - 5) Project Construction site information (name, county, address, contact person, directions to the site, latitude and longitude for the entrance of the site or the endpoints for linear project (in degrees, minutes, and seconds), estimated construction start date and completion date through site final stabilization, estimate of the total project acreage and the acreage to be disturbed by the operator submitting the NOI, type of the project (subdivision, school, etc), whether the project is part of a larger common plan of development.)

- 6) Discharge information (name of the receiving stream, ultimate receiving stream, name of municipal storm sewer system)
- 7) List of current permits
- 8) The Certification statement and signature of a qualified signatory person in accordance with 40 CFR 122.22, as adopted by reference in APCEC Regulation No. 6
- 9) The certification of the facility corporation
- 10) Other information (location of the SWPPP)
- 11) And the SIC Code.

C. Notice of Coverage (NOC). Unless notified by the Director to the contrary, dischargers who submit a complete NOI and SWPPP in accordance with the requirements of this permit are authorized to discharge stormwater from construction sites under the terms and conditions of this permit 10 business days after the date the NOI is deemed complete (which may not be the original submission date if revisions or additions were necessary) by ADEQ. If the NOC has not been received by the permittee 10 business days after the date the NOI is deemed complete by ADEQ, the NOI should be posted until the NOC is received. Upon review of the NOI and other available information, the Director may deny coverage under this permit and require submittal of an application for an individual NPDES permit.

8. Posting Notice of Coverage (NOC).

A. Automatic Coverage Sites. The NOC for small sites, as defined in Part I.A.51, can be obtained from the Water Division's Stormwater webpage at:

<https://www.adeg.state.ar.us/water/permits/npdes/stormwater/>.

The NOC must be posted at the site prior to commencing construction. In addition, a copy of the SWPPP must be available at the construction site in accordance with Part II.A.2.B and D prior to commencing construction.

B. Large Sites: NOC Posting for Large Construction Sites. The posting for large construction sites shall be obtained from the Department only after the permittee has submitted the required NOI, permit fee and complete SWPPP to the Department for the coverage.

C. Linear Projects. If the construction project is a linear construction project (e.g., pipeline, highway, etc.), the notice shall be placed in a publicly accessible location near where construction is actively underway and moved as necessary.

Please note, this permit does not provide the public with any right to trespass on a construction site for any reason, including inspection of a site; nor does this permit require that the permittee allow members of the public access to a construction site.

9. Applicable Federal, State or Local Requirements. The operator shall ensure that the stormwater controls implemented at the site are consistent with all applicable federal, state, or local requirements. Additionally, an operator who is operating under approved local erosion and sediment plans, grading plans, local stormwater permits, or stormwater management plans shall submit signed copies of the Notice of Intent (NOI) to the local agency (or authority) upon the local agency's request.

10. Allowable Non-Stormwater Discharges.

A. The following non-stormwater discharges as part of the construction permit activity may be authorized by this permit through appropriate controls. Non-stormwater discharges shall be addressed in the stormwater pollution prevention plan and measures to minimize or eliminate non-stormwater discharge should be taken if reasonably possible.

- 1) Fire fighting activities;
- 2) Fire hydrant flushings;

- 3) Water used to wash vehicles (where detergents or other chemicals are not used) or to control dust in accordance with Part II.A.4.H.2;
- 4) Potable water sources including uncontaminated waterline flushings;
- 5) Landscape Irrigation;
- 6) Routine external building wash down which does not use detergents or other chemicals;
- 7) Pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled materials have been removed) and where detergents or other chemicals are not used;
- 8) Uncontaminated air conditioning compressor condensate (See Part I.B.13.C of this permit);
- 9) Uncontaminated springs, excavation dewatering and groundwater (See Part I.B.13.C of this permit);
- 10) Foundation or footing drains where flows are not contaminated with process materials such as solvents (See Part I.B.13.C of this permit).

11. Limitations on Coverage (Exclusions). The following stormwater discharges associated with construction activity are not covered by this permit:

- A. Post Construction Discharge. Stormwater discharges associated with construction activities that originate from the site after construction activities have been completed, the site has undergone final stabilization, and the permit has been terminated.
- B. Discharges Mixed with Non-Stormwater. Stormwater discharges that are mixed with sources of non-stormwater other than those identified in Part I.B.10.
- C. Discharges Covered by another Permit. Stormwater discharges associated with construction activity that are covered under an individual or an alternative general permit may be authorized by this permit after an existing permit expires, provided the expired permit did not establish numeric effluent limitations for such discharges.
- D. Discharges into Receiving Waters with an Approved TMDL. Discharges from a site into receiving waters for which there is an established total maximum daily load (TMDL) allocation (<https://www.adeg.state.ar.us/water/planning/integrated/tmdl/>) are not eligible for coverage under this permit unless the permittee develops and certifies a stormwater pollution prevention plan (SWPPP) that is consistent with the assumptions and requirements in the approved TMDL. To be eligible for coverage under this general permit, operators shall incorporate into their SWPPP any conditions applicable to their discharges necessary for consistency with the assumptions and requirements of the TMDL within any timeframes established in the TMDL. If a specific numeric allocation has been established that would apply to the project's discharges, the operator shall incorporate that allocation into its SWPPP and implement necessary steps to meet that allocation. If a numeric limit has been assigned to the facility, quarterly monitoring shall be submitted to the Department demonstrating compliance with the assigned Waste Load Allocation established in the TMDL. Please note that the Department will be reviewing this information. If it is determined that the project will discharge into a receiving stream with a TMDL, then the Department may require additional BMPs.
- E. Discharges into Impaired Receiving Waters (303(d) List). If stormwater discharges from a site enter a receiving water listed as impaired under Section 303(d) of the Clean Water Act (<https://www.adeg.state.ar.us/water/planning/integrated/>), the permittee shall incorporate into the SWPPP any additional BMPs needed to sufficiently protect water quality. Please note that the Department will be reviewing this information. If it is determined that the project will discharge to an impaired water body, then the Department may require additional BMPs.
- F. Discharges into an Extraordinary Resource Water (ERW), Natural and Scenic Waterway (NSW), or Ecologically Sensitive Waterbody (ESW). Discharges from a construction site located within the watershed of any water body or

waterway designated as an Outstanding Resource Water as defined in the APC&EC Regulation No. 2.203, including ERWs, NSWs, or ESWs are not eligible for coverage under this permit unless the permittee develops and certifies a SWPPP that includes additional BMPs needed to prevent to the maximum extent possible exposure to stormwater of pollutants that could potentially impact water quality. For the purposes of this permit, the watershed of an Outstanding Resource Water will be identified by the United States Geological Survey's twelve (12) digit Hydrological Unit Code (HUC). Please note that the Department will be reviewing this information. If the site will discharge to an ERW, NSW, or ESW, then the Department may determine that additional requirements are necessary.

12. Short Term Activity Authorization (STAA). Any work being conducted in Waters of the State will require a Short Term Activity Authorization (STAA) from ADEQ in accordance with Regulation 2.305. An STAA is necessary for any in-stream activity that has the potential to exceed the water quality standards, including, but not limited to: gravel removal, bridge or crossing repair/maintenance, bank stabilization, debris removal, culvert replacement, flood control projects, and stream relocation. Any work being conducted in Waters of the United States may require a Section 404 permit from the U.S. Army Corps of Engineers. This permit does not authorize any activity under an STAA or Section 404 permit. The necessary forms to apply for coverage under an STAA can be found at the following link:

<https://www.adeg.state.ar.us/water/planning/instream/>

The SWPPP shall be updated to include a copy of the Short Term Activity Authorization letter upon receipt. Re-submittal of the SWPPP is not required unless specifically requested by the Department.

13. Effluent Limitation Guidelines (ELG). All permittees shall comply with the following effluent limits:

- A. *Erosion and Sediment Controls.* Design, install, and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants. At a minimum, such controls shall be designed, installed and maintained to:
- 1) Control stormwater volume and velocity to minimize soil erosion in order to minimize pollutant discharges;
 - 2) Control stormwater discharges, including both peak flowrates and total stormwater volume, to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points;
 - 3) Minimize the amount of soil exposed during construction activity;
 - 4) Minimize the disturbance of steep slopes;
 - 5) Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls shall address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site;
 - 6) Provide and maintain natural buffers around Waters of the State, direct stormwater to vegetated areas and maximize stormwater infiltration to reduce pollutant discharges, unless infeasible;
 - 7) Minimize soil compaction. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted; and
 - 8) Unless infeasible, preserve topsoil. Preserving topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed.
- B. *Soil Stabilization.* Stabilization of disturbed areas must, at a minimum, be initiated immediately (unless weather conditions do not allow immediate initiation) whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permitting authority. Stabilization must be completed within a period of time determined by the

permitting authority. In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed.

- C. Dewatering. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls. There shall be no turbid discharges to Waters of the State resulting from dewatering activities. If trench or ground waters contain sediment, it shall pass through a sediment settling pond or other equally effective sediment control device, prior to being discharged from the construction site. Alternatively, sediment may be removed by settling in place or by dewatering into a sump pit, filter bag, or comparable practice. Ground water dewatering which does not contain sediment or other pollutants is not required to be treated prior to discharge. However, care shall be taken when discharging ground water to ensure that it does not become pollutant-laden by traversing over disturbed soils or other pollutant sources.
- D. Pollution Prevention Measures. Design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures shall be designed, installed, implemented and maintained to:
- 1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters shall be treated in a sediment basin or BMP control that provides equivalent or better treatment prior to discharge;
 - 2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater. Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use); and
 - 3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
- E. Prohibited discharges. The following discharges are prohibited:
- 1) Wastewater from washout of concrete, unless managed by an appropriate control;
 - 2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
 - 3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
 - 4) Soaps or solvents used in vehicle and equipment washing.
- F. Surface Outlets. When discharging from basins and impoundments, utilize outlet structures that withdraw water from the surface, unless infeasible.

14. Natural Buffer Zones. A natural buffer zone as stated below shall be maintained at all times. Exceptions from this requirement for areas such as water crossings, limited water access, and restoration of the buffer are allowed if the permittee fully documents in the SWPPP the circumstances and reasons for the buffer zone encroachment. Additionally, this requirement is not intended to interfere with any other ordinance, rule or regulation, statute or other provision of law.

- A. For construction projects where clearing and grading activities will occur, the SWPPP shall provide at least twenty-five (25) feet of natural buffer zone, as measured horizontally from the top of the bank to the disturbed area, from any Waters of the State.
- B. The Department may also require up to fifty (50) feet of natural buffer zone, as measured from the top of the bank to the disturbed area, from established TMDL water bodies, streams listed on the 303(d) list, an Extraordinary Resource

Water (ERW), Ecologically Sensitive Waterbody (ESW), Natural and Scenic Waterway (NSW), or any other uses at the discretion of the Director.

C. Linear projects will be evaluated individually by the Department to determine natural buffer zone setbacks.

15. Waivers from Permit Coverage. The Director may waive the otherwise applicable requirements of this general permit for stormwater discharges from construction activities under the terms and conditions described in this section.

A. Waiver Applicability and Coverage. Based upon 40 CFR 122.26.b.15.i.A, operators of small construction activities may apply for and receive a waiver from the requirements to obtain this permit.

B. No Stormwater Leaving the Site. If all of the stormwater from the construction activity is captured on-site under any size storm event and allowed to evaporate, soak into the ground on-site, or is used for irrigation, a permit is not needed.

C. TMDL Waivers. This waiver is available for sites with automatic coverage if the ADEQ has established or approved a TMDL that addresses the pollutant(s) of concern and has determined that controls on stormwater discharges from small construction activity are not needed to protect water quality. The pollutant(s) of concern include sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. Information on TMDLs that have been established or approved by ADEQ is available from ADEQ online at

<https://www.adeg.state.ar.us/water/planning/integrated/tmdl/>.

16. Notice of Termination (NOT). When all construction activities that disturbed soil are complete, the site has reached final stabilization (100% stabilization with 80% density, or as defined in Part I.A.26.B for sites where background native vegetation will cover less than 100% of the ground), all stormwater discharges from construction activities authorized by this permit are eliminated and all temporary sediment controls are removed and properly disposed, the operator of the facility may submit a complete Notice of Termination (NOT) to the Director. Along with the NOT, pictures that represent the entire site should be submitted for review. Final stabilization is not required if the land is returned to its pre-construction agriculture use. Operators of small construction sites are not required to submit NOTs for their construction sites. However, final stabilization is required on all sites. If a Notice of Termination is not submitted when the project is completed, the operator will be responsible for annual fees.

17. Responsibilities of the Operator of a Larger Common Plan of Development for a Subdivision.

A. The operator is ultimately responsible for the runoff from the perimeter of the entire development. Regardless of the reason for the runoff, the operator is responsible for ensuring sufficient overall controls of the development.

B. The operator shall not terminate the permit coverage until the following conditions have been met:

- 1) After all construction including landscaping and lot development has been completed; and
- 2) All lots are sold and developed.

The following exceptions to this requirement can apply:

- a. less than 100% sold and developed at the discretion of the Director, or
- b. Separation of the larger common plan if twenty-four (24) months have passed with no construction activity, or
- c. All lots are developed and there are no temporary common controls for subdivision outfalls, i.e. sediment

basins, large sediment traps, check dams, etc.

- 3) If lots are sold and then re-sold to a third party, permit coverage should be obtained by each of the operators while they have ownership of the lots. The second owner is responsible for obtaining the same certification from the third owner, i.e. the certification shall pass from owner to owner.

C. The operator shall not terminate permit coverage until the operators of all of the individual lots within the larger common plan are notified of their permitting requirements under this general permit. In this case, the signed certification statements from each operator of individual lots shall be maintained in the stormwater pollution prevention plan for the large common plan. A copy of the signed certifications shall be submitted to ADEQ with the NOT. The certification shall be as follows:

“I, _____, operator of an individual lot #_____, block #_____ of _____ subdivision, certify under penalty of law that I was notified by the operator of the larger common plan of the stormwater permitting requirements for my construction site(s). I understand prior to commencement of any construction activity I have to prepare and comply with a SWPPP and post the Construction Site Notice. I understand that prior to the sale of this lot to another party; I must notify the new owner of ADEQ requirements and obtain this certification from the new owner.”

Signature _____

D. The following examples are provided as clarification:

- 1) If a small portion of the original common plan of development remains undeveloped and there has been a period of time (i.e., more than 24 months) where there are no ongoing construction activities (i.e., all areas are either undisturbed or have been finally stabilized), operators may re-evaluate the original project based on the acreage remaining from the original “common plan.” If less than five but more than one acre remains to build out the original “common plan”, coverage under the large permit may not be required. However, operators will need to comply with the terms and conditions for Small Construction Sites in the Construction General Permit. If less than one acre remains of the original common plan, the individual project may be treated as a part of a less than one acre development and no permit would be required.
- 2) If operators have a long-range master plan of development where some portions of the master plan are conceptual rather than a specific plan of future development and the future construction activities would, if they occur at all, happen over an extended period of time (i.e., more than 24 months), operators may consider the “conceptual” phases of development to be separate “common plans” provided the periods of construction for the physically interconnected phases will not overlap.
- 3) Where discrete construction projects within a larger common plan of development or sale are located ¼ mile or more apart and the area between the projects is not being disturbed, each individual project can be treated as a separate plan of development or sale provided any interconnecting road, pipeline or utility project that is part of the same “common plan” is not concurrently being disturbed. For example, an interconnecting access road or pipeline were under construction at the same time, they would generally be considered as a part of a single “common plan” for permitting purposes.
- 4) If the operator sells all the lots in the subdivision to one or more multi-lot homebuilder(s), provisions shall be made to obtain stormwater permit coverage by one of the following options:
 - a. The permit may be transferred from the first “operator” to the new/second “operator”.
 - b. A new, separate permit may be obtained by the second “operator”.NOTE: If a new permit is to be obtained, then it shall be obtained before the first/original permit is terminated.
- 5) If the operator retains ownership of any lots in the subdivision, the operator shall maintain permit coverage for those lots under the original permit. The operator shall modify the Stormwater Pollution Prevention Plan (SWPPP)

by stating which lots are owned and marking the lots on the site map. If there are one (1) or two (2) lots remaining and the total acreage is less than five (5) acres, the original permit could be terminated and those lots could be covered as a small site.

- 18. Change in Operator.** For stormwater discharges from large construction sites where the operator changes, including instances where an operator is added after the initial NOI has been submitted, the new operator shall ensure that a permit transfer form is received by the Department at least two (2) weeks prior to the operator beginning work at the site.
- 19. Late Notifications.** A discharger is not precluded from submitting an NOI in accordance with the requirements of this part after the dates provided in Part I.B.7 of this permit. In such instances, the Director may bring an enforcement action for failure to submit an NOI in a timely manner or for any unauthorized discharges of stormwater associated with construction activity that have occurred on or after the dates specified in this permit.
- 20. Failure to Notify.** The operator of a construction site who fails to notify the Director of their intent to be covered under this permit, and who potentially discharges pollutants (sediment, debris, etc.) to Waters of the State without an NPDES permit, is in violation of the Arkansas Water and Air Pollution Control Act.
- 21. Maintenance.** Determination of the acreage of disturbance does not typically include disturbance for routine maintenance activities on existing roads where the line and grade of the road is not being altered, nor does it include the paving of existing roads. Maintenance activities (returning to original conditions) are not regulated under this permit unless one or more acres of underlying or surrounding soil are cleared, graded, or excavated as part of the operation.
- 22. Releases in Excess of Reportable Quantities.**
 - A. The discharge of hazardous substances or oil in the stormwater discharge(s) from a facility shall be prevented or minimized in accordance with the applicable stormwater pollution prevention plan for the facility. This permit does not relieve the operator of the reporting requirements of 40 CFR Parts 110, 117 and 302. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reporting quantity established under either 40 CFR 110, 40 CFR 117, or 40 CFR 302, occurs during a 24-hour period, the following action shall be taken:
 - 1) Any person in charge of the facility is required to notify the National Response Center (NRC) (800-424-8802) in accordance with the requirements of 40 CFR 110, 40 CFR 117, or 40 CFR 302 as soon as he/she has knowledge of the discharge;
 - 2) The operator shall submit within five (5) calendar days of knowledge of the release a written description of the release (including the type and estimate of the amount of material released), the date that such release occurred, and the circumstances leading to the release, and steps to be taken in accordance with Part II.B.13 of this permit to the ADEQ.
 - 3) The Stormwater Pollution Prevention Plan (SWPPP) described in Part II.A of this permit shall be modified within fourteen (14) calendar days of knowledge of the release to:
 - a. Provide a description of the release and the circumstances leading to the release; and
 - b. The date of the release;
 - 4) Additionally, the SWPPP shall be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan shall be modified where appropriate.
 - B. Spills. This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

23. Attainment of Water Quality Standards.

The operator shall select, install, implement and maintain control measures at the construction site that minimize the discharge of pollutants for which a stream is impaired at the discretion of the Director as necessary to protect water quality. In general, except in situations explained in below, the stormwater controls developed, implemented, and updated to be considered stringent enough to ensure that discharges do not cause or contribute to an excursion above any applicable water quality standard.

At any time after authorization, the ADEQ may determine that the stormwater discharges may cause, have reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. If such a determination is made, ADEQ will require the permittee to:

- A. Develop a supplemental BMP action plan describing SWPPP modifications to address adequately the identified water quality concerns and submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or
- B. Cease discharges of pollutants from construction activity and submit an individual permit application.

All written responses required under this part shall include a signed certification consistent with Part II.B.9.

24. Requiring an Individual Permit

The Director may require any person eligible for coverage under the general permit to apply for and obtain an individual permit. In addition, any interested person(s) may submit an application for an individual permit. The Director may consider the issuance of individual permits according to the criteria in 40 CFR 122.28(b)(3).

Coverage of the facility under this general permit is automatically terminated when: (1) the operator fails to submit the required individual NPDES permit application within the defined time frame; or (2) the individual NPDES permit is issued by ADEQ and effective.

Any operator covered under this general permit may request to be excluded from the coverage of this permit by applying for an APC&EC Regulation 6 individual permit. The operator shall submit an application for an individual permit with the reasons supporting the application to ADEQ. If a final, individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this general permit to the facility is automatically terminated on the effective date of the individual NPDES permit. Otherwise, the applicability of this general permit to the facility remains in full force and effect.

PART II STANDARD CONDITIONS

Information in **Part II** is organized as follows:

Section A: Stormwater Pollution Prevention Plans (SWPPP):

1. Deadlines for Plan Preparation and Compliance
2. Signature, SWPPP, Inspection Reports, and Notice of Coverage (NOC)
3. Keeping SWPPP Current
4. Contents of the Stormwater Pollution Prevention Plan
5. Plan Certification

Section B: Standard Permit Conditions:

1. Retention of Records
2. Duty to Comply
3. Penalties for Violations of Permit Conditions
4. Continuance of the General Permit
5. Need to Halt or Reduce Activity Not a Defense
6. Duty to Mitigate
7. Duty to Provide Information
8. Other Information
9. Signatory Requirements
10. Certification
11. Penalties for Falsification of Reports
12. Penalties for Tampering
13. Oil and Hazardous Substance Liability
14. Property Rights
15. Severability
16. Transfers
17. Proper Operation and Maintenance
18. Inspection and Entry
19. Permit Actions
20. Re-Opener Clause
21. Local Requirements
22. Applicable Federal, State Requirements

SECTION A: STORMWATER POLLUTION PREVENTION PLANS (SWPPP)

The operator shall prepare a Stormwater Pollution Prevention Plan (the plan/SWPPP) before permit coverage. At least one SWPPP shall be developed for each construction project or site covered by this permit. The SWPPP shall follow the order outlined in Part II.A.4 & 5 below. This basic ADEQ format is available through the Department's website <https://www.adeg.state.ar.us/water/permits/npdes/stormwater/>. Other formats may be used at the discretion of the Director if the format has been approved by the Department prior to use. The operator shall implement the SWPPP as written from initial commencement of construction activity until final stabilization is complete, with changes being made as deemed necessary by the permittee, local, state or federal officials. The plan shall be prepared in accordance with good engineering practices, by qualified personnel and shall:

- Identify potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges from the construction;
- Identify, describe and ensure the implementation of Best Management Practices (BMPs), with emphasis on initial site stabilization, which are to be used to reduce pollutants in stormwater discharges from the construction site;
- Be site specific to what is taking place on a particular construction site;
- Ensure compliance with the terms and conditions of this permit; and
- Identify the responsible party for on-site SWPPP implementation.

1. Deadlines for Plan Preparation and Compliance.

A. Automatic Coverage Sites.

The plan shall be completed prior to the commencement of construction activities and updated as appropriate. Submittal of the NOI, permit fee and SWPPP is not required. All conditions set forth in Part II.A must be followed, and the NOC must be posted at the site prior to commencing construction. In addition, a copy of the SWPPP must be available at the construction site in accordance with Part II.2.B and D prior to commencing construction.

B. Large Construction Sites.

The plan shall be completed and submitted for review, along with an NOI and initial permit fee 14 business days prior to the commencement of construction activities. Submittals of updates to the plan during the construction process are required only if requested by the Director.

C. Existing Permittees.

Existing permittees that were permitted prior to the issuance of this renewal permit are required to update their plan as appropriate to come into compliance with the requirements contained in Part II.A.4 by the effective date of this permit.

2. Signature, Stormwater Pollution Prevention Plan (SWPPP), Inspection Reports and Notice of Coverage (NOC).

- A. The SWPPP and inspection reports shall be signed by the operator (or cognizant official) in accordance with Part II.B.9 and be retained at the construction site during normal business hours (8:00 A.M. – 5:00 P.M.).
- B. The operator shall make SWPPP and inspection reports available, upon request, to the Director, the EPA, or a State or local agency reviewing sediment and erosion plans, grading plans, or stormwater management plans, or, in the case of a stormwater discharge associated with construction activity which discharges through a municipal separate storm sewer system with an NPDES permit, to the municipal operator of the system.
- C. The Director, or authorized representative, may notify the operator at any time that the plan does not meet one or more of the minimum requirements of this Part. Within seven (7) business days of such notification from the Director (or as otherwise provided by the Director) or authorized representative, the operator shall make the required changes to the

plan and submit to the Director a written certification that the requested changes have been made. The Department may request re-submittal of the SWPPP to confirm that all deficiencies have been adequately addressed. The Department may also take appropriate enforcement action for the period of time the operator was operating under SWPPP that did not meet the minimum requirements of this permit.

D. The operator shall post the NOC near the main entrance of the construction site and visible to the public. The NOC will indicate the location of the SWPPP. If the SWPPP location is changed from the initial location, the NOC shall be updated to reflect the correct location of the SWPPP.

3. **Keeping SWPPP Current.** The operator shall amend the SWPPP within seven (7) business days or whenever there is a change in design, construction, operation, or maintenance at the construction site which has or could have a significant effect on the potential for the discharge of pollutants to the Waters of the State that has not been previously addressed in the SWPPP. The SWPPP should also be modified if a determination has been made through inspections, monitoring (if required), *or* investigation by the operator, local, state, or federal officials that the discharges are causing or contributing to water quality violation or the plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified in stormwater discharges from the construction site.

4. **Contents of the Stormwater Pollution Prevention Plan (SWPPP).** The SWPPP shall include the following items:

A. **Site Description.** SWPPP shall provide a description of the following:

- 1) A description of the nature of the construction activity and its intended use after the Notice of Intent (NOI) is filed (i.e., residential subdivision, shopping mall, etc.);
- 2) A description of the intended sequence of major activities which disturb soils for major portions of the site (e.g. grubbing, excavation, grading, infrastructure installation, etc.);
- 3) Estimates of the total area of the site (including off-site borrow and fill areas) and the total area of the site that is expected to be disturbed by excavation, grading or other activities; and
- 4) An estimate of the runoff coefficient of the site for pre- and post-construction activities and existing data describing the soil or the quality of any discharge from the site.

B. **Responsible Parties.** The SWPPP shall identify (as soon as this information is known) all parties (i.e., General Contractors, Landscapers, Project Designers, and Inspectors) responsible for particular services they provide to the operator to comply with the requirements of the SWPPP for the project site, and areas over which each party has control. If these parties change over the life of the permit, or new parties are added, the SWPPP should be updated to reflect these changes.

C. **Receiving Waters.** The SWPPP shall include a clear description of the nearest receiving water(s), or if the discharge is to a municipal separate storm sewer, the name of the operator of the municipal system, and the ultimate receiving water(s).

D. **Documentation of Permit Eligibility Related to the 303(d) list and Total Maximum Daily Loads (TMDL).** The SWPPP should include information on whether or not the stormwater discharges from the site enter a water body that is on the most recent 303(d) list or with an approved TMDL. If the stormwater discharge does enter a water body that is on the most recent 303(d) list or with an approved TMDL, then the SWPPP should address the following items:

- 1) Identification of the pollutants that the 303(d) list or TMDL addresses, specifically whether the 303(d) list or TMDL addresses sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation);
- 2) Identification of whether the operator's discharge is identified, either specifically or generally, on the 303(d) list or any associated assumptions and allocations identified in the TMDL for the discharge; and
- 3) Measures taken by the operator to ensure that its discharge of pollutants from the site is consistent with the assumptions and allocations of the TMDL.

If the Department determines during the review process that the proposed project will be discharging to a receiving water that is on the most recent 303(d) list or with an approved TMDL, then the Department will notify the applicant to include additional Best Management Practices in the SWPPP.

E. Attainment of Water Quality Standards After Authorization.

- 1) The permittee shall select, install, implement, and maintain BMPs at the construction site that minimize pollutants in the discharge as necessary to meet applicable water quality standards. In general, except in situations explained below, the SWPPP shall be developed, implemented, and updated to be considered as stringent as necessary to ensure that the discharges do not cause or contribute to an excursion above any applicable water quality standard.
- 2) At any time after authorization, the Department may determine that the stormwater discharges may cause, have reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. If such a determination is made, the Department will require the permittee to:
 - a. Develop a supplemental BMP action plan describing SWPPP modifications to adequately address the identified water quality concerns and submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or
 - b. Cease discharges of pollutants from construction activity and submit an individual permit application.
- 3) All written responses required under this part shall include a signed certification (Part II.B.9)

F. Site Map. The SWPPP shall contain a legible site map (or multiple maps, if necessary) complete to scale, showing the entire site, that identifies, at a minimum, the following:

- 1) Pre-construction topographic view;
- 2) Direction of stormwater flow (i.e., use arrows to show which direction stormwater will flow) and approximate slopes anticipated after grading activities;
- 3) Delineate on the site map areas of soil disturbance and areas that will not be disturbed under the coverage of this permit;
- 4) Location of major structural and nonstructural controls identified in the plan;
- 5) Location of main construction entrance and exit;
- 6) Location where stabilization practices are expected to occur;
- 7) Locations of off-site materials, waste, borrow area, or equipment storage area;
- 8) Location of areas used for concrete wash-out;
- 9) Location of all Waters of the State with associated natural buffer boundary lines. Identify floodplain and floodway boundaries, if available;
- 10) Locations where stormwater is discharged to Waters of the State or a municipal separate storm sewer system if applicable,
- 11) Locations where stormwater is discharged off-site (should be continuously updated);
- 12) Areas where final stabilization has been accomplished and no further construction phase permit requirements apply;
- 13) A legend that clearly specifies any erosion and sediment control measure symbols/labels used in the site map and/or detail sheet; and
- 14) Locations of any storm drain inlets on the site and in the immediate vicinity of the site.

G. Stormwater Controls. Each plan shall include a description of appropriate controls and measures that will be implemented at the construction site. The plan will clearly describe for each activity identified in the project description control measures associated with the activity and the schedule during the construction process that the measures will be implemented. Perimeter controls for the site shall be installed after the clearing and grubbing necessary for installation of the measure, but before the clearing and grubbing for the remaining portions of the site. Perimeter controls shall be actively maintained until final stabilization of those portions of the site upward of the

perimeter control. Temporary controls shall be removed after final stabilization and properly disposed. The description and implementation of controls shall address the following minimum components:

- 1) Initial Site Stabilization, Erosion, and Sediment Controls and Best Management Practices. Design, install, implement and maintain effective erosion and sediment controls to minimize the discharge of pollutants. At a minimum the following controls and Best Management Practices (BMPs) shall be designed, installed, implemented and maintained. Therefore, the SWPPP shall address, at a minimum, the following:
 - a. For larger common plans, only streets, drainage, utility areas, areas needed for initial construction of streets (e.g., borrow pits, parking areas, etc.) and areas needed for stormwater structures may be disturbed initially. Upon stabilization of the initial areas, additional areas may be disturbed.
 - b. The construction-phase erosion (such as site stabilization) and sediment controls (such as check dams) should be designed to retain sediment on-site to the extent practicable.
 - c. All control measures shall be properly selected, installed, and maintained in accordance with the manufacturer's specifications, good engineering, and construction practices. If periodic inspections or other information indicates a control has been used inappropriately or incorrectly, the permittee shall replace or modify the control for site situations.
 - d. If sediment escapes the construction site, off-site accumulations of sediment shall be removed at a frequency sufficient to minimize off-site impacts (e.g., fugitive sediment in a street could be washed into storm sewers by the next rain or pose a safety hazard to users of public streets). This permit does not give the authority to trespass onto other property; therefore this condition should be carried out along with the permission of neighboring land owners to remove sediment.
 - e. Sediment shall be removed from sediment traps (if used, please specify what type) or sedimentation ponds when design capacity has been reduced by 50%.
 - f. Litter, construction debris, and construction chemicals exposed to stormwater shall be prevented from becoming a pollutant source for stormwater discharges (e.g., screening outfalls picked up daily).
 - g. Off-site material storage areas (also including overburden and stockpiles of dirt, borrow areas, etc.) used solely by the permitted project are considered a part of the project and shall be addressed in the SWPPP.

- 2) Stabilization practices. The SWPPP shall include, at a minimum, the following information:
 - a. Description and Schedule: A description of initial, interim, and permanent stabilization practices, including site-specific scheduling of the implementation of the practices. Site plans should ensure that existing vegetation is preserved where attainable and that disturbed areas are stabilized. Stabilization practices may include: mulching, temporary seeding, permanent seeding, geotextiles, sod stabilization, natural buffer strips, protection of trees, and preservation of mature vegetation and other appropriate measures.
 - b. Description of natural buffer areas: The Department requires that a natural buffer zone be established between the top of stream bank and the disturbed area. The SWPPP shall contain a description of how the site will maintain natural buffer zones. For construction projects where clearing and grading activities will occur, SWPPP shall provide at least twenty-five (25) feet of natural buffer zone from any named or unnamed streams, creeks, rivers, lakes or other water bodies. The plan shall also provide at least fifty (50) feet of natural buffer zone from established TMDL water bodies, streams listed on the 303(d) list, an Extraordinary Resource Water (ERW), Ecologically Sensitive Waterbody (ESW), Natural and Scenic Waterway (NSW), or other uses at the discretion of the Director. If the site will be disturbed within the recommended buffer zone, then the buffer zone area shall be stabilized as soon as possible. Exceptions from this requirement for areas such as water crossings, limited water access, and restoration of the buffer are allowed if the permittee fully documents in the SWPPP the circumstances and reasons for the buffer zone encroachment. Additionally, this requirement is not intended to interfere with any other ordinance, rule or regulation, statute or other provision of law. Please note that above-grade clearing that does not disturb the soil in the buffer zone area does not have to comply with buffer zone requirements.
 - c. Records of Stabilization: A record of the dates when grading activities occur, when construction activities

temporarily or permanently cease on a portion of the site, and when stabilization measures are initiated shall be included in the plan.

- d. **Deadlines for Stabilization After Construction Activity Temporarily Ceases:** Stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily ceased, but in no case more than fourteen (14) days after the construction activity in that portion of the site has temporarily ceased, except:

(1) Where the initiation of stabilization measures by the fourteenth (14th) day after construction activity temporarily ceases is precluded by snow cover, stabilization measures shall be initiated as soon as practicable.

(2) In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures shall be employed as specified by the permitting authority.

- e. **Deadline for Stabilization After Construction Activity Permanently Ceases:** Stabilization measures shall be initiated immediately in portions of the site where construction activities have permanently ceased, except:

(1) Where the initiation of stabilization measures immediately after construction activity permanently ceases is precluded by snow cover, stabilization measures shall be initiated as soon as practicable.

(2) In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures shall be employed as specified by the permitting authority.

- 3) **Structural Practices.** A description of structural practices to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable. Structural practices should be placed on upland soils to the degree attainable. The installation of these devices may be subject to Section 404 of the Clean Water Act. Such practices may include but are not limited to:

- silt fences (installed and maintained)
- earthen dikes to prevent run-on
- drainage swales to prevent run-on
- check dams
- subsurface drains
- pipe slope drains
- storm drain inlet protection
- rock outlet protection
- sediment traps
- reinforced soil retaining systems
- gabions
- temporary or permanent sediment basins.

A combination of erosion and sediment control measures is encouraged to achieve maximum pollutant removal. Adequate spillway cross-sectional area and re-enforcement shall be provided for check dams, sediment traps, and sediment basins.

- a. **Sediment Basins:**

(1) For common drainage locations that serve an area with ten (10) or more acres (including run-on from other areas) draining to a common point, a temporary or permanent sediment basin that provides storage based on either the smaller of 3600 cubic feet per acre, or a size based on the runoff volume of a 10 year, 24 hour storm, shall be provided where attainable (so as not to adversely impact water quality) until final stabilization of the site. In determining whether installing a sediment basin is attainable, the operator may

consider factors such as site soils, slope, available area on site, etc. Proper hydraulic design of the outlet is critical to achieving the desired performance of the basin. The outlet should be designed to drain the basin within twenty-four (24) to seventy-two (72) hours. (A rule of thumb is one square foot per acre for a spillway design.) The 24-hour limit is specified to provide adequate settling time; the seventy-two (72) hour limit is specified to mitigate vector control concerns. If a pipe outlet design is chosen for the outfall, then an emergency spillway is required. If “non-attainability” is claimed, then an explanation of non-attainability shall be included in the SWPPP. Where a sediment basin is not attainable, smaller sediment basins or sediment traps shall be used. Where a sediment basin is un-attainable, natural buffer strips or other suitable controls which are effective are required for all side slopes and down slope boundaries of the construction area. The plans for removal of the sediment basin should also be included with the description of the basin in the SWPPP.

- (2) For drainage locations serving an area less than ten (10) acres, sediment traps, silt fences, or equivalent sediment controls are required for all side slope and down slope boundaries of the construction area unless a sediment basin providing storage based on either the smaller of 3600 cubic feet per acre, or a size based on the run off volume of a 10 year, 24 hour storm is provided. (A rule of thumb is one square foot per acre for a spillway.) However, in order to protect the Waters of the State, the Director, at their discretion, may require a sediment basin for any drainage areas draining to a common point.

b. Velocity Dissipation Devices:

Velocity dissipation devices shall be placed at discharge locations, within concentrated flow areas serving two or more acres, and along the length of any outfall channel to provide a non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (i.e., no significant changes in the hydrological regime of the receiving water). Please note that the use of hay-bales is not recommended in areas of concentrated flow.

H. Other Controls.

- 1) No solid materials, including building materials, shall be discharged to Waters of the State or offsite.
 - 2) Off-site vehicle tracking of sediments and the generation of dust shall be minimized through the use of a stabilized construction entrance and exit or vehicle tire washing.
 - 3) For lots that are less than one (1) acre in size an alternative method may be used in addition to a stabilized construction entrance. An example of an alternative method could be daily street sweeping. This could allow for the shortening of the construction entrance.
 - 4) The plan shall ensure and demonstrate compliance with applicable State or local waste disposal, temporary and permanent sanitary sewer or septic system regulations.
 - 5) No liquid concrete waste shall be discharged to Waters of the State. Appropriate controls to prevent the discharge of concrete washout waters shall be implemented if concrete washout will occur on-site.
 - 6) No contaminants from fuel storage areas, hazardous waste storage and truck wash areas shall be discharged to waters of the State or offsite. Methods for protecting these areas shall be identified and implemented. These areas should not be located near a water body, if there is a water body on or near the project.
- I. Non-stormwater discharges. Sources of non-stormwater listed in Part I.B.10 of this permit that are combined with stormwater discharges associated with construction activity shall be identified in the plan. This list should be site specific non-stormwater discharges.
- J. Post-Construction Stormwater Management. The operator is required to provide a description of measures that will be installed during the construction process to control pollutants in stormwater discharges that will occur after construction operations have been completed. Structural measures should be placed on upland soils to the degree attainable. The installation of these devices may be subject to Section 404 (Corps of Engineers) of the Clean Water Act. This permit only addresses the installation of stormwater management measures, and not the ultimate operation and maintenance of such structures after the construction activities have been completed and the site has undergone final stabilization.

However, post-construction stormwater BMPs that discharge pollutants from a point source once construction is completed may need authorization under a separate ADEQ NPDES permit. Such practices may include but are not limited to:

- infiltration of runoff onsite
- flow attenuation by use of open vegetated swales and natural depressions
- stormwater retention structures
- stormwater detention structures (including wet ponds)
- sequential systems, which combine several practices

A goal of at least 80 % removal of total suspended solids from these flows which exceed predevelopment levels should be used in designing and installing stormwater management controls (where practicable). Where this goal is not met, the operator shall provide justification for rejecting each practice listed above based on site conditions.

- K. Applicable State or Local Programs. The SWPPP shall be updated as necessary to reflect any revisions to applicable federal, state, or local requirements that affect the stormwater controls implemented at the site.
- L. Inspections. Inspections should be conducted by qualified personnel (provided by the operator). Inspections shall include all areas of the site disturbed by construction activity and areas used for storage of materials that are exposed to precipitation. Inspectors shall look for evidence of, or the potential for, pollutants entering the stormwater conveyance system. Erosion and sedimentation control measures shall be observed to ensure proper operation. Discharge locations shall be inspected to determine whether erosion control measures are effective in preventing significant impacts to Waters of the State or offsite, where accessible. Where discharge locations are inaccessible, nearby downstream locations shall be inspected to the extent that such inspections are practicable. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking. Inspections may not be required if the lot(s) within a larger common plan is/are sufficiently stabilized. In addition, inspections may not be required on a completed section of a linear project if that section has been sufficiently stabilized. Stabilized areas of the project should be indicated in the SWPPP and site map and show what date they were stabilized. The operator shall ensure that no sediment will leave the lot(s) that are stabilized. These lots shall be identified within the SWPPP and show what date they were stabilized. If the operator is unable to ensure this, then inspections shall continue.
- 1) Inspection Frequency. Inspections shall be conducted in accordance with one of the following schedules listed below. The schedule **must be specified** in the Stormwater Pollution Prevention Plan (SWPPP).
- a. At least once every 7 calendar days, or
 - b. At least once every 14 calendar days and within 24 hours of the end of a storm event of 0.25 inches or greater (a rain gauge must be maintained on-site).
- 2) Inspection Form. The ADEQ inspection form should be used for all inspections. The inspection form should include any erosion/sediment controls that are being used on the site. The form is available on the Department's website www.adeg.state.ar.us. If a different form is used, it shall at a minimum contain the following information:
- a. Inspector Name and Title
 - b. Date of Inspection
 - c. Amount of Rainfall and Days Since Last Rain Event (only applicable to Part II.A.4.L.1.b)
 - d. Approximate beginning and duration of the storm event
 - e. Description of any discharges during inspection
 - f. Locations of discharges of sediment/other pollutants
 - g. Locations of BMPs in need of maintenance or where maintenance was performed
 - h. If the BMPs are in working order and if maintenance is required (including when scheduled and completed)
 - i. Locations that are in need of additional controls
 - j. Location and Dates When Major Construction Activities Begin, Occur or Cease
 - k. Signature of qualified signatory official, in accordance with Part II.B.9

Additional information may be added to the inspection report at the permittee's discretion.

- 3) Inspection Records. The report shall be retained as part of the SWPPP for at least three (3) years from the date the site is finally stabilized. The report shall be signed and have a certification statement in accordance with the requirements of this permit.
 - 4) Winter Conditions. Inspections will not be required at construction sites where snow cover exists over the entire site for an extended period, and melting conditions do not exist. If there is any runoff from the site at any time during snow cover, melting conditions would be considered to be existent at the site and this inspection waiver would not apply. Regular inspections, as required by this permit, are required at all other times as specified in this permit. If winter conditions prevent compliance with the permit, documentation of the beginning and ending date of winter conditions should be included in the SWPPP.
 - 5) Adverse Weather Conditions. Adverse conditions are those that are dangerous or create inaccessibility for personnel, such as local flooding, high winds, or electrical storms, or situations that otherwise make inspections impractical, such as extended frozen conditions. When adverse weather conditions prevent the inspection of the site, an inspection should be completed as soon as is safe and feasible. If adverse weather conditions prevent compliance with the permit, documentation of the beginning and ending date of adverse weather conditions should be included in the SWPPP.
- M. Maintenance. A description of procedures to maintain vegetation, erosion and sediment control measures and other protective measures in good, effective operating condition shall be outlined in the plan. Any repairs that are needed based on an inspection shall be completed, when practicable, before the next storm event, but not to exceed a period of three (3) business days of discovery, or as otherwise directed by state or local officials. However, if conditions do not permit large equipment to be used, a longer time frame is allowed if the condition is thoroughly documented on the inspection form. Maintenance for manufactured controls shall be done at a minimum of the manufacturer's specifications. Maintenance for non-manufactured controls, i.e. check dams and sediment traps, shall be done upon 50% capacity.
- N. Employee Training. The permittee/operator is responsible for training personnel who are responsible for implementing activities identified in the SWPPP on the components and goals of the SWPPP and the requirements of the general permit. This includes contractors and subcontractors. Training should be given by a knowledgeable and qualified trainer. The SWPPP shall identify periodic dates for such training and records of training shall be maintained with the SWPPP. Training records that are maintained electronically (i.e. database, etc.) do not need to be maintained with the SWPPP, but shall be accessible upon request. Formal training classes given by Universities or other third-party organizations are not required but recommended for qualified trainers; the permittee is responsible for the content of the training being adequate for personnel to implement the requirements of the permit.
5. Plan Certification. The SWPPP Certification shall be signed by either the operator or the cognizant official identified on the Notice of Intent. All documents required by the permit and other information requested by the Director shall be signed by operator or by a duly authorized representative of the operator (Please see Part II.B.10 below for certification).

SECTION B: STANDARD PERMIT CONDITIONS

1. Retention of Records.

- A. The operator shall retain records of all Stormwater Pollution Prevention Plans, all inspection reports required by this permit, and records of all data used to complete the Notice of Intent (NOI) to be covered by this permit for a period of at least three years from the date the Notice of Termination letter is signed by the Department. This period may be extended by request of the Director at any time.
- B. The operator shall retain a signed copy of the Stormwater Pollution Prevention Plan (SWPPP) and inspection reports required by this permit at the construction site from the date of project initiation to the date of final stabilization.

2. **Duty to Comply.** The operator shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the federal Clean Water Act and the Arkansas Water and Air Pollution Control Act and is grounds for: enforcement action; permit termination, revocation and re-issuance, or modification; or denial of a permit renewal application.

3. **Penalties for Violations of Permit Conditions.** The Arkansas Water and Air Pollution Control Act (Ark. Code Ann. 8-4-101 et seq.) provides that any person who violates any provisions of a permit issued under the Act shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment for not more than one (1) year, or a criminal penalty of not more than twenty five thousand dollars (\$25,000) or by both such fine and imprisonment for each day of such violation. Any person who violates any provision of a permit issued under the Act may also be subject to civil penalty in such amount as the court shall find appropriate, not to exceed ten thousand dollars (\$10,000) for each day of such violation. The fact that any such violation may constitute a misdemeanor shall not be a bar to the maintenance of such civil action.

4. **Continuance of the General Permit.** Permittees wishing to continue coverage under this general permit shall submit a Renewal NOI (see Part I.B.4 for where to submit documentation) up to 180 days prior to the expiration date, but no later than 30 days prior to the expiration date. No additional fee is required to be submitted along with the Renewal NOI.

An expired general permit continues in force and effect until a new general permit is issued. If this permit is not re-issued or replaced prior to the expiration date, it will be administratively continued in accordance with Ark. Code Ann. § 8-4-203(m) and remain in force and effect. If a permittee was granted permit coverage prior to the expiration date, the permittee will automatically remain covered by the continued permit until the earliest of:

- A. The effective date of the re-issuance or replacement of this permit and a timely submittal of a renewal NOI by the operator; or
- B. The operator's submittal of a Notice of Termination (NOT); or
- C. Issuance of an individual permit for the project's discharges (see Part I.B.24); or
- D. A formal permit decision by the ADEQ to not re-issue this general permit, at which time operators must seek coverage under an alternative permit (see Part I.B.24).

Small site operators are responsible for ensuring that the site is in compliance with any changes or updates of this general permit by reviewing the ADEQ website at:

<https://www.adeg.state.ar.us/water/permits/npdes/stormwater/>

5. **Need to Halt or Reduce Activity Not a Defense.** It shall not be a defense for an operator in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
6. **Duty to Mitigate.** The operator shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has reasonable likelihood of adversely affecting human health or the environment.
7. **Duty to Provide Information.** The operator shall furnish to the Director, an authorized representative of the Director, the EPA, a State or local agency reviewing sediment and erosion plans, grading plans, or stormwater management plans, or in the case of a stormwater discharge associated with industrial activity which discharges through a Municipal Separate Storm Sewer System (MS4) with an NPDES permit, to the municipal operator of the system, within a reasonable time, any information which is requested to determine compliance with this permit.
8. **Other Information.** When the operator becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Director, he or she shall promptly submit such facts or information.
9. **Signatory Requirements.** All Notices of Intent (NOIs), reports, or information submitted to the Director shall be signed and certified by the operator.

A. All Notices of Intent shall be signed as follows:

- 1) **For a corporation:** by a responsible corporate officer. For purposes of this section, a responsible corporate officer means:
 - a. A president, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to ensure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- 2) **For a partnership or sole proprietorship:** by a general partner or the proprietor, respectively;
- 3) **For a municipality, State, Federal or other public agency:** By either a principal executive or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
 - a. The chief executive officer of the agency; or
 - b. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

B. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a **duly authorized** representative of that person. A person is a duly authorized representative only if:

- 1) The authorization is made in writing by a person described above and submitted to the Director;
- 2) The authorization specifies either an individual or a person having responsibility for the overall operation of the

regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility, or position of equivalent responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

- 3) Changes to authorization. If an authorization under this Part is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the above requirements shall be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

10. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments such as Inspection Form were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Note: For this permit only, "this document" refers to the Stormwater Pollution Prevention Plan, "attachments" refers to the site map and inspection forms, and "system" is referencing the project site.

11. Penalties for Falsification of Reports. The Arkansas Water and Air Pollution Control Act provides that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under this permit shall be subject to civil penalties specified in Part II.B.3 of this permit and/or criminal penalties under the authority of the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. 8-4-101 et seq.).

12. Penalties for Tampering. The Arkansas Water and Air Pollution Control act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under the Act shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment for not more than one (1) year or a fine of not more than twenty five thousand dollars (\$25,000) or by both such fine and imprisonment.

13. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the operator from any responsibilities, liabilities, or penalties to which the operator is or may be subject under Section 311 of the Clean Water Act or Section 106 of CERCLA.

14. Property Rights. The issuance of this permit does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to private property, any invasion of personal rights, or any infringement of Federal, State, or local laws or regulations.

15. Severability. The provisions of this permit are severable. If any provisions of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provisions to other circumstances and the remainder of this permit shall not be affected thereby.

16. Transfers. This permit is not transferable to any person except after notice to the Director. A transfer form shall be submitted to the ADEQ as required by this permit.

17. Proper Operation and Maintenance. The operator shall at all times:

- A. Properly operate and maintain all systems of treatment and control (and related appurtenances) which are installed or used by the operator to achieve compliance with the conditions of this permit. This provision requires the operation of

backup or auxiliary facilities or similar systems which are installed by an operator only when the operation is necessary to achieve compliance with the conditions of the permit.

- B. Provide an adequate operating staff which is duly qualified to carry out operation, inspection, maintenance, and testing functions required to ensure compliance with the conditions of this permit.

18. Inspection and Entry. The operator shall allow the Director, the EPA, or an authorized representative, or, in the case of a construction site which discharges to a municipal separate storm sewer, an authorized representative of the municipal operator of the separate sewer system receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

- A. Enter upon the operator's premises where a regulated facility or activity is located or conducted, or where records shall be kept under the conditions of this permit;
- B. Have access to and copy, at reasonable times, any records that shall be kept under the conditions of this permit;
- C. Inspect at reasonable times any facilities or equipment, including monitoring and control equipment and practices or operations regulated or required by the permit;
- D. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location on the permitted property.

19. Permit Actions. This permit may be modified, revoked and reissued, or terminated for any cause including, but not limited to, the following;

- A. Violation of any terms or conditions of this permit;
- B. Obtaining this permit by misrepresentation or failure to fully disclose all relevant facts;
- C. A change in any conditions that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
- E. Failure of the operator to comply with the provisions of ADEQ Regulation No. 9 (Fee Regulation). Failure to promptly remit all required fees shall be grounds for the Director to initiate action to terminate this permit under the provisions of 40 CFR 122.64 and 124.5(d), as adopted by reference in ADEQ Regulation No. 6, and the provisions of ADEQ Regulation No. 8.

20. Re-Opener Clause.

- A. If there is evidence indicating potential or realized impacts on water quality due to any stormwater discharge associated with industrial activity covered by this permit, the operator of such discharge may be required to obtain an individual permit or an alternative general permit in accordance with Part I.B.23 of this permit, or the permit may be modified to include different limitations and/or requirements.
- B. Permit modification or revocation will be conducted in accordance with the provisions of 40 CFR 122.62, 122.63, 122.64 and 124.5, as adopted by reference in ADEQ Regulation No. 6.

21. Local Requirements. All dischargers shall comply with the lawful requirements of municipalities, counties, drainage districts, and other local agencies regarding any discharges of stormwater to storm drain systems or other water sources under their jurisdiction, including applicable requirements in municipal stormwater management programs developed to comply with the ADEQ permits. Dischargers shall comply with local stormwater management requirements, policies, or guidelines including erosion and sediment control.

22. Applicable Federal, State Requirements. Permittees are responsible for compliance with all applicable terms and conditions of this permit. Receipt of this permit does not relieve any operator of the responsibility to comply with any other applicable federal, state or local statute, ordinance policy, or regulation.



Legislation Details (With Text)

File #: ORD-16:059 **Version:** 1 **Name:** Amend Chapter 112 of the Code of Ordinances
Type: Ordinance **Status:** First Reading
File created: 8/18/2016 **In control:** Public Works Council Committee
On agenda: **Final action:**
Title: AN ORDINANCE AMENDING CHAPTER 112 OF THE JONESBORO MUNICIPAL CODE
Sponsors: Engineering
Indexes: Code of Ordinances amendment
Code sections: Chapter 112 - Stormwater Management
Attachments:

Date	Ver.	Action By	Action	Result
9/6/2016	1	Public Works Council Committee		

AN ORDINANCE AMENDING CHAPTER 112 OF THE JONESBORO MUNICIPAL CODE
WHEREAS, the City Council adopted specific Stormwater Regulations on December 18, 2008 (ORD-08:099) which is now codified in Chapter 112 of the Jonesboro Municipal Code;

WHEREAS, the Stormwater Management Board recommends to amend Section 112-129 of Chapter 112 of the Stormwater Management Regulations to update the FEMA form used for an elevation certificate.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS THAT:

SECTION 1: Section 112-129 (f) (3) of Chapter 112 of the Jonesboro Municipal Code is hereby amended as follows:

(f) Floor elevations

(3) An elevation certificate (FEMA Form 086-0-33) shall be used to certify the elevation of any structure to be constructed in local or FEMA designated SFHA. Certificates may be prepared and sealed by either a professional engineer or a land surveyor provided that person is registered in the state.

SECTION 2: That the provisions of this Ordinance are declared to be severable. In the event any portion or portions may be declared unconditional does not render the remaining provisions invalid. Further all Ordinances and part of Ordinances in conflict herewith are hereby repealed to the extent of said conflict.



Legislation Details (With Text)

File #:	ORD-16:062	Version:	1	Name:	Adopt by reference the RLAA
Type:	Ordinance	Status:		Status:	First Reading
File created:	8/31/2016	In control:		In control:	Public Works Council Committee
On agenda:		Final action:		Final action:	
Title:	AN ORDINANCE ADOPTING BY REFERENCE THE REPETITIVE LOSS AREA ANALYSIS (RLAA), CONSISTENT WITH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) COMMUNITY RATING SYSTEM (CRS) REQUIREMENTS				
Sponsors:	Engineering				
Indexes:	Technical Code				
Code sections:					
Attachments:					

Date	Ver.	Action By	Action	Result
9/6/2016	1	Public Works Council Committee		

AN ORDINANCE ADOPTING BY REFERENCE THE REPETITIVE LOSS AREA ANALYSIS (RLAA), CONSISTENT WITH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) COMMUNITY RATING SYSTEM (CRS) REQUIREMENTS

WHEREAS, the Federal Emergency Management Agency (FEMA), through the CRS program provides flood insurance credits for floodplain management activities that exceeds basic NFIP regulations.

WHEREAS, a local analysis of repetitive loss areas is one of several documents required by the NFIP to ensure that proper mitigation strategies are developed for properties affected by repetitive flooding.

WHEREAS, the adoption of the RLAA will demonstrate the City of Jonesboro’s commitment to resolve repetitive structure flooding and provide additional CRS credit.

WHEREAS, the Stormwater Management Board recommends the RLAA be adopted by the City Council.

WHEREAS, the Public Works committee has addressed all public comments received and has approved said Repetitive Loss Area Analysis (RLAA) and forwarded said code to City Council for adoption; and

WHEREAS, pursuant to ACA 14-55-207, public notice was given of the City’s intent to adopt said Repetitive Loss Area Analysis (RLAA) by reference, advertised that three (3) copies of the document were on file and available for public review and examination in the Office of City Clerk.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS THAT:

SECTION 1: The City of Jonesboro Engineering Department prepared the RLAA to ensure proper mitigation strategies are developed for properties affect by repetitive flooding and to receive additional CRS credit.

SECTION 2: The Stormwater Management Board recommends the RLAA prepared by the City of Jonesboro Engineering Department be adopted by reference.

SECTION 3: The City Council of the City of Jonesboro hereby approves the adoption of the Reptitive Loss Area Analysis (RLAA) by reference.



Legislation Details (With Text)

File #: ORD-16:064 **Version:** 1 **Name:** Issuance of industrial revenue bonds for FMH Conveyors
Type: Ordinance **Status:** First Reading
File created: 9/8/2016 **In control:** Finance & Administration Council Committee
On agenda: **Final action:**

Title: AN ORDINANCE TO AUTHORIZE THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS UNDER THE MUNICIPALITIES AND COUNTIES INDUSTRIAL DEVELOPMENT REVENUE BOND LAW FOR THE PURPOSE OF SECURING AND DEVELOPING INDUSTRY; TO AUTHORIZE THE SALE OF THE BONDS AND THE APPROVAL OF A BOND PURCHASE AGREEMENT AND PAYMENT IN LIEU OF TAXES AGREEMENTS IN CONNECTION THEREWITH; TO AUTHORIZE THE EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE BONDS; TO AUTHORIZE AND PRESCRIBE CERTAIN MATTERS PERTAINING TO THE PROJECT, THE ACQUISITION, CONSTRUCTION, AND EQUIPPING THEREOF, AND THE FINANCING THEREOF; TO AUTHORIZE THE EXECUTION AND DELIVERY OF LEASE AGREEMENTS RELATING TO THE PROJECT; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Sponsors:

Indexes: Bonds - revenue/development

Code sections:

Attachments: [PILOT Agreement \(FMH Conveyors\) \(2\)](#)
[PILOT Agreement \(HMD Jonesboro\)](#)
[Recognition Nondisturbance and Attornment Agreement - FMH](#)
[Recognition Nondisturbance and Attornment Agreement - HMD](#)
[Trust Indenture -- FMH_HMD](#)
[Bond Purchase Agreement - FMH_HMD](#)
[Lease Agreement \(FMH\)](#)
[Lease Agreement \(HMD\)](#)

Date	Ver.	Action By	Action	Result
9/14/2016	1	Finance & Administration Council Committee		

AN ORDINANCE TO AUTHORIZE THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS UNDER THE MUNICIPALITIES AND COUNTIES INDUSTRIAL DEVELOPMENT REVENUE BOND LAW FOR THE PURPOSE OF SECURING AND DEVELOPING INDUSTRY; TO AUTHORIZE THE SALE OF THE BONDS AND THE APPROVAL OF A BOND PURCHASE AGREEMENT AND PAYMENT IN LIEU OF TAXES AGREEMENTS IN CONNECTION THEREWITH; TO AUTHORIZE THE EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE BONDS; TO AUTHORIZE AND PRESCRIBE CERTAIN MATTERS PERTAINING TO THE PROJECT, THE ACQUISITION, CONSTRUCTION, AND EQUIPPING THEREOF, AND THE FINANCING THEREOF; TO AUTHORIZE THE EXECUTION AND DELIVERY OF LEASE AGREEMENTS RELATING TO THE PROJECT; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, the City of Jonesboro, Arkansas (the "City") is authorized under the provisions of Amendment 65 to the Arkansas Constitution and the Municipalities and Counties Industrial Development Revenue Bond Law, Ark. Code Ann. §§ 14-164-201 to -224 (collectively, the "Act"), to own, acquire, construct, equip, and lease

facilities to secure and develop industry and to assist in the financing thereof by the issuance of bonds payable from the revenues derived from such facilities; and

WHEREAS, FMH Conveyors LLC (“FMH”) and HMD Jonesboro, LLC (“HMD”, and collectively with FMH, the “Companies”) have evidenced their interest in acquiring, constructing, and equipping an industrial facility in the City if permanent financing can be provided through the issuance of bonds under the authority of the Act; and

WHEREAS, the City has agreed to cooperate with the Companies in the acquisition, construction, and equipping of an industrial facility in the City and to finance the acquisition of land and/or leasehold rights, construction of buildings, infrastructure and improvements, and acquisition and installation of equipment for the manufacture, fabrication or processing of custom-engineered conveyors to be located at the intersection of Barnhill Road and Highland Drive in Jonesboro, Arkansas (the “Project”) relating to the operations of FMH; and

WHEREAS, to provide permanent financing of the Project costs, necessary costs and expenditures incidental thereto, and the cost of the issuance of bonds, the City will issue multiple series of its taxable industrial development revenue bonds under the provisions of the Act designated “City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (FMH Conveyors LLC Project), Series 2016,” in the principal amount of not to exceed \$2,000,000.00 (the “FMH Bonds”) and “City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (HMD Jonesboro, LLC Project), Series 2016,” in the principal amount of not to exceed \$12,000,000.00 (the “HMD Bonds,” and collectively with the FMH Bonds, the “Bonds”); and

WHEREAS, the Bonds will be issued pursuant to the provisions of a Trust Indenture (the “Trust Indenture”) to be entered into between the City and a trustee to be selected upon the mutual agreement of the City and the Companies (the “Trustee”); and

WHEREAS, the City and FMH intend to enter into a Lease Agreement (the “FMH Lease Agreement”) relating to the real property, infrastructure and improvements constituting a portion of the Project, which contemplates that a portion of the Project will be leased to FMH, with an option to purchase for a nominal price, and the rental payments therefor together with other moneys available shall be sufficient to pay debt service on the FMH Bonds and all related costs; and

WHEREAS, the City and HMD intend to enter into a Lease Agreement (the “HMD Lease Agreement”) relating to the personal property and infrastructure and improvements to real property constituting a portion of the Project, which contemplates that a portion of the Project will be leased to HMD, with an option to purchase for a nominal price, and the rental payments therefor together with other moneys available shall be sufficient to pay debt service on the HMD Bonds and all related costs; and

WHEREAS, to induce the City to proceed with the issuance of the FMH Bonds for the purpose indicated, which will inure to the benefit of FMH, the City and FMH will enter into a Payment in Lieu of Taxes Agreement (“FMH PILOT Agreement”) in substantially the form presented at this meeting; and

WHEREAS, to induce the City to proceed with the issuance of the HMD Bonds for the purpose indicated, which will inure to the benefit of HMD, the City and HMD will enter into a Payment in Lieu of Taxes Agreement (“HMD PILOT Agreement”) in substantially the form presented at this meeting; and

WHEREAS, the City caused a form of a notice of public hearing to be published on June 10, 2016, and the City hereby ratifies the form of notice published; and

WHEREAS, an open public hearing on the question of the issuance of the Bonds was held before the City Council on June 21, 2016 following publication of notice of the hearing and that having heard all persons desiring to be heard in the matter, the City has taken under advisement the comments and statements of such persons, and declared the public hearing duly closed; and

WHEREAS, the City proposes to sell the HMD Bonds and the FMH Bonds to affiliates of the respective Companies (collectively, the "Purchasers") pursuant to Bond Purchase Agreement by and between the City and the Purchasers; and

WHEREAS, FMH and HMD, respectively, have obtained independent loans from one or more lenders secured by liens on, or security interests in, title to all or part of the Project granted pursuant to various agreements, instruments and documents;

WHEREAS, the City acknowledges and consents to all liens and encumbrances on, security interests in and rights to, the title to the Project granted by FMH or HMD, respectively, and acknowledges that FMH's and HMD's respective interests in the Project will be transferred to City subject to the such liens, encumbrances and security interests and such acknowledgement and consent may be evidenced through the execution of a Recognition of Prior Interests, Nondisturbance and Attornment Agreement between the City, FMH, and the lenders of FMH (or such lenders' agents) benefitting from such lien, encumbrance or security interest (the "FMH RNA Agreement") and a Recognition of Prior Interests, Nondisturbance and Attornment Agreement between the City, HMD, and the lenders of HMD (or such lenders' agents) benefitting from such lien, encumbrance or security interest (the "HMD RNA Agreement");

WHEREAS, the completion of the Project will furnish additional employment and other benefits to and be in the best interest of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS:

Section 1. There be, and there is hereby, authorized and directed the following:

- (a) The Bonds shall be issued in one or more series in an aggregate principal amount of not to exceed \$14,000,000.00, and the Bonds shall be sold to the Purchasers for a price of par plus the costs of issuance upon the terms and conditions set forth in the Bond Purchase Agreement.
- (b) The execution and delivery of the FMH PILOT Agreement and the HMD PILOT Agreement by the Mayor and City Clerk on behalf of the City, in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the documents, their execution to constitute conclusive evidence of such approval, is hereby authorized and directed. Executed copies of the FMH PILOT Agreement and the HMD PILOT Agreement shall be filed in the City Clerk's office.
- (c) The acquisition, construction, and equipping of the Project, and, in connection therewith, the execution of any necessary architectural, engineering, or construction contracts or the acceptance of an assignment of any such contracts previously executed by the Companies for the construction and equipping of the Project on behalf of the City is hereby authorized and directed.

Section 2. The issuance of the Bonds in the total principal amount of not to exceed \$14,000,000.00 is hereby authorized. The Bonds shall be issued in the forms and denominations, shall be dated, shall be numbered, shall mature, shall bear interest (at a rate or rates) and shall be subject to redemption prior to maturity, all upon the terms and conditions to be set forth in the Trust Indenture. That to further prescribe the terms and conditions upon which the Bonds are to be executed, authenticated, issued, accepted, held and secured, the Mayor is hereby authorized and directed (when requested to do so by the Companies) to execute and acknowledge the Trust Indenture, and the City Clerk is hereby authorized and directed to execute and acknowledge the Trust Indenture and to affix the seal of the City thereto, and the Mayor and City Clerk are hereby authorized and directed to cause the Trust Indenture to be accepted, executed and acknowledged by the Trustee. The Trust Indenture is hereby approved in substantially the form submitted to this meeting (and a copy of such Trust Indenture is on file with the City Clerk and available for inspection by any interested person), and the Mayor is hereby authorized to confer with the Trustee and the Company in order to complete the Trust Indenture in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval.

Section 3. There be, and there is hereby, authorized and directed the execution and delivery of the FMH Lease Agreement and the HMD Lease Agreement, and the Mayor and City Clerk are hereby authorized to execute, acknowledge, and deliver the FMH Lease Agreement and the HMD Lease Agreement for and on behalf of the City. The FMH Lease Agreement and the HMD Lease Agreement are hereby approved in substantially the form submitted to this meeting (and a copy of such FMH Lease Agreement and HMD Lease Agreement are on file with the City Clerk and available for inspection by any interested person), and the Mayor is hereby authorized to confer with FMH and HMD, respectively, in order to complete the FMH Lease Agreement and the HMD Lease Agreement in substantially the forms submitted to this meeting, with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval.

Section 4. There be, and there is hereby, authorized and directed the execution and delivery of the Bond Purchase Agreement, and the Mayor and City Clerk are hereby authorized to execute, acknowledge, and deliver the Bond Purchase Agreement for and on behalf of the City. The Bond Purchase Agreement is hereby approved in substantially the form submitted to this meeting (and a copy of such Bond Purchase Agreement is on file with the City Clerk and available for inspection by any interested person), and the Mayor is hereby authorized to confer with the Purchasers in order to complete the Bond Purchase Agreement in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval.

Section 5. There be, and there is hereby, authorized and directed the execution and delivery of the FMH RNA Agreement and the HMD RNA Agreement if either or both Companies determine that such agreements are required by its lenders. The Mayor and City Clerk are hereby authorized to execute, acknowledge, and deliver the FMH RNA Agreement and the HMD RNA Agreement for and on behalf of the City. The FMH RNA Agreement and the HMD RNA Agreement are hereby approved in substantially the forms submitted to this meeting (and a copy of such FMH RNA Agreement and the HMD RNA Agreement are on file with the City Clerk and available for inspection by any interested person), and the Mayor is hereby authorized to confer with FMH, HMD and lenders of FMH and HMD (or such lenders' agents) in order to complete the FMH RNA Agreement and the HMD RNA Agreement in substantially the forms submitted to this meeting, with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval.

Section 6. The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect (i) the execution of the FMH Lease Agreement, (ii) the performance of

the City's obligations under the FMH Lease Agreement, (iii) the execution of the HMD Lease Agreement, (iv) the performance of the City's obligations under the HMD Lease Agreement, (v) the execution and delivery of the Trust Indenture, (vi) the performance of all obligations of the City under and pursuant to the Trust Indenture, (vii) the execution and delivery of the Bonds, (viii) the execution and delivery of the FMH PILOT Agreement, (ix) the performance of the City's obligations under the FMH PILOT Agreement, (x) the execution and delivery of the HMD PILOT Agreement, (xi) the performance of the City's obligations under the HMD PILOT Agreement, (xii) the execution and delivery of the Bond Purchase Agreement, (xiii) the performance of the City's obligations under the Bond Purchase Agreement, (xiv) the execution and delivery of the FMH RNA Agreement, (xv) the performance of the City's obligations under the FMH RNA Agreement, (xvi) the execution and delivery of the HMD RNA Agreement, (xvii) the performance of the City's obligations under the HMD RNA Agreement, and (xviii) the performance of all other acts of whatever nature necessary to effect and carry out the authority conferred by this Ordinance. The Mayor and the City Clerk are further authorized and directed, for and on behalf of the City, in connection with the issuance of the Bonds and in connection with on-going rights and obligations that arise after issuance and prior to maturity of the Bonds, to execute all papers, documents, certificates, and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof, including, but not limited to, the execution of one or more Home Office Payment Agreements, Memorandums of Lease, Delivery Instructions and other closing certificates.

Section 7. The Project involves the acquisition, constructing, and equipping of a complex industrial project, requiring highly specialized work and specialized types of machinery and equipment. In compliance with Ark. Code. Ann. § 14-164-204, it has been and is hereby determined by the City Council that competitive bidding be, and the same is hereby, waived as to this particular industrial project. This action is taken by the City Council pursuant to applicable laws of the State of Arkansas, including particularly the Act.

Section 8. All actions heretofore taken by the City, the Companies, and the Purchasers in connection with the issuance, offer and sale of the Bonds and the development and completion of the Project are hereby in all respects ratified and approved.

Section 9. Severability. In the event any title, section, paragraph, item, sentence, clause, phrase, or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

Section 10. Repealer. All ordinances or resolutions of the City in conflict herewith are hereby repealed to the extent of such conflict.

Section 11. There is hereby found and declared to be an immediate need for the securing and developing of substantial industrial operations in order to provide additional employment, alleviate unemployment, and otherwise benefit the public health, safety, and welfare of the City and the inhabitants thereof, and the issuance of the Bonds authorized hereby and the taking of the other action authorized herein are immediately necessary in connection with the securing and developing of substantial industrial operations and deriving the public benefits referred to above. It is therefore, declared that an emergency exists and this Ordinance, being necessary for the immediate preservation of the public health, safety, and welfare, shall be in force and take effect immediately upon and after its passage.

PAYMENT IN LIEU OF TAXES AGREEMENT

City of Jonesboro, Arkansas
300 South Church Street
Jonesboro, Arkansas 72401

Dated: _____, 2016

Attention: Mayor

Re: Not to exceed \$2,000,000 City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (FMH Conveyors Project), Series 2016 (the "Bonds")

Ladies and Gentlemen:

The City of Jonesboro, Arkansas (the "City") proposes to issue the Bonds identified above in one or more series under the provisions of the Municipalities and Counties Industrial Development Revenue Bond Law, Ark. Code Ann. §§ 14-164-201 *et seq.* (the "Act") for the purpose of financing a substantial industrial project consisting of acquiring, constructing, and equipping certain industrial facilities, infrastructure and improvements, for the manufacture, fabrication or processing of custom-engineered conveyors to be located at the intersection of Barnhill Road and Highland Drive in Jonesboro, Arkansas relating to the operations of FMH Conveyors (the "Project"). The Project will be leased by the City to FMH Conveyors LLC (the "Company") pursuant to a Lease Agreement (the "Lease Agreement") for a period of 20 years for rentals sufficient to pay debt service on the Bonds. The Company will use the Project as facilities for the manufacture, fabrication or processing of custom-engineered conveyors. The Project, as defined herein, is the "Leased Premises" as defined in the Lease Agreement.

Article IV of the Lease Agreement provides that the Company is obligated to pay all taxes and assessments levied and assessed on the Project during the term of the Lease Agreement. The Company is informed and understands that, notwithstanding the provision of Article IV of the Lease Agreement, under Article 16, Section 5 of the Constitution of the State of Arkansas, as interpreted by the Arkansas Supreme Court in *Wayland v. Snapp*, 233 Ark. 57, 334 S.W. 2d 633 (1960), and *Pulaski County v. Jacuzzi Bros. Div.*, 332 Ark. 91, 964 S.W.2d 788 (1998), and Ark. Code Ann. §§ 14-164-701 *et seq.*, the Project will be exempt from ad valorem taxes because it is owned by the City and used for a public purpose within the meaning of the applicable Constitutional and statutory provisions affording the exemption.

Thus, the Company understands that it, as Lessee of the Project owned by the City, will, in fact, pay no ad valorem taxes on the Project under the provisions of Article IV of the Lease Agreement. The taxing authorities (defined below) have indicated a reluctance to lose all tax revenues which would otherwise be received by it if the property involved was privately owned.

Therefore, to induce the City to proceed with the issuance of the Bonds for the purpose indicated, which will inure to the benefit of the Company, and for other valuable

consideration, the receipt and sufficiency of which is hereby acknowledged, the Company agrees with the City pursuant to this Payment in Lieu of Taxes Agreement (the "Agreement") as follows:

1. In lieu of ad valorem property taxes, the Company will pay to the City an annual sum equal to 35% of the amount which would be payable as ad valorem taxes that would have to be paid on the Project to the State of Arkansas, Craighead County, the Nettleton School District, and/or other political subdivisions of the State of Arkansas (the "taxing authorities") if the Project were not exempt from ad valorem taxes under the provisions of Article 16, Section 5 of the Constitution of the State of Arkansas, as interpreted by the Supreme Court of the State of Arkansas in *Wayland v. Snapp, supra*, and *Pulaski County v. Jacuzzi Bros. Div., supra*, and Ark. Code Ann. §§ 14-164-701 *et seq.* Payments are due not later than October 10 each year commencing after completion of construction. Payments not paid when due shall bear interest at 5% per annum until paid.

The payment is based on the land, buildings, improvements and equipment comprising the Leased Premises, excluding licensed vehicles. Any expansion or improvement of the Project will become subject to this Agreement using the same formula for the term of the Bonds.

2. The payments to be made pursuant to paragraph 1 are intended to be in lieu of all ad valorem taxes that would have to be paid on the Project to the taxing authorities if the Project were not exempt from ad valorem taxes under the provisions of Article 16, Section 5 of the Constitution of the State of Arkansas, as interpreted by the Supreme Court of the State of Arkansas in *Wayland v. Snapp, supra*, and *Pulaski County v. Jacuzzi Bros. Div., supra*, and Ark. Code Ann. §§ 14-164-701 *et seq.*, but are not intended to be in lieu of (i) any licenses, occupation or privilege tax, or fee imposed upon the Company for or with respect to its right to carry on its business in the State of Arkansas, (ii) any special benefit or local improvement tax or assessment, or (iii) fees or charges for utility services rendered, such as for water or sewer services.

3. The City agrees to distribute each payment under paragraph 1 among the taxing authorities in the proportion that the millage collected bears to the total millage collected by all during the year of distribution, unless all such taxing authorities, including without limitation the school district, shall otherwise agree and document the alternate basis upon which the payments shall be distributed.

4. The City and the Company agree to cooperate in sustaining the enforceability of this Agreement. However, if by reason of a change in the Constitution of the State of Arkansas, a change by the Supreme Court of the State of Arkansas in its interpretation of the Constitution, a change by the General Assembly of the State of Arkansas, or otherwise, the Company is required to pay any tax for which the payments specified in paragraph 1 are intended to be in lieu, the Company may deduct the aggregate of any such payments made by it from any amount herein agreed to be paid under paragraph 1. Furthermore, inasmuch as the payments in paragraph 1 herein agreed to be made are intended to be in lieu of taxes, it is agreed that said payments

shall not as to any year be in an amount greater than would otherwise be payable for such year in ad valorem taxes, in the aggregate, on account of its ownership of the Project.

5. Representatives of the Company will confer at least annually with the Craighead County Assessor and determine the assessed valuation of the real and personal properties comprising the Project. The determination shall be made by mutual agreement if possible, and if not, shall be made by the Craighead County Assessor as though the Project were privately owned. Because the valuation of such property is a key factor in calculating payments due, the City agrees to cooperate with the Company in any reasonable challenge to the valuation assigned to such property by the Craighead County Assessor to the fullest extent permitted by Arkansas law.

It is recognized by the City and the Company that the payments described in paragraph 1 hereof are to be calculated on the basis of annual amounts that would otherwise be payable as ad valorem taxes under Arkansas law on the Leased Premises if such property were on the tax rolls. The amount to be paid each year shall be determined by applying the millage that would be applicable to the Project for that year if the Project were privately owned. The Company shall be entitled to any refund occasioned by overpayment or a reduction in millage which requires a refund by the taxing authorities.

6. This Agreement shall terminate and be of no further force and effect from and after the date that the Lease Agreement shall terminate for any purpose other than a default on the part of the Company, including, but not limited to, the transfer of ownership of the Leased Premises to the Company. If such termination shall be at a point constituting a portion of a year, the Company shall pay for the year in which termination occurred that portion of the specified annual payment that the number of days in such year that the Project was exempt prior to the terminations bears to 365 days (366 days in a leap year).

7. This Agreement shall be binding upon the successors and assigns of the Company, but no assignment shall be effective to relieve the Company of any of its obligations hereunder unless expressly authorized and approved in writing by the City.

8. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original.

9. This Agreement shall be governed by, and interpreted in accordance with, the laws of the state of Arkansas.

When executed, this Agreement shall constitute a valid and binding contract between the Company and the City.

Very truly yours,

FMH CONVEYORS LLC

By: _____
_____, _____

ACCEPTED:

CITY OF JONESBORO, ARKANSAS

By: _____
Harold Perrin, Mayor

ATTEST:

Donna Jackson, City Clerk

PAYMENT IN LIEU OF TAXES AGREEMENT

City of Jonesboro, Arkansas
300 South Church Street
Jonesboro, Arkansas 72401

Dated: _____, 2016

Attention: Mayor

Re: Not to exceed \$12,000,000 City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (HMD Jonesboro Project), Series 2016 (the "Bonds")

Ladies and Gentlemen:

The City of Jonesboro, Arkansas (the "City") proposes to issue the Bonds identified above in one or more series under the provisions of the Municipalities and Counties Industrial Development Revenue Bond Law, Ark. Code Ann. §§ 14-164-201 *et seq.* (the "Act") for the purpose of financing a substantial industrial project consisting of acquiring, constructing, and equipping certain industrial facilities, infrastructure and improvements, for the manufacture, fabrication or processing of custom-engineered conveyors to be located at the intersection of Barnhill Road and Highland Drive in Jonesboro, Arkansas relating to the operations of FMH Conveyors (the "Project"). The Project will be leased by the City to HMD Jonesboro, LLC (the "Company") pursuant to a Lease Agreement (the "Lease Agreement") for a period of 20 years for rentals sufficient to pay debt service on the Bonds. The Company will use the Project as facilities for the manufacture, fabrication or processing of custom-engineered conveyors. The Project, as defined herein, is the "Leased Premises" as defined in the Lease Agreement.

Article IV of the Lease Agreement provides that the Company is obligated to pay all taxes and assessments levied and assessed on the Project during the term of the Lease Agreement. The Company is informed and understands that, notwithstanding the provision of Article IV of the Lease Agreement, under Article 16, Section 5 of the Constitution of the State of Arkansas, as interpreted by the Arkansas Supreme Court in *Wayland v. Snapp*, 233 Ark. 57, 334 S.W. 2d 633 (1960), and *Pulaski County v. Jacuzzi Bros. Div.*, 332 Ark. 91, 964 S.W.2d 788 (1998), and Ark. Code Ann. §§ 14-164-701 *et seq.*, the Project will be exempt from ad valorem taxes because it is owned by the City and used for a public purpose within the meaning of the applicable Constitutional and statutory provisions affording the exemption.

Thus, the Company understands that it, as Lessee of the Project owned by the City, will, in fact, pay no ad valorem taxes on the Project under the provisions of Article IV of the Lease Agreement. The taxing authorities (defined below) have indicated a reluctance to lose all tax revenues which would otherwise be received by it if the property involved was privately owned.

Therefore, to induce the City to proceed with the issuance of the Bonds for the purpose indicated, which will inure to the benefit of the Company, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Company agrees with the City pursuant to this Payment in Lieu of Taxes Agreement (the "Agreement") as follows:

1. In lieu of ad valorem property taxes, the Company will pay to the City an annual sum equal to 35% of the amount which would be payable as ad valorem taxes that would have to be paid on the Project to the State of Arkansas, Craighead County, the Nettleton School District, and/or other political subdivisions of the State of Arkansas (the "taxing authorities") if the Project were not exempt from ad valorem taxes under the provisions of Article 16, Section 5 of the Constitution of the State of Arkansas, as interpreted by the Supreme Court of the State of Arkansas in *Wayland v. Snapp, supra*, and *Pulaski County v. Jacuzzi Bros. Div., supra*, and Ark. Code Ann. §§ 14-164-701 *et seq.* Payments are due not later than October 10 each year commencing after completion of construction. Payments not paid when due shall bear interest at 5% per annum until paid.

The payment is based on the land, buildings, improvements and equipment comprising the Leased Premises, excluding licensed vehicles. Any expansion or improvement of the Project will become subject to this Agreement using the same formula for the term of the Bonds.

2. The payments to be made pursuant to paragraph 1 are intended to be in lieu of all ad valorem taxes that would have to be paid on the Project to the taxing authorities if the Project were not exempt from ad valorem taxes under the provisions of Article 16, Section 5 of the Constitution of the State of Arkansas, as interpreted by the Supreme Court of the State of Arkansas in *Wayland v. Snapp, supra*, and *Pulaski County v. Jacuzzi Bros. Div., supra*, and Ark. Code Ann. §§ 14-164-701 *et seq.*, but are not intended to be in lieu of (i) any licenses, occupation or privilege tax, or fee imposed upon the Company for or with respect to its right to carry on its business in the State of Arkansas, (ii) any special benefit or local improvement tax or assessment, or (iii) fees or charges for utility services rendered, such as for water or sewer services.

3. The City agrees to distribute each payment under paragraph 1 among the taxing authorities in the proportion that the millage collected bears to the total millage collected by all during the year of distribution, unless all such taxing authorities, including without limitation the school district, shall otherwise agree and document the alternate basis upon which the payments shall be distributed.

4. The City and the Company agree to cooperate in sustaining the enforceability of this Agreement. However, if by reason of a change in the Constitution of the State of Arkansas, a change by the Supreme Court of the State of Arkansas in its interpretation of the Constitution, a change by the General Assembly of the State of Arkansas, or otherwise, the Company is required to pay any tax for which the payments specified in paragraph 1 are intended to be in lieu, the Company may deduct the aggregate of any such payments made by it from any amount herein agreed to be paid

under paragraph 1. Furthermore, inasmuch as the payments in paragraph 1 herein agreed to be made are intended to be in lieu of taxes, it is agreed that said payments shall not as to any year be in an amount greater than would otherwise be payable for such year in ad valorem taxes, in the aggregate, on account of its ownership of the Project.

5. Representatives of the Company will confer at least annually with the Craighead County Assessor and determine the assessed valuation of the real and personal properties comprising the Project. The determination shall be made by mutual agreement if possible, and if not, shall be made by the Craighead County Assessor as though the Project were privately owned. Because the valuation of such property is a key factor in calculating payments due, the City agrees to cooperate with the Company in any reasonable challenge to the valuation assigned to such property by the Craighead County Assessor to the fullest extent permitted by Arkansas law.

It is recognized by the City and the Company that the payments described in paragraph 1 hereof are to be calculated on the basis of annual amounts that would otherwise be payable as ad valorem taxes under Arkansas law on the Leased Premises if such property were on the tax rolls. The amount to be paid each year shall be determined by applying the millage that would be applicable to the Project for that year if the Project were privately owned. The Company shall be entitled to any refund occasioned by overpayment or a reduction in millage which requires a refund by the taxing authorities.

6. This Agreement shall terminate and be of no further force and effect from and after the date that the Lease Agreement shall terminate for any purpose other than a default on the part of the Company, including, but not limited to, the transfer of ownership of the Leased Premises to the Company. If such termination shall be at a point constituting a portion of a year, the Company shall pay for the year in which termination occurred that portion of the specified annual payment that the number of days in such year that the Project was exempt prior to the terminations bears to 365 days (366 days in a leap year).

7. This Agreement shall be binding upon the successors and assigns of the Company, but no assignment shall be effective to relieve the Company of any of its obligations hereunder unless expressly authorized and approved in writing by the City.

8. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original.

9. This Agreement shall be governed by, and interpreted in accordance with, the laws of the state of Arkansas.

When executed, this Agreement shall constitute a valid and binding contract between the Company and the City.

Very truly yours,

HMD JONESBORO, LLC

By: _____
_____, _____

ACCEPTED:

CITY OF JONESBORO, ARKANSAS

By: _____
Harold Perrin, Mayor

ATTEST:

Donna Jackson, City Clerk

**This instrument was prepared by,
and after recording, return to:**

Michele Simmons Allgood
Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C.
425 W. Capitol Avenue, Suite 1800
Little Rock, Arkansas 72201

**RECOGNITION OF PRIOR INTERESTS, NONDISTURBANCE
AND ATTORNMENT AGREEMENT**

THIS RECOGNITION OF PRIOR INTERESTS, NONDISTURBANCE AND ATTORNMENT AGREEMENT (this “Agreement”) is made this ____ day of _____, 2016, among FMH CONVEYORS LLC, a Delaware limited liability company (“Lessee”), the CITY OF JONESBORO, ARKANSAS, a political subdivision of the State of Arkansas (“Lessor”), and _____, an [insert state of formation] [insert type of entity] (“Lender”).

RECITALS

A. Lessor has issued industrial revenue bonds (the “Bonds”) for the purpose of financing a portion of the costs of the acquisition of land and/or leasehold rights, construction of buildings, infrastructure and improvements, and acquisition and installation of equipment for the manufacture, fabrication or processing of custom-engineered conveyors to be located at the intersection of Barnhill Road and Highland Drive in Jonesboro, Arkansas (the “Project”).

B. In connection with the issuance of the Bonds, (i) Lessee has transferred or will transfer to Lessor title to certain personal property, including all machinery and equipment, and certain real property described on **Exhibit A**, attached hereto and incorporated by reference, acquired or constructed in furtherance of the Project (herein called the “Leased Premises”) and (ii) Lessor and Lessee have entered into a Lease Agreement, dated on or about the date hereof (the “Lease”), pursuant to which Lessor demised to Lessee a leasehold interest in the Leased Premises (“Lessee’s Leasehold Interest”), in each case subject to the Pre-Transfer Liens (as defined in Recital C, below).

C. Lessee has obtained loans (the “Loans”) from Lender secured by liens on, or security interests in, title to all or part of the Leased Premises granted pursuant to the following documents:

1. [Insert title and filing information for any mortgage documents]; and
2. [Insert title and information relating to security agreements affecting personal property].

Items 1 and 2 above are collectively referred to as the “Pre-Transfer Liens” or, as appropriate, the “Security Documents.”

D. By this Agreement, the parties desire to establish and acknowledge certain rights, obligations, protections and priorities with regard to their respective interests in the Leased Premises.

AGREEMENT

In consideration of the premises and other good and valuable consideration, receipt of which is hereby acknowledged, and the mutual benefits to accrue to the parties hereto, the parties hereto agree as follows:

1. **Recognition of Prior Liens and Interests.** Lessor hereby acknowledges and consents to all liens and encumbrances on, security interests in and rights to, the title to the Leased Premises and Lessee’s Leasehold Interest created by or pursuant to the Security Documents, and acknowledges that Lessor’s interest in the title to the Leased Premises has been, or will be, transferred to Lessor subject to the Pre-Transfer Liens and subordinate to the Lender’s interest created under the Pre-Transfer Liens. In the event that the Lender attempts to obtain title to the Leased Premises by foreclosure, replevin, sale, transaction or other action or proceeding for the enforcement of the Pre-Transfer Liens, the Lessor shall, upon receipt of written notice thereof, cooperate with such Lender in executing a deed in lieu of foreclosure or such other conveyance or consent to such foreclosure, replevin, sale, transaction or other action or proceeding as such Lender may request. Such action shall include and not be limited to execution of a deed in lieu of foreclosure, consent to any decree regarding a foreclosure or replevin action with respect to the Leased Premises, and any other action that will assist or effectuate the transfer of title to any Lender.

2. **Notice and Opportunity to Cure; Nondisturbance.** If any default or breach under the Lease occurs (a “Lessee Default”), then Lessor shall promptly provide Lender a notice describing in reasonable details such Lessee Default and the potential remedies to be pursued in connection therewith (a “Lessee Default Notice”). Lessor shall accept the Lender’s cure of any Lessee Default at any time until the later of (i) 30 days after provision of the Lessee Default Notice (or if the Lender reasonably cannot cure the Lessee Default within such 30-day period, then the period to cure shall be extended to the period reasonably required to effect the cure), or (ii) the expiration of any applicable cure period provided under the Lease. At any time after the occurrence of a Lessee Default and before expiration of the applicable cure period set forth herein or in the Lease, (a) Lessor shall not terminate the Lease, accelerate rent, or otherwise interfere with Lessee’s or the Lender’s possession or quiet enjoyment as long as the Lender

otherwise complies with its obligations under this Agreement and (b) the Lender may enter or use the Leased Premises to seek to cure a Lessee Default. Notwithstanding the foregoing, the Lender has no obligation to cure a Lessee Default.

3. **Recognition, Non-Disturbance and Attornment.** If any transfer of the Lessee's Leasehold Interest by foreclosure, replevin, sale, transaction or other action or proceeding for the enforcement of the Security Documents or deed or assignment in lieu thereof (a "Transfer") occurs, upon receipt of written notice setting forth in reasonable detail the terms of the Transfer, Lessor shall recognize the transferee(s), including the Lender ("Successor"), as the lessee under the Lease upon the same terms, provisions and conditions as are set forth in the Lease. If Lessor shall have received written notice from Successor that Successor has succeeded to the interest of Lessee under the Lease or otherwise has the right to use or occupy the Leased Premises or to require Lessor to perform its obligations under the Lease, Lessor shall perform all of the obligations of Lessor pursuant to the Lease for the benefit of Successor and shall not disturb the possession of Successor so long as no Lessee Default exists beyond any applicable notice and cure period. Successor shall attorn to Lessor and recognize all of the rights of Lessor under the Lease, and the Lease shall continue in full force as a direct lease between Lessor and Successor, and the respective executory rights and obligations of Lessor and Successor, to the extent of the then-remaining balance of the term of the Lease, shall be and are the same as set forth therein. This recognition, non-disturbance and attornment shall be effective and self-operative, without the execution of any further instrument on the part of any of the parties hereto, immediately upon Successor succeeding to Lessee's Leasehold Interest.

4. **Amendments to Lease.** Without the prior written consent of the Lender, which consent shall not be unreasonably withheld or delayed, Lessor shall not (a) enter into any agreement amending, modifying or terminating the Lease or (b) request a waiver by Lessee of Lessee's rights or remedies under the Lease.

5. **Limitation on Lender's Performance and Liability.** Lessor acknowledges that (a) Lender shall have no duty, liability or obligation whatsoever under the Lease unless and until Lender, as Successor, succeeds to Lessee's Leasehold Interest or obtains possession of the Leased Premises under the terms of the Security Documents and (b) Successor shall have no duty, liability or obligation whatsoever under the Lease unless such duty, liability or obligation accrues during the period after Successor succeeds to Lessee's Leasehold Interest or obtains possession of the Leased Premises under the terms of the Security Documents.

6. **Lessor Bankruptcy.** Upon the filing by or against the Lessor of a petition pursuant to applicable provisions of the United States Code relating to bankruptcy as now constituted or hereafter amended or under any other applicable Federal or State Bankruptcy law or other similar law (hereinafter referred to as the Bankruptcy Code), and the subsequent rejection of the Lease by Lessor, Lessee shall not, without the prior written consent of the Lender (i) elect to treat the Lease as terminated pursuant to Section 365(h)(i) of the Bankruptcy Code, or (ii) pursuant to Section 365(h)(2) of the Bankruptcy Code, offset against the rents reserved under the Lease the amount of any damages caused by the Lessor's rejection of the Lease. Lessee shall promptly, and so as to be received prior to all hearing dates, return dates or other deadlines, send to Lender copies of all notices, summonses, pleadings, applications and other documents received by Lessee in connection with such petition or proceeding by Lessor.

7. **Notices under Lease.** Pursuant to the terms hereof, Lessor shall give Lender, concurrently with giving any material notice to Lessee, a copy of any such notice given to Lessee by Lessor under the Lease, in the manner set forth below. No such notice given to Lessee by Lessor which is not concurrently given to Lender shall be valid or effective for any purpose with respect to Lender.

8. **Miscellaneous.**

(a) **Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (i) when delivered by hand (with written confirmation of receipt); (ii) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (iii) on the date sent by facsimile or e-mail (with .pdf copy attached and confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (iv) on the fifth day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses set forth on **Exhibit B**, or such other address for a party as specified in a notice given in accordance with this Section.

(b) **Interpretation.** For purposes of this Agreement, (i) the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; (ii) the word "or" is not exclusive; and (iii) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (i) to sections, schedules and exhibits mean the sections of, and schedules and exhibits attached to, this Agreement; (ii) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (iii) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

(c) **Entire Agreement.** This Agreement and the Lease contain all of the terms and conditions of the parties' agreement regarding the subject matter set forth herein. If there is any conflict between the provisions of this Agreement and those of the Lease, the provisions of this Agreement shall prevail.

(d) **Amendments and Modifications; Release.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto or their respective successors in interest. Upon full payment of any Loan, the Lender shall promptly execute and deliver to Lessee upon request a release of this instrument in recordable form, if this Agreement has been recorded.

(e) **Waiver.** No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not

expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

(f) **Governing Law.** This Agreement shall be governed by the law of the State of Arkansas, without regard to the choice of law rules of that State.

(g) **Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

(h) **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

(i) **Counterparts and Original Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by e-mail or other form of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. Notwithstanding the foregoing, each party hereto shall deliver original counterpart signatures to the Lessee promptly after execution.

9. **Waiver of Jury Trial.** EACH OF THE LENDER, LESSOR, TO THE EXTENT PERMITTED BY LAW, AND LESSEE SHALL, AND THEY HEREBY DO, WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY OF THE PARTIES HERETO AGAINST ANY OTHER PARTY ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE RELATIONSHIP OF THE LENDER, LESSOR AND LESSEE AND ANY EMERGENCY STATUTE OR ANY OTHER STATUTORY REMEDY.

10. **Subordination in Bankruptcy.** If the Lease is at any time determined to be a secured financing by a court of competent jurisdiction, then the Lessor agrees: (a) any and all liens determined to exist or be created or arise in favor of the Lessor securing the obligations of the Lessee under the Lease, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise are expressly junior in priority, operation and effect to any and all liens on the Leased Premises existing or hereafter created or arising in favor of Lender, notwithstanding (i) anything to the contrary contained in any agreement or filing to which Lessor or Lessee may now or hereafter be a party, and regardless of the time, order or method of grant, attachment, recording or perfection of any financing statements or other security interests, assignments, pledges, deeds, mortgages and other liens, or any defect or deficiency or alleged defect or deficiency in any of the foregoing, (ii) any provision of the Uniform Commercial Code or any applicable law or any financing document or security document between Lessee and Lender or any other circumstance whatsoever and (iii) the fact that any such liens in favor of the Lender are otherwise subordinated, voided, avoided, invalidated or lapsed. Notwithstanding any

failure by Lender to perfect its security interests in the Project or the Leased Premises or any avoidance, invalidation or subordination by any third party or court of competent jurisdiction of the security interests in the Project or the Leased Premises granted to the Lender, the priority and rights as between the Lender and the Lessor with respect to the Project or the Leased Premises shall be as set forth herein.

11. **Validity of Lender's Liens.** To the extent permitted by law, the Lessor shall not object to or contest, or support any other person in contesting or objecting to, in any proceeding (including any bankruptcy proceeding), the validity, extent, perfection, priority or enforceability of any security interest in the Project or the Leased Premises granted to Lender.

[Signature Pages Follow]

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed on its behalf on the date and year first above written and appropriate seals to be hereunto affixed pursuant to the proper authorities which have been duly delegated to them.

LESSOR:

CITY OF JONESBORO, ARKANSAS,
an Arkansas municipality

By: _____
Harold Perrin, Mayor

ATTEST:

By: _____
Donna Jackson, City Clerk

(S E A L)

STATE OF ARKANSAS)
)ss. ACKNOWLEDGMENT
COUNTY OF CRAIGHEAD)

On this day, before me, a Notary Public, duly commissioned, qualified and acting, with and for said County and State, appeared in person the within named **HAROLD PERRIN** and **DONNA JACKSON**, being the persons authorized by said municipality to execute such instrument stating their respective capacities in that behalf, to me well known, who stated that they are the Mayor and City Clerk, respectively, of **CITY OF JONESBORO, ARKANSAS**, an Arkansas municipality, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and on behalf of said municipality, and further stated and acknowledged they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2016.

(SEAL)

Notary Public
My commission expires: _____

Exhibit A

Description of Leased Premises

The Leased Premises is located in Craighead County, Arkansas and described as follows:

[Insert Property Description]

Exhibit B

Notices

If to Lessor: City of Jonesboro, Arkansas
P.O. Box 1845
Jonesboro, Arkansas 72403
Attn: Mayor

with a copy to: Carol M. Duncan
Attorney at Law
410 W. Washington Ave
Jonesboro, AR 72401

If to Lessee: FMH Conveyors LLC

with a copy to: _____
Attention: Member
[insert contact information for Company Counsel]

If to Lender: [insert contact information for Lender]

with a copy to: [insert contact information for Lender's Counsel]

**This instrument was prepared by,
and after recording, return to:**

Michele Simmons Allgood
Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C.
425 W. Capitol Avenue, Suite 1800
Little Rock, Arkansas 72201

**RECOGNITION OF PRIOR INTERESTS, NONDISTURBANCE
AND ATTORNMENT AGREEMENT**

THIS RECOGNITION OF PRIOR INTERESTS, NONDISTURBANCE AND ATTORNMENT AGREEMENT (this “Agreement”) is made this ____ day of _____, 2016, among HMD JONESBORO, LLC, a Tennessee limited liability company (“Lessee”), the CITY OF JONESBORO, ARKANSAS, a political subdivision of the State of Arkansas (“Lessor”), and _____, an [insert state of formation] [insert type of entity] (“Lender”).

RECITALS

A. Lessor has issued industrial revenue bonds (the “Bonds”) for the purpose of financing a portion of the costs of the acquisition of land and/or leasehold rights, construction of buildings, infrastructure and improvements, and acquisition and installation of equipment for the manufacture, fabrication or processing of custom-engineered conveyors to be located at the intersection of Barnhill Road and Highland Drive in Jonesboro, Arkansas (the “Project”).

B. In connection with the issuance of the Bonds, (i) Lessee has transferred or will transfer to Lessor title to certain personal property, including all machinery and equipment, and certain real property described on **Exhibit A**, attached hereto and incorporated by reference, acquired or constructed in furtherance of the Project (herein called the “Leased Premises”) and (ii) Lessor and Lessee have entered into a Lease Agreement, dated on or about the date hereof (the “Lease”), pursuant to which Lessor demised to Lessee a leasehold interest in the Leased Premises (“Lessee’s Leasehold Interest”), in each case subject to the Pre-Transfer Liens (as defined in Recital C, below).

C. Lessee has obtained loans (the “Loans”) from Lender secured by liens on, or security interests in, title to all or part of the Leased Premises granted pursuant to the following documents:

1. [Insert title and filing information for any mortgage documents]; and
2. [Insert title and information relating to security agreements affecting personal property].

Items 1 and 2 above are collectively referred to as the “Pre-Transfer Liens” or, as appropriate, the “Security Documents.”

D. By this Agreement, the parties desire to establish and acknowledge certain rights, obligations, protections and priorities with regard to their respective interests in the Leased Premises.

AGREEMENT

In consideration of the premises and other good and valuable consideration, receipt of which is hereby acknowledged, and the mutual benefits to accrue to the parties hereto, the parties hereto agree as follows:

1. **Recognition of Prior Liens and Interests.** Lessor hereby acknowledges and consents to all liens and encumbrances on, security interests in and rights to, the title to the Leased Premises and Lessee’s Leasehold Interest created by or pursuant to the Security Documents, and acknowledges that Lessor’s interest in the title to the Leased Premises has been, or will be, transferred to Lessor subject to the Pre-Transfer Liens and subordinate to the Lender’s interest created under the Pre-Transfer Liens. In the event that the Lender attempts to obtain title to the Leased Premises by foreclosure, replevin, sale, transaction or other action or proceeding for the enforcement of the Pre-Transfer Liens, the Lessor shall, upon receipt of written notice thereof, cooperate with such Lender in executing a deed in lieu of foreclosure or such other conveyance or consent to such foreclosure, replevin, sale, transaction or other action or proceeding as such Lender may request. Such action shall include and not be limited to execution of a deed in lieu of foreclosure, consent to any decree regarding a foreclosure or replevin action with respect to the Leased Premises, and any other action that will assist or effectuate the transfer of title to any Lender.

2. **Notice and Opportunity to Cure; Nondisturbance.** If any default or breach under the Lease occurs (a “Lessee Default”), then Lessor shall promptly provide Lender a notice describing in reasonable details such Lessee Default and the potential remedies to be pursued in connection therewith (a “Lessee Default Notice”). Lessor shall accept the Lender’s cure of any Lessee Default at any time until the later of (i) 30 days after provision of the Lessee Default Notice (or if the Lender reasonably cannot cure the Lessee Default within such 30-day period, then the period to cure shall be extended to the period reasonably required to effect the cure), or (ii) the expiration of any applicable cure period provided under the Lease. At any time after the occurrence of a Lessee Default and before expiration of the applicable cure period set forth herein or in the Lease, (a) Lessor shall not terminate the Lease, accelerate rent, or otherwise interfere with Lessee’s or the Lender’s possession or quiet enjoyment as long as the Lender

otherwise complies with its obligations under this Agreement and (b) the Lender may enter or use the Leased Premises to seek to cure a Lessee Default. Notwithstanding the foregoing, the Lender has no obligation to cure a Lessee Default.

3. **Recognition, Non-Disturbance and Attornment.** If any transfer of the Lessee's Leasehold Interest by foreclosure, replevin, sale, transaction or other action or proceeding for the enforcement of the Security Documents or deed or assignment in lieu thereof (a "Transfer") occurs, upon receipt of written notice setting forth in reasonable detail the terms of the Transfer, Lessor shall recognize the transferee(s), including the Lender ("Successor"), as the lessee under the Lease upon the same terms, provisions and conditions as are set forth in the Lease. If Lessor shall have received written notice from Successor that Successor has succeeded to the interest of Lessee under the Lease or otherwise has the right to use or occupy the Leased Premises or to require Lessor to perform its obligations under the Lease, Lessor shall perform all of the obligations of Lessor pursuant to the Lease for the benefit of Successor and shall not disturb the possession of Successor so long as no Lessee Default exists beyond any applicable notice and cure period. Successor shall attorn to Lessor and recognize all of the rights of Lessor under the Lease, and the Lease shall continue in full force as a direct lease between Lessor and Successor, and the respective executory rights and obligations of Lessor and Successor, to the extent of the then-remaining balance of the term of the Lease, shall be and are the same as set forth therein. This recognition, non-disturbance and attornment shall be effective and self-operative, without the execution of any further instrument on the part of any of the parties hereto, immediately upon Successor succeeding to Lessee's Leasehold Interest.

4. **Amendments to Lease.** Without the prior written consent of the Lender, which consent shall not be unreasonably withheld or delayed, Lessor shall not (a) enter into any agreement amending, modifying or terminating the Lease or (b) request a waiver by Lessee of Lessee's rights or remedies under the Lease.

5. **Limitation on Lender's Performance and Liability.** Lessor acknowledges that (a) Lender shall have no duty, liability or obligation whatsoever under the Lease unless and until Lender, as Successor, succeeds to Lessee's Leasehold Interest or obtains possession of the Leased Premises under the terms of the Security Documents and (b) Successor shall have no duty, liability or obligation whatsoever under the Lease unless such duty, liability or obligation accrues during the period after Successor succeeds to Lessee's Leasehold Interest or obtains possession of the Leased Premises under the terms of the Security Documents.

6. **Lessor Bankruptcy.** Upon the filing by or against the Lessor of a petition pursuant to applicable provisions of the United States Code relating to bankruptcy as now constituted or hereafter amended or under any other applicable Federal or State Bankruptcy law or other similar law (hereinafter referred to as the Bankruptcy Code), and the subsequent rejection of the Lease by Lessor, Lessee shall not, without the prior written consent of the Lender (i) elect to treat the Lease as terminated pursuant to Section 365(h)(i) of the Bankruptcy Code, or (ii) pursuant to Section 365(h)(2) of the Bankruptcy Code, offset against the rents reserved under the Lease the amount of any damages caused by the Lessor's rejection of the Lease. Lessee shall promptly, and so as to be received prior to all hearing dates, return dates or other deadlines, send to Lender copies of all notices, summonses, pleadings, applications and other documents received by Lessee in connection with such petition or proceeding by Lessor.

7. **Notices under Lease.** Pursuant to the terms hereof, Lessor shall give Lender, concurrently with giving any material notice to Lessee, a copy of any such notice given to Lessee by Lessor under the Lease, in the manner set forth below. No such notice given to Lessee by Lessor which is not concurrently given to Lender shall be valid or effective for any purpose with respect to Lender.

8. **Miscellaneous.**

(a) **Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (i) when delivered by hand (with written confirmation of receipt); (ii) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (iii) on the date sent by facsimile or e-mail (with .pdf copy attached and confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (iv) on the fifth day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses set forth on **Exhibit B**, or such other address for a party as specified in a notice given in accordance with this Section.

(b) **Interpretation.** For purposes of this Agreement, (i) the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; (ii) the word "or" is not exclusive; and (iii) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (i) to sections, schedules and exhibits mean the sections of, and schedules and exhibits attached to, this Agreement; (ii) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (iii) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

(c) **Entire Agreement.** This Agreement and the Lease contain all of the terms and conditions of the parties' agreement regarding the subject matter set forth herein. If there is any conflict between the provisions of this Agreement and those of the Lease, the provisions of this Agreement shall prevail.

(d) **Amendments and Modifications; Release.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto or their respective successors in interest. Upon full payment of any Loan, the Lender shall promptly execute and deliver to Lessee upon request a release of this instrument in recordable form, if this Agreement has been recorded.

(e) **Waiver.** No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not

expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

(f) **Governing Law.** This Agreement shall be governed by the law of the State of Arkansas, without regard to the choice of law rules of that State.

(g) **Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

(h) **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

(i) **Counterparts and Original Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by e-mail or other form of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. Notwithstanding the foregoing, each party hereto shall deliver original counterpart signatures to the Lessee promptly after execution.

9. **Waiver of Jury Trial.** EACH OF THE LENDER, LESSOR, TO THE EXTENT PERMITTED BY LAW, AND LESSEE SHALL, AND THEY HEREBY DO, WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY OF THE PARTIES HERETO AGAINST ANY OTHER PARTY ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE RELATIONSHIP OF THE LENDER, LESSOR AND LESSEE AND ANY EMERGENCY STATUTE OR ANY OTHER STATUTORY REMEDY.

10. **Subordination in Bankruptcy.** If the Lease is at any time determined to be a secured financing by a court of competent jurisdiction, then the Lessor agrees: (a) any and all liens determined to exist or be created or arise in favor of the Lessor securing the obligations of the Lessee under the Lease, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise are expressly junior in priority, operation and effect to any and all liens on the Leased Premises existing or hereafter created or arising in favor of Lender, notwithstanding (i) anything to the contrary contained in any agreement or filing to which Lessor or Lessee may now or hereafter be a party, and regardless of the time, order or method of grant, attachment, recording or perfection of any financing statements or other security interests, assignments, pledges, deeds, mortgages and other liens, or any defect or deficiency or alleged defect or deficiency in any of the foregoing, (ii) any provision of the Uniform Commercial Code or any applicable law or any financing document or security document between Lessee and Lender or any other circumstance whatsoever and (iii) the fact that any such liens in favor of the Lender are otherwise subordinated, voided, avoided, invalidated or lapsed. Notwithstanding any

failure by Lender to perfect its security interests in the Project or the Leased Premises or any avoidance, invalidation or subordination by any third party or court of competent jurisdiction of the security interests in the Project or the Leased Premises granted to the Lender, the priority and rights as between the Lender and the Lessor with respect to the Project or the Leased Premises shall be as set forth herein.

11. **Validity of Lender's Liens.** To the extent permitted by law, the Lessor shall not object to or contest, or support any other person in contesting or objecting to, in any proceeding (including any bankruptcy proceeding), the validity, extent, perfection, priority or enforceability of any security interest in the Project or the Leased Premises granted to Lender.

[Signature Pages Follow]

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed on its behalf on the date and year first above written and appropriate seals to be hereunto affixed pursuant to the proper authorities which have been duly delegated to them.

LESSOR:

CITY OF JONESBORO, ARKANSAS,
an Arkansas municipality

By: _____
Harold Perrin, Mayor

ATTEST:

By: _____
Donna Jackson, City Clerk

(S E A L)

STATE OF ARKANSAS)
)ss. ACKNOWLEDGMENT
COUNTY OF CRAIGHEAD)

On this day, before me, a Notary Public, duly commissioned, qualified and acting, with and for said County and State, appeared in person the within named **HAROLD PERRIN** and **DONNA JACKSON**, being the persons authorized by said municipality to execute such instrument stating their respective capacities in that behalf, to me well known, who stated that they are the Mayor and City Clerk, respectively, of **CITY OF JONESBORO, ARKANSAS**, an Arkansas municipality, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and on behalf of said municipality, and further stated and acknowledged they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2016.

(SEAL)

Notary Public
My commission expires: _____

Exhibit A

Description of Leased Premises

The Leased Premises is located in Craighead County, Arkansas and described as follows:

[Insert Property Description]

Exhibit B

Notices

If to Lessor: City of Jonesboro, Arkansas
P.O. Box 1845
Jonesboro, Arkansas 72403
Attn: Mayor

with a copy to: Carol M. Duncan
Attorney at Law
410 W. Washington Ave
Jonesboro, AR 72401

If to Lessee: HMD Jonesboro, LLC

with a copy to: _____
Attention: Member
[insert contact information for Company Counsel]

If to Lender: [insert contact information for Lender]

with a copy to: [insert contact information for Lender's Counsel]

TRUST INDENTURE

between

CITY OF JONESBORO, ARKANSAS

as Issuer

and

[TO BE DETERMINED]

as Trustee

for

\$2,000,000

City of Jonesboro, Arkansas

Taxable Industrial Development Revenue Bonds

(FMH Conveyors LLC Project)

Series 2016

and

\$12,000,000

City of Jonesboro, Arkansas

Taxable Industrial Development Revenue Bonds

(HMD Jonesboro, LLC Project)

Series 2016

Dated: _____, 2016

MITCHELL | WILLIAMS

MITCHELL, WILLIAMS, SELIG, GATES & WOODYARD, P.L.L.C.

425 WEST CAPITOL AVENUE, SUITE 1800

LITTLE ROCK, AR 72201

TABLE OF CONTENTS

	<u>Page</u>
Parties.....	1
Recitals.....	1
Bond Form	3
Granting Clauses.....	11

ARTICLE I. DEFINITIONS

Section 1.01. Definitions.....	3
Section 1.02. Use of Words.....	6

ARTICLE II. THE BONDS

Section 2.01. Authorization.....	6
Section 2.02. Details of Bonds.....	6
Section 2.03. Maturity.....	7
Section 2.04. Execution of Bonds.....	8
Section 2.05. Authentication.....	8
Section 2.06. Form of Bond.....	8
Section 2.07. Delivery of Bonds.....	8
Section 2.08. Mutilated, Destroyed or Lost Bonds.....	9
Section 2.09. Registration and Transfer of Bonds.....	9
Section 2.10. Payment on Saturday, Sunday or Holiday.....	9
Section 2.11. Interest Commencement Date.....	10
Section 2.12. Cancellation.....	10
Section 2.13. Temporary Bonds.....	10
Section 2.14. Additional Bonds.....	10
Section 2.15. Conversion of Bonds upon Completion Date.....	10
Section 2.16. Home Office Payment Agreement.....	10

ARTICLE III. REDEMPTION OF BONDS BEFORE MATURITY

Section 3.01. Redemption.....	11
Section 3.02. Notice of Redemption.....	11
Section 3.03. Redemption Payments.....	11
Section 3.04. Cancellation.....	11

**ARTICLE IV.
GENERAL COVENANTS**

Section 4.01.	Payment of Principal and Interest.....	11
Section 4.02.	Performance of Covenants	12
Section 4.03.	Instruments of Further Assurance	12
Section 4.04.	Payment of Taxes, Charges, etc	12
Section 4.05.	Obligation to Maintain and Repair.....	12
Section 4.06.	Recordation of Trust Indenture	12
Section 4.07.	Rights under Lease Agreements.....	13
Section 4.08.	List of Bondowners	13
Section 4.09.	Lien of Trust Indenture; Enforcement of Obligations and Rights.....	13
Section 4.10.	Obligation to Insure.....	13
Section 4.11.	RESERVED	13
Section 4.12.	RESERVED	13

**ARTICLE V.
REVENUE AND FUNDS**

Section 5.01.	Creation of Funds.....	13
Section 5.02.	Deposit of Bond Proceeds	14
Section 5.03.	Use of Moneys in Bond Funds.....	15
Section 5.04.	Non-presentment of Bonds.....	15
Section 5.05.	Costs of Issuance Fund.....	16
Section 5.06.	RESERVED	16
Section 5.07.	RESERVED	16
Section 5.08.	Loan Fund.....	16
Section 5.09.	Any Fees, Charges and Expenses of Trustee and Paying Agent.....	17
Section 5.10.	Moneys and Documents to be Held in Trust.....	17
Section 5.11.	RESERVED	17
Section 5.12.	Refunds to Borrower	17

**ARTICLE VI.
CUSTODY AND APPLICATION OF PROCEEDS OF BONDS**

Section 6.01.	Disbursement of Issuance Costs.....	18
Section 6.02.	Deposit in the Loan Fund	18
Section 6.03.	Disbursements from the Loan Fund	18
Section 6.04.	Transfer to Bond Fund	18

**ARTICLE VII.
INVESTMENTS**

Section 7.01.	Investment of Moneys in Funds	19
---------------	-------------------------------------	----

**ARTICLE VIII.
DISCHARGE OF LIEN**

Section 8.01.	Discharge of Lien.....	19
---------------	------------------------	----

**ARTICLE IX.
DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDOWNERS**

Section 9.01.	Events of Default.....	19
Section 9.02.	Acceleration	20
Section 9.03.	Trustee’s Right to Enter and Take Possession	20
Section 9.04.	Other Remedies; Rights and Obligations with Reference to Remedies.....	21
Section 9.05.	Right of Majority of Bondowners to Take Charge.....	21
Section 9.06.	Appointment of Receiver	22
Section 9.07.	Waiver by Issuer of Benefit of Laws and Rights of Appraisalment and Redemption	22
Section 9.08.	Application of Available Moneys	22
Section 9.09.	Remedies Vested in Trustee.....	23
Section 9.10.	Rights and Remedies of Bondowners	23
Section 9.11.	Termination of Proceedings	24
Section 9.12.	Waivers of Events of Default.....	24

**ARTICLE X.
THE TRUSTEE**

Section 10.01.	Acceptance of Trusts.....	25
Section 10.02.	Fees, Charges and Expenses of Trustee	27
Section 10.03.	Notice to Bondowners of Default.....	27
Section 10.04.	Intervention by Trustee.....	27
Section 10.05.	Successor Trustee.....	27
Section 10.06.	Resignation by Trustee.....	28
Section 10.07.	Removal of Trustee; Sale of Trust Business	28
Section 10.08.	Appointment of Successor Trustee	28
Section 10.09.	Successor Trustee Qualifications	28
Section 10.10.	Right of Trustee to Pay Taxes and Other Charges	29
Section 10.11.	Trustee Protected in Relying Upon Resolutions, etc.....	29
Section 10.12.	Trustee Which Has Resigned or Been Removed Ceases to be Paying Agent.....	29
Section 10.13.	Paying Agent’s Fees and Charges	29
Section 10.14.	Appointment of Co-Trustee or Separate Trustee	29

**ARTICLE XI.
SUPPLEMENTAL INDENTURES AND AMENDMENTS
TO THE LEASE AGREEMENTS**

Section 11.01.	Supplemental Indentures Not Requiring Consent of Bondowners.....	30
----------------	--	----

Section 11.02.	Supplemental Indentures Requiring Consent of Bondowners.....	30
Section 11.03.	Amendments to the Lease Agreement.....	31
Section 11.04.	Procedure for Amendments.....	31

**ARTICLE XII.
MISCELLANEOUS**

Section 12.01.	Consents, etc., of Bondowners.....	32
Section 12.02.	Limitation of Rights	32
Section 12.03.	Severability.....	32
Section 12.04.	Notice	32
Section 12.05.	Arkansas Substantive Law Governs.....	33
Section 12.06.	Uniform Commercial Code.....	33
Section 12.07.	Counterparts	33
Section 12.08.	Limitation on Liability	33
Section 12.09.	No Personal Liability; No Recourse.....	34

TRUST INDENTURE

THIS TRUST INDENTURE (the "Indenture") executed as of the ___ day of _____, 2016, by and between the **CITY OF JONESBORO, ARKANSAS**, a city of the first class and political subdivision of the State of Arkansas (the "Issuer"), duly existing under the laws of the State of Arkansas, as party of the first part, and **[TO BE DETERMINED]**, _____ banking corporation with a corporate trust office in _____, Arkansas (the "Trustee"), as party of the second part;

WITNESSETH:

WHEREAS, the City is authorized by Title 14, Chapter 164, Subchapter 2 of the Arkansas Code Annotated (the "Act") to issue the bonds herein authorized for the purpose of financing the costs of acquiring, constructing and equipping lands, buildings or facilities for industrial enterprises as defined in the Act; and

WHEREAS, pursuant to and in accordance with the Act, the Issuer proposes to issue its industrial development revenue bonds under the Act and to loan the proceeds thereof to FMH Conveyors LLC, a Delaware limited liability company ("FMH"), and HMD Jonesboro, LLC, a Tennessee limited liability company ("HMD," collectively with FMH, the "Borrowers"), for the purposes of financing the costs of acquiring, constructing, and equipping certain industrial facilities located in Jonesboro, Arkansas, such loans to be upon the terms and conditions set forth in the Lease Agreement dated as of _____, 2016, by and between the Issuer and FMH (the "FMH Lease Agreement") and the Lease Agreement dated as of _____, 2016, by and between the Issuer and HMD (the "HMD Lease Agreement," and collectively with the FMH Lease Agreement, the "Lease Agreements"); and

WHEREAS, a portion of the permanent financing of the Project costs, necessary costs and expenditures incidental thereto and the cost of the issuance of bonds, is being furnished by the Issuer issuing its Taxable Industrial Development Revenue Bonds (FMH Conveyors LLC Project), Series 2016 under the provisions of the Act in a principal amount not to exceed Two Million and No/100 Dollars (\$2,000,000) (the "FMH Bonds") and its Taxable Industrial Development Revenue Bonds (HMD Jonesboro, LLC Project), Series 2016 under the provisions of the Act in a principal amount not to exceed Twelve Million and No/100 Dollars (\$12,000,000) (the "HMD Bonds," and collectively with the FMH Bonds, the "Bonds"); and

WHEREAS, the Bonds are to be sold and issued in the principal amount, dated, bearing interest, maturing and subject to redemption as hereinafter in this Indenture set forth in detail; and

WHEREAS, the execution and delivery of this Indenture and the issuance of the Bonds have been in all respects duly and validly authorized by Ordinance _____ of the City Council of the Issuer, adopted and approved on the 20th day of September, 2016; and

WHEREAS, all things necessary to make the Bonds, when authenticated by the Trustee and issued as in this Indenture provided, the valid, binding and legal obligations of the Issuer

according to the import thereof, and to constitute this Indenture a valid pledge of revenues to the payment of the principal of and interest on the Bonds, in accordance with the creation, execution and delivery of this Indenture and the creation, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS, THIS INDENTURE

WITNESSETH:

That the Issuer in consideration of the premises and the acceptance by the Trustee of the Trusts hereby created and of the purchase and acceptance of the Bonds by the owners thereof, and the sum of One Dollar (\$1.00), lawful money of the United States of America, to it duly paid by the Trustee, at or before the execution and delivery of these presents, and for other good and valuable considerations, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of and interest on the Bonds according to their tenor and effect and the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Bonds, subject to all of the provisions hereof, does hereby grant, bargain, sell, convey, mortgage, assign and pledge unto the Trustee, and unto its successor or successors in trust, and to them and their assigns forever, for the securing of the performance of the obligations of the Issuer hereinafter set forth:

I.

All rights of the Issuer under the terms of the Lease Agreements between the Issuer and the Borrowers (except the rights of the Issuer to indemnification and the payment of certain fees) and all Revenues (as herein defined) and the proceeds thereof;

II.

All the rights and interest of the Issuer in and to the Bond Fund and the Loan Fund (as hereinafter defined) and all moneys and investments therein, but subject to the provisions of this Indenture pertaining thereto, including the making of disbursements therefrom.

III.

Any other property hereinafter pledged to or coming into the possession of the Trustee.

TO HAVE AND TO HOLD all the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended so to be, to the Trustee and its successors in said trusts and to them and their assigns forever;

IN TRUST NEVERTHELESS, upon the terms and conditions herein set forth for the equal and proportionate benefit, security and protection of all owners of the Bonds issued under and secured by this Indenture with the privileges, priority or distinction as to lien of the Bonds as provided in the Bond form for the Bonds; provided, however, that if the Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, the principal of the Bonds and the interest

due thereon, at the times and in the manner provided in the Bonds, according to the true intent and meaning thereof, and shall make the payments into the Bond Fund as required under Article V or shall provide, as permitted hereby, for the payment thereof by depositing or causing to be deposited with the Trustee the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Indenture and the rights hereby granted shall cease, determine and be void; otherwise, this Indenture to be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH, and it is expressly declared, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and all property hereby assigned and pledged and the income, revenues and receipts and other sums of money payable or receivable under the Lease Agreements, hereby assigned and pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreement, trusts, uses and purposes as hereinafter expressed, and the Issuer does hereby agree and covenant, with the Trustee and the respective holders from time to time of the Bonds, as follows:

ARTICLE I. DEFINITIONS

Section 1.01. Definitions. In addition to the words and terms elsewhere defined in this Indenture, the following words and terms as used in this Indenture shall have the following meanings:

“Act” - Title 14, Chapter 164, Subchapter 2 of the Arkansas Code of 1987 Annotated, as amended, which authorizes the issuance of bonds by the Issuer for the purposes provided in this Indenture.

“Advance” – The advancement from time to time of the proceeds of the FMH Bonds or the HMD Bonds, respectively, to the respective Borrowers pursuant to requisitions submitted in accordance with Section 6.03 hereof.

“Agreements” or “Lease Agreements” – The FMH Lease Agreement and the HMD Lease Agreement.

“FMH Lease Agreement” -- The Lease Agreement dated as of _____, 2016, by and between the Issuer and FMH providing for a loan to FMH for payment of a portion of the Project costs.

“HMD Lease Agreement” -- The Lease Agreement dated as of _____, 2016, by and between the Issuer and FMH providing for a loan to HMD for payment of a portion of the Project costs.

“FMH Loan” - The loan from the Issuer to the FMH evidenced and governed by the FMH Lease Agreement.

“HMD Loan” - The loan from the Issuer to the HMD evidenced and governed by the HMD Lease Agreement.

“Bond Fund” -- The fund of the Issuer created by Section 5.01 of the Indenture into which the funds specified in Article V are to be deposited and out of which disbursements are to be made as expressly authorized and directed by this Indenture.

“Bonds” or “bonds” - City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (FMH Conveyors LLC Project), Series 2016 issued under and secured by the Indenture, in the principal amount of not to exceed \$2,000,000 and City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (HMD Jonesboro, LLC Project), Series 2016 issued under and secured by the Indenture, in the principal amount of not to exceed \$12,000,000,000.

“Borrowers” - FMH Conveyors LLC, a Delaware limited liability company, and HMD Jonesboro, LLC, a Tennessee limited liability company

“Borrower Representative” – The person or persons at the time designated to act on behalf of the respective Borrower as evidenced by written certificate furnished to the Trustee containing the specimen signature of such person signed on behalf of the Borrower by its appropriate officer or officers.

“City Clerk” - The person holding the office and performing the duties of City Clerk of the Issuer.

“Closing Date” -- The date on which the Bonds are issued and delivered to Purchasers.

“Code” - The Internal Revenue Code of 1986, as amended, of the United States of America.

“Completion Date” – The date of completion of the acquisition, construction and equipping of the Project, as applicable, as that date shall be determined by the Borrower, as applicable, and certified in writing to the Trustee.

“Costs of Issuance Fund” -- The Costs of Issuance Fund created pursuant to Section 5.01 of this Indenture.

“Delivery Instructions” -- The written request and authorization given by the Issuer on the Closing Date directing the use and deposit of the proceeds of the Bonds or other funds deposited with the Trustee by the Borrower.

“Government Securities” – Direct or fully guaranteed obligations of the United States of America (including any such securities issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

“Home Office Payment Agreement” – The Home Office Payment Agreements among the Issuer, the Borrowers, the Trustee, the Purchasers and any Bondholder evidencing the intent of

the parties with respect to payment obligations under this Indenture, the Bond Purchase Agreement, and the Lease Agreements.

“Indenture” - This Trust Indenture with all indentures supplemental hereto.

“Issuance Costs” -- All costs and expenses of issuance of the Bonds, including, but not limited to: (i) counsel fees, including bond counsel and Issuer’s counsel, as well as any other specialized counsel fees; (ii) trustee fees and trustee counsel fees; (iii) paying agent and certifying and authenticating agent fees related to issuance of the Bonds; (vi) accountant fees; (vii) printing costs of the Bonds; (viii) publication costs associated with the financing proceedings; and (ix) recording fees.

“Issuer” - The City of Jonesboro, Arkansas, a city of the first class and a political subdivision of the State of Arkansas.

“Loan Fund” - The fund created by Section 5.08 into which the portion of the proceeds of the sale of the Bonds specified in Section 6.02 is to be deposited and out of which disbursements are to be made in the manner and for the purposes specified in Article VI of the Indenture.

“Mayor” - The Mayor of the Issuer.

“Outstanding hereunder” - “Bonds outstanding hereunder” - All Bonds which have been authenticated and delivered under the Indenture, except:

(a) Bonds canceled because of payment or redemption prior to maturity;

(b) Bonds, for the payment or redemption of which, cash or investment securities in the amount required by Section 8.01 of the Indenture shall have been theretofore deposited with the Trustee (whether upon or prior to the maturity or redemption date of any such Bonds) provided that if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or satisfactory provision shall have been made therefor, or a waiver of such notice satisfactory in form to the Trustee shall have been filed with the Trustee; and

(c) Bonds in lieu of which others have been authenticated under Section 2.08.

“Owner” or “Bondowner” or “owner of the bonds” or “Bondholder”- The registered owner of any bond.

“Paying Agent” - The bank or trust company named by the Issuer as the place at which the principal of and interest on the Bonds is payable. The original Paying Agent is the Trustee. References to Paying Agent include any alternate Paying Agent.

“person” - Includes natural persons, firms, associations, corporations, other legal entities and public bodies.

“Pledged Property” - The properties, interests and rights set forth in the granting clauses of this Indenture.

“Project” - The improvements, infrastructure, equipment and facilities being financed out of the proceeds of the Bonds, together with other expenses in connection therewith, including architectural and engineering fees, and the costs of the issuance of the Bonds.

“Purchasers” – With respect to the FMH Bonds, [FMH Sub LLC], [an Arkansas] limited liability company. With respect to the HMD Bonds, [HMD Sub LLC], [an Arkansas] limited liability company. The Purchasers are the original purchasers of the Bonds.

“Record Date” - The fifteenth calendar day of the month preceding the month in which the interest payment date occurs.

“Revenues” - The income, including penalties and interest, derived by the Issuer under the Lease Agreements.

“State” - The State of Arkansas.

“Temporary Bonds” - Bonds issued pursuant to Section 2.13 of the Indenture if definitive bonds are not available upon the initial delivery of the Bonds to the Purchasers.

“Trust Estate” - Property herein conveyed, also called the Pledged Property.

“Trustee” - The Trustee for the time being, whether original or successor, with the original Trustee being [To Be Determined], _____ banking corporation organized and operating under the laws of _____ and authorized to exercise corporate trust powers in the State of Arkansas, and being duly qualified to accept and administer the trusts hereby created, and having a corporate trust office located in _____, Arkansas. The Trustee is also a Paying Agent and Registrar.

“Written Request” - With reference to Issuer, a request in writing signed by the Mayor and City Clerk, and, with reference to a Borrower, a request in writing signed by a Borrower Representative.

Section 1.02. Use of Words. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the word “bond,” “owner,” “holder,” and “person” shall include the plural, as well as the singular, number.

ARTICLE II. THE BONDS

Section 2.01. Authorization. In accordance with and subject to the terms, conditions and limitations established in this Indenture, two series of industrial development revenue bonds are hereby authorized in the aggregate principal amount of \$2,000,000 and \$12,000,000,

respectively. No Bonds may be issued under the provisions of this Indenture except in accordance with this Article.

Section 2.02. Details of Bonds. The Bonds shall be designated “City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (FMH Conveyors LLC Project), Series 2016,” in the principal amount of not to exceed \$2,000,000 and “City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (HMD Jonesboro, LLC Project), Series 2016,” in the principal amount of not to exceed \$12,000,000,000. The Bonds will be dated _____, 2016, and interest thereon shall be payable as set forth in the forms of Bond attached hereto as collective Exhibit A and collective Exhibit B. The Bonds shall be registered bonds, without coupons, in denominations of \$100,000 each or any integral multiple of \$5,000 in excess of \$100,000 and the principal amount shall be payable, unless sooner redeemed in the manner provided in this Indenture, as set forth in the form of Bond heretofore set forth in this Indenture.

The Bonds shall be initially issued in the form of one fully registered bond in the principal amount of \$2,000,000 and \$12,000,000, respectively, and may not be submitted in exchange for more than one fully registered bond until the Completion Date, at which time the Bond initially issued may, but shall not be required to, be submitted to the Trustee pursuant to the provisions of Section 2.09 hereof in exchange for more than one fully registered bond. The proceeds of the Bonds shall be advanced from time to time upon the submission of draw requests or requisitions by FMH or HMD, respectively, to the Trustee pursuant to the provisions of Section 6.03 hereof and Article II of the respective Lease Agreements. Upon receipt of each requisition by the Trustee, the Trustee shall telephonically notify the Bondholder of the principal amount of the Bonds which the Bondholder must purchase, which shall be the amount set forth in such draw request or requisition. Promptly upon receipt of such notice, the Bondholder shall pay to the Trustee the principal amount requisitioned by the Borrower, and the Trustee shall make a notation of such principal amount purchased on the Record of Advances and Principal Payments attached to the Bond. The amount shown on the Record of Advances and Principal Payments attached to the Bond shall be deemed to be conclusive evidence of the principal amount of the Bonds purchased by the Bondholder, absent manifest error. The principal amount of the Bonds so purchased shall be submitted by the Purchaser to the Trustee, and such amount shall be deposited by the Trustee into the Loan Fund. Any portion of the respective Bonds not sold to the Bondholder and any portion of the corresponding proceeds not delivered to the Borrowers by the Completion Date shall not be issued or delivered thereafter. Notwithstanding anything herein to the contrary, until the Completion Date, upon the request of the Bondholder, the Trustee may maintain custody of the Bond as agent of the Bondholder.

The FMH Bond and HMD Bond initially issued shall bear interest from its date; provided, that the date of each Advance under such Bond shall be the interest commencement date from which the principal amount of such Advance bears interest. Bonds issued on the Completion Date and prior to the next Interest Payment Date shall bear interest from the Completion Date, and the Bonds issued thereafter shall bear interest from the Interest Payment Date next preceding the date of authentication and delivery thereof by the Trustee, unless such date of authentication and delivery shall be an Interest Payment Date, in which case they shall bear interest from such date of authentication and delivery or unless such date of authentication

and delivery shall be during the period from the Record Date to the next Interest Payment Date, in which case they shall bear interest from such Interest Payment Date; provided, however, that if, as shown by the records of the Trustee, interest on any Bonds surrendered for transfer or exchange shall be in default, the Bonds issued in exchange for Bonds surrendered for transfer or exchange shall bear interest from the date to which interest has been paid in full on the Bonds surrendered. Interest shall be computed on the basis of a year of three hundred (360) days consisting of twelve 30-day months.

Section 2.03. Maturity. The Bonds shall mature on _____, 20__ and bear interest payable annually on each _____ (each an "Interest Payment Date"), commencing _____, 2017 and continuing through _____, 20__ with the final principal payment due on maturity, _____, 20__, at the rate per annum of _____ and __/100 percent (_____%).

Section 2.04. Execution of Bonds. The Bonds shall be executed on behalf of the Issuer by the Mayor (by his original or facsimile signature) and the City Clerk (by her original or facsimile signature) thereof and shall have impressed thereon the seal of the Issuer. The Mayor and the City Clerk shall file the certificates required by the Uniform Facsimile Signature Public Officials Act (Arkansas Code of 1987 Annotated, Title 21, Chapter 10) and otherwise comply with the provisions of that Act, and the Mayor and the City Clerk's facsimile signatures shall have the same force and effect as if they had personally signed. The Bonds, together with interest thereon, shall be payable from the Bond Fund, as hereinafter set forth, and shall be a valid claim of the owners thereof only against such fund and the revenues pledged to such fund, which revenues are hereby pledged and mortgaged for the payment of the Bonds and shall be used for no other purpose than to pay the principal of and interest on the Bonds, and the Trustee's, the Paying Agent's and Bond Registrar's fees, except as may be otherwise expressly authorized in this Indenture. In case any officer whose signature or facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

Section 2.05. Authentication. Only such Bonds as shall have endorsed thereon a Certificate of Authentication substantially in the form included in the bond forms attached hereto as Exhibit A and Exhibit B duly executed by the Trustee shall be entitled to any right or benefit under this Indenture. No Bond shall be valid and obligatory for any purpose unless and until such Certificate of Authentication shall have been duly executed by the Trustee, and such Certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Trustee's Certificate of Authentication on any Bond shall be deemed to have been executed if signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the Certificate of Authentication on all of the Bonds issued hereunder.

Section 2.06. Form of Bond. The FMH Bond originally issued and delivered shall be substantially in the form set forth in Exhibit A-1 attached hereto, with appropriate variations, omissions and insertions as permitted or required by this Indenture. The HMD Bond originally issued and delivered shall be substantially in the form set forth in Exhibit A-2 attached hereto, with appropriate variations, omissions and insertions as permitted or required by this Indenture.

The FMH Bonds issued and delivered on and after the Completion Date shall be substantially in the form set forth in Exhibit B-1 attached hereto, with such appropriate variations, omissions and insertions as are permitted or required by the Indenture. The HMD Bonds issued and delivered on and after the Completion Date shall be substantially in the form set forth in Exhibit B-2 attached hereto, with such appropriate variations, omissions and insertions as are permitted or required by the Indenture.

Section 2.07. Delivery of Bonds. Upon the execution and delivery of this Indenture, the Issuer shall execute and deliver to the Trustee and the Trustee shall authenticate the Bonds and deliver them to the Purchasers upon payment of the purchase price, and the Trustee shall be entitled to rely upon any certificate, ordinance or resolution as to the purchase price and the Purchaser. Prior to the Trustee's delivery of the Bonds to the Purchaser, the Trustee shall make appropriate notation on Schedule A attached to the Bond certificate of the amount and date of the initial draw thereunder.

Section 2.08. Mutilated, Destroyed or Lost Bonds. In case any Bond issued hereunder shall become mutilated or be destroyed or lost, the Issuer shall, if not then prohibited by law, cause to be executed and the Trustee may authenticate and deliver a new Bond of like date, number, maturity and tenor in exchange and substitution for any such mutilated, destroyed or lost Bond, upon the owners paying the reasonable expenses and charges of the Issuer and the Trustee in connection therewith, and, in case of a Bond destroyed or lost, his filing with the Trustee of evidence satisfactory to it that such Bond was destroyed or lost, and of his ownership thereof and furnishing the Issuer and the Trustee with indemnity satisfactory to them. The Trustee is hereby authorized to authenticate any such new Bond. In the event any such Bonds shall have matured, instead of issuing a new Bond, the Issuer may pay the same without the surrender thereof.

Section 2.09. Registration and Transfer of Bonds. The Issuer shall cause books for the registration and for the transfer of the Bonds as provided in this Indenture to be kept by the Trustee as Bond Registrar. Any Bond may be transferred only upon an assignment duly executed by the registered owner or his, her or its attorney or legal representative in such form as shall be satisfactory to the Bond Registrar, such transfer to be made on such books and endorsed on the Bond by the Bond Registrar. The principal of any Bond shall be payable only to or upon the order of the registered owner or his legal representative. Interest shall be paid by check or draft by said Bond Registrar at the times provided therein to the registered owner by mail to the address shown on the registration books.

The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of or on account of the principal of any such Bond shall be made only to or upon the order of the registered owner thereof, or his, her or its legal representative, and neither the Issuer, the Trustee, nor the Bond Registrar shall be affected by any such notice to the contrary, but such registration may be changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

Bonds issued and delivered on and after the Completion Date may be exchanged at the principal corporate trust office of the Trustee for an equal aggregate principal amount of Bonds

of any other authorized denomination or denominations. The Issuer shall execute and the Trustee shall authenticate and deliver Bonds which the bondholder making the exchange is entitled to receive, bearing numbers not contemporaneously then outstanding. The execution by the Issuer of any Bond of any denomination shall constitute full and due authorization of such denomination and the Trustee shall thereby be authorized to authenticate and deliver such Bond.

Section 2.10. Payment on Saturday, Sunday or Holiday. In any case where the date of maturity of interest on or principal of the Bonds or the date fixed for redemption of any Bonds shall be a Saturday or Sunday or shall be in the State of Arkansas a legal holiday or a day on which banking institutions are authorized by law to close, then payment of interest or principal (and premium, if any) need not be made on such date but may be made on the next succeeding business day not a Saturday or Sunday or a legal holiday or a day upon which banking institutions are authorized by law to close with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after the date of maturity or date fixed for redemption.

Section 2.11. Interest Commencement Date. The Bonds initially issued shall bear interest from their date; provided, that the date of each Advance under such Bond shall be the interest commencement date from which the principal amount of such Advance bears interest. Otherwise, each Bond, upon subsequent transfer, shall be dated as of the Interest Payment Date to which interest has been paid. Payment of each installment of interest shall be made to the person in whose name the Bond is registered on the registration books of the Trustee as Bond Registrar at the close of business on the fifteenth calendar day of the month (whether or not a business day) next preceding each Interest Payment Date, irrespective of any transfer or change of any such Bond subsequent to such date.

Section 2.12. Cancellation. To the extent held by the Trustee, all Bonds which are paid, either at maturity or by redemption prior to maturity, shall be canceled and, at the option of the Trustee, either (i) cremated, shredded or otherwise disposed of or (ii) returned to the Issuer. In the case of cremating, shredding or other disposition pursuant to (i) above, the Trustee shall execute and forward to the Issuer an appropriate certificate describing the Bonds involved and the manner of disposition.

Section 2.13. Temporary Bonds. The Issuer shall have the right to execute and deliver Temporary Bonds reflecting the indebtedness secured hereby, which Temporary Bonds, if issued and delivered, shall be entitled to the same security, rights and protection provided under this Indenture for Bonds in definitive form. Temporary Bonds of the Issuer, if executed, authenticated and delivered shall be replaced by Bonds in definitive form by the Trustee when the Temporary Bonds are returned to the Trustee for exchange. To the extent held by the Trustee, all Temporary Bonds, when returned to the Trustee and when exchanged for Bonds in definitive form shall then be canceled and at the option of the Trustee, either (i) cremated, shredded or otherwise disposed of and/or (ii) returned to the Issuer. In the case of cremating, shredding or other disposition pursuant to (i) above, the Trustee shall execute and forward to the Issuer an appropriate certificate reflecting the Temporary Bonds involved and the manner of disposition.

Section 2.14. Additional Bonds. No additional bonds shall be issued under this Indenture.

Section 2.15. Conversion of Bonds upon Completion Date. Upon receipt of notice of the Completion Date as provided in Section 2.03 of the Lease Agreements, the Trustee shall give notice thereof to the registered owner of the Bonds. Such notice shall be given by mail or by other acceptable standard, including facsimile, and shall state that such registered owner must deliver his, her or its Bond to the Trustee for conversion. The Trustee shall cancel the Bond so delivered and issue a form of Bond in lieu thereof pursuant to the provisions hereof.

Section 2.16. Home Office Payment Agreement. Notwithstanding any provision of this Indenture or of any Bond to the contrary, the Trustee may enter into or accept the terms of a home office payment agreement with the Issuer, the Borrowers and the owner of any Bond in a principal amount of at least \$1,000,000 providing for the making to such owner of all payments of principal, redemption premium (if any) and interest on such Bond or any part thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner other than as provided in this Indenture and in the Bonds without presentation or surrender of such Bonds, upon such conditions as shall be satisfactory to the Trustee. The Trustee agrees to make payments of principal, and interest on the Bonds in accordance with the provisions thereof. Upon the transfer of any Bond being paid in accordance with the provisions of a home office payment agreement permitted by this Section, the Trustee, prior to the delivery of such Bond to the transferee, shall make a notation on such Bond of the date to which interest has been paid thereon and the amount of any prepayments made on account of the principal thereof. Contemporaneous with the delivery of the Bonds and this Indenture, the appropriate parties will enter into the Home Office Payment Agreement.

ARTICLE III. REDEMPTION OF BONDS BEFORE MATURITY

Section 3.01. Redemption. The Bonds shall be callable for redemption prior to maturity in accordance with the provisions pertaining thereto appearing in the form of Bond heretofore set forth in this Indenture.

Section 3.02. Notice of Redemption. Notice of the call for redemption shall be by first class mail or by other acceptable standard, including facsimile, to the owner or owners of the Bonds not less than thirty (30) days nor more than sixty (60) days prior to the date fixed for redemption, and published notice of the call for redemption need not be given. Each notice shall specify the numbers and the maturities of the Bonds being called, and the date on which they shall be presented for payment. For so long as the Bonds are registered in book entry form, notice of redemption may be made by facsimile transmission to the securities depository.

Failure to give notice by mailing to the Owner of any Bond designated for redemption or to any depository of information service shall not affect the validity of the proceedings for the redemption of any other Bond.

Section 3.03. Redemption Payments. Prior to the date fixed for redemption, funds shall be deposited with the Trustee to pay, and the Trustee is hereby authorized and directed to apply such funds to the payment of, the Bonds called, together with accrued interest thereon to the redemption date and any required premium. Upon the giving of notice and the deposit of funds for redemption, interest on the Bonds thus called shall cease to accrue after the date fixed for redemption until such Bond shall have been delivered for payment or cancellation or the Trustee shall have received the items required by Section 2.08 hereof with respect to any mutilated, lost, stolen or destroyed Bond.

Section 3.04. Cancellation. All Bonds which have been redeemed shall be canceled by the Trustee pursuant to Section 2.12.

ARTICLE IV. GENERAL COVENANTS

Section 4.01. Payment of Principal and Interest. The Issuer covenants that it will promptly pay the principal of, premiums, if any, and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in the Bonds according to the true intent and meaning thereof. The principal, premiums and interest (except interest, if any, paid from accrued interest) are payable solely from the Revenues, which Revenues are hereby specifically pledged to the payment thereof in the manner and to the extent herein specified, and nothing in the Bonds or in this Indenture should be considered as pledging any other funds or assets of the Issuer (except the securing of the indebtedness evidenced by the Bonds by the provisions of the Lease Agreement). Anything in this Indenture to the contrary notwithstanding, it is understood that whenever the Issuer makes any covenants involving financial commitments, including, without limitation, those in the various sections of this Article IV, it pledges no funds or revenues other than the Revenues and the right, title and interest of the Issuer in the Lease Agreements (except for the obligations of the Borrower to pay Issuer's expenses and to indemnify the Issuer) and the revenues derived from the avails of the Pledged Property, but nothing herein shall be construed as prohibiting the Issuer from using any other funds and revenues.

Section 4.02. Performance of Covenants. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all ordinances pertaining thereto. The Issuer covenants that it is duly authorized under the Constitution and laws of the State, including particularly and without limitation the Act, to issue the Bonds authorized hereby and to execute this Indenture and to make the pledge and covenants in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture has been duly and effectively taken; and that the Bonds in the hands of the owners thereof are and will be valid and enforceable obligations of the Issuer according to the import thereof.

Section 4.03. Instruments of Further Assurance. The Issuer covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such Indenture or Indentures supplemental hereto and such further acts, instruments and transfers

as the Trustee may reasonably require for the better assuring, transferring, mortgaging, pledging, assigning and confirming to the Trustee the Trust Estate.

Section 4.04. Payment of Taxes, Charges, etc. The Issuer covenants that it will promptly cause to be paid all lawful taxes, charges, assessments, imposts and governmental charges at any time levied or assessed upon or against the Trust Estate, or any part thereof, which might impair or prejudice the lien and priority of this Indenture; provided, however, that nothing contained in this Section shall require the Issuer to cause to be paid any such taxes, assessments, imposts or charges so long as the validity thereof is being contested in good faith and by appropriate legal proceedings.

Section 4.05. Obligation to Maintain and Repair. The Issuer covenants that it will at all times cause the Project to be maintained, preserved and kept in good condition, repair and working order, and that it will from time to time cause to be made all needed repairs so that the operation and business pertaining to the Project shall at all times be conducted properly and so that the Project shall be fully maintained, to the extent permitted by available funds. It is understood that the Issuer has made provisions in the Lease Agreements for such maintenance, pursuant to the terms of which the Borrowers are obligated to maintain the Project as set forth in the Lease Agreements, and so long as the Lease Agreements are in force and effect the Issuer shall be deemed to be in compliance with its obligations under this Section 4.05.

Section 4.06. Recordation of Trust Indenture. The Issuer covenants that it will cause this Indenture, and all instruments supplemental thereto, to be kept, recorded and filed in such manner and in such places (if any) as may be required by law in order fully to preserve and protect the security of the bondowners and the rights of the Trustee hereunder.

Section 4.07. Rights under Lease Agreements. The Lease Agreements, duly executed counterparts of which have been filed with the Trustee, sets forth covenants and obligations of the Issuer and the Borrowers. Issuer agrees that the Trustee in its name or in the name of the Issuer may enforce all rights of the Issuer and all obligations of the Borrowers under and pursuant to the respective Lease Agreements, for and on behalf of the bondholders, whether or not the Issuer is in default hereunder.

Section 4.08. List of Bondowners. If the Trustee is directed in writing by the Issuer to so provide, the list of the names and addresses of the registered owners of the Bonds may be inspected and copied by owners (or a designated representative thereof) of ten percent (10%) or more in principal amount of Bonds outstanding hereunder, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Trustee.

Section 4.09. Lien of Trust Indenture; Enforcement of Obligations and Rights. The Issuer covenants that so long as any Bonds authorized by and issued under this Indenture are outstanding, it will not convey or otherwise dispose of its interest in the Pledged Property, and that it will not encumber the same, or any part thereof, or its interest therein, or create or permit to be created any charge or lien on the Revenues derived therefrom, except as provided in this Indenture. Nothing contained herein shall prohibit the Issuer from issuing bonds the payment for which specified revenues of a particular project is pledged as provided in the Act, it being the

purpose of this covenant to limit only a subsequent pledge of the Pledged Property and Revenues as defined in this Indenture.

Section 4.10. Obligation to Insure. The Issuer covenants that at all times while any Bonds are outstanding, it will keep or cause to be kept the Project insured against the perils and to the extent set forth in the Lease Agreements. It is understood that the Issuer has made provisions in the Lease Agreements for such insurance, pursuant to the terms of which the Borrowers are obligated to keep the property insured as set forth in the Lease Agreements, and so long as the Lease Agreements are in force and effect, the Issuer shall be deemed to be in compliance with its obligations under this Section 4.10.

Section 4.11. RESERVED.

Section 4.12. RESERVED.

ARTICLE V. REVENUE AND FUNDS

Section 5.01. Creation of Funds. There are hereby created and established with the Trustee as trust funds and trust accounts the following:

- (a) Costs of Issuance Fund;
- (b) City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bond (FMH Conveyors LLC Project) Fund, Series 2016 (the “FMH Bond Fund”); and
- (c) City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bond (HMD Jonesboro, LLC Project) Fund, Series 2016 (the “HMD Bond Fund”).

Trustee may also create such other Funds or Accounts as it deems necessary or desirable in the administration of this Indenture.

Section 5.02. Deposit of Bond Proceeds.

There shall be deposited into the FMH Bond Fund and the HMD Bond Fund as and when received:

- (a) That portion of the proceeds of the sale of the FMH Bonds and the HMD Bonds as set forth in the Delivery Instructions;
- (b) The payments and other moneys paid by the Borrowers, pursuant to the Lease Agreements;
- (c) Amounts transferred to the FMH Bond Fund and the HMD Bond Fund, respectively, pursuant to the provisions of Sections 3.03 and 6.04 hereof; and

(d) All other moneys received by the Trustee under and pursuant to any of the provisions of this Indenture which are not directed to be paid in a fund other than the FMH Bond Fund and the HMD Bond Fund.

Money in the FMH Bond Fund and the HMD Bond Fund shall be kept separate and apart from other funds or accounts and shall be pledged, appropriated, used and transferred to other funds for the purposes specified in this Article. Furthermore, the Issuer covenants and agrees that so long as any of the Bonds secured by this Indenture are outstanding, it will at all times deposit, or cause to be deposited, in the FMH Bond Fund and the HMD Bond Fund sufficient moneys from payments and other moneys paid by the Borrowers pursuant to the Lease Agreements to promptly meet and pay the principal of and interest on the Bonds as the same become due and payable. Nothing herein shall be construed as requiring the Issuer to use any funds or revenues from any source other than funds and revenues derived from the Lease Agreements for the payment of the principal of and interest on the Bonds and discharging other obligations of the Issuer under this Trust Indenture, but nothing herein shall be construed as prohibiting the Issuer from doing so.

Trustee may also hold such other documents or assets in the FMH Bond Fund and HMD Bond Fund, including, but not limited to, documents held pursuant to an Option Agreement (as defined in the Lease Agreements).

Section 5.03. Use of Moneys in Bond Funds.

(a) The FMH Bond Fund shall be in the name of the Issuer, and the Issuer hereby irrevocably authorizes and directs the Trustee to withdraw from the FMH Bond Fund sufficient funds to pay the principal of, premium, if any, and interest on the FMH Bonds at maturity and redemption or prepayment prior to maturity, and the Trustee's and Paying Agent's fees in connection therewith, and to remit the funds to the Paying Agent for the purpose of paying the principal and interest in accordance with the provisions hereof pertaining to payment, which authorization and direction the Trustee hereby accepts.

If a surplus shall exist in the FMH Bond Fund over and above the amount necessary (together with reasonably projected revenue receipts in the event no default has occurred) to ensure the prompt payment of the principal of, and premium if any, in connection with the FMH Bonds as the same become due, such surplus shall be applied to investments as permitted under Article VII herein.

The Trustee shall cause to be transferred from the FMH Bond Fund an amount sufficient to pay the interest on the bonds as the same become due at least one (1) day prior to the interest payment date for the FMH Bonds and see to the deposit with the Paying Agent. It shall be the duty of the Trustee to see to the withdrawal from the FMH Bond Fund at least one (1) day before the maturity or redemption date of any FMH Bond issued hereunder and then outstanding and see to the deposit with the Paying Agent, whether or not a different institution, of an amount equal to the amount due for such FMH Bonds for the sole purpose of paying the same.

(b) The HMD Bond Fund shall be in the name of the Issuer, and the Issuer hereby irrevocably authorizes and directs the Trustee to withdraw from the HMD Bond Fund sufficient funds to pay the principal of, premium, if any, and interest on the HMD Bonds at maturity and redemption or prepayment prior to maturity, and the Trustee's and Paying Agent's fees in connection therewith, and to remit the funds to the Paying Agent for the purpose of paying the principal and interest in accordance with the provisions hereof pertaining to payment, which authorization and direction the Trustee hereby accepts.

If a surplus shall exist in the HMD Bond Fund over and above the amount necessary (together with reasonably projected revenue receipts in the event no default has occurred) to ensure the prompt payment of the principal of, and premium if any, in connection with the HMD Bonds as the same become due, such surplus shall be applied to investments as permitted under Article VII herein.

The Trustee shall cause to be transferred from the HMD Bond Fund an amount sufficient to pay the interest on the bonds as the same become due at least one (1) day prior to the interest payment date for the HMD Bonds and see to the deposit with the Paying Agent. It shall be the duty of the Trustee to see to the withdrawal from the HMD Bond Fund at least one (1) day before the maturity or redemption date of any FMH Bond issued hereunder and then outstanding and see to the deposit with the Paying Agent, whether or not a different institution, of an amount equal to the amount due for such HMD Bonds for the sole purpose of paying the same.

Section 5.04. Non-presentment of Bonds. In the event any Bonds shall not be presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if there shall have been deposited with the Paying Agent for that purpose, or left in trust if previously so deposited, funds sufficient to pay the principal thereof, together with all interest unpaid and due thereon, to the date of maturity thereof, for the benefit of the owner, all liability of the Issuer to the owner thereof for the payment of the principal thereof and interest thereon shall forthwith cease, terminate and be completely discharged, and thereon it shall be the duty of the Paying Agent to hold such fund or funds, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such fund or funds, for any claim of whatever nature on his part under this Indenture or on, or with respect to, the Bond.

Section 5.05. Costs of Issuance Fund.

(a) Trustee shall deposit into the Costs of Issuance Fund (i) that portion of the proceeds of the Bonds required to be deposited therein pursuant to this Indenture or directed to be deposited therein pursuant to the Delivery Instructions or (ii) such moneys as are delivered to the Trustee by the Borrower. Moneys deposited into the Costs of Issuance Fund pursuant to this Indenture shall be expended to pay the Issuance Costs of said Bonds: (i) upon receipt by Trustee of requisitions signed by a Borrower Representative for any Issuance Costs not set forth in the Delivery Instructions or (ii) in accordance with the directions contained in the Delivery Instructions. Any funds remaining in the Costs of Issuance Fund two (2) months after having been deposited therein shall be returned to the Borrower. At such time as there is a \$0 balance in the Costs of Issuance Fund, it may be closed.

(b) The Trustee shall use moneys in the Cost of Issuance Fund to pay Issuance Costs for the Bonds or to reimburse the Issuer to the extent of payments made for such Issuance Costs previously paid. Before any payment shall be made for Issuance Expenses, there shall be filed with the Trustee a Written Request of the Issuer, stating:

- (i) The name of the person, firm or corporation to whom the payment is due;
- (ii) The amount to be paid;
- (iii) The purpose for which the Issuance Costs was incurred; and
- (iv) That such person, firm or corporation has not previously been paid for such Issuance Costs.

The Delivery Instructions executed contemporaneously with this Indenture shall constitute a “Written Request” of the Issuer in compliance with this section.

Section 5.06. RESERVED.

Section 5.07. RESERVED.

Section 5.08. Loan Fund. There is hereby created with the Trustee a special fund to be designated “City of Jonesboro, Arkansas Taxable Industrial Development Loan Fund” or “Loan Fund,” which fund and account shall be issued and applied as specified in Sections 6.01 through 6.04. Issuer and Trustee agree that deposits to and withdrawals from the Loan Fund shall be evidenced in a manner consistent with the Home Office Payment Agreement.

Section 5.09. Any Fees, Charges and Expenses of Trustee and Paying Agent. It is understood and agreed that pursuant to the provisions of the Lease Agreements, the Borrowers agree to pay the reasonable fees, expenses and charges of the Trustee and Paying Agent as authorized and provided by this Indenture. The Borrowers are to make payments on statements rendered by the Trustee. All such additional payments under the Lease Agreements which are received by the Trustee shall be paid into the Bond Fund to make payment therefrom for said purposes.

Section 5.10. Moneys and Documents to be Held in Trust. All moneys required to be deposited with or paid to the Trustee under any provision of this Indenture shall be held by the Trustee in trust, and except for moneys deposited with or paid to the Trustee for the redemption of Bonds, notice of which redemption has been duly given, shall, while held by the Trustee, constitute part of the trust estate and be subject to the lien hereof. Moneys received by or paid to the Trustee pursuant to any provisions of the Lease Agreements calling for the Trustee to hold, administer and disburse the same in accordance with the specific provisions of the Lease Agreements shall be held, administered and disbursed pursuant to the provisions, and where required by the provisions of the Lease Agreements, the Trustee shall set the same aside in a separate account. If the Issuer shall receive any moneys pursuant to applicable provisions of the Lease Agreements, it will forthwith upon receipt thereof pay the same over to the Trustee to be held, administered and disbursed by the Trustee in accordance with the provisions of the Lease

Agreement, pursuant to which the Issuer may have received the same. Furthermore, if for any reason the Lease Agreements cease to be in force and effect while any Bonds are outstanding, and if the Issuer shall receive any moneys derived from the Pledged Property, it will forthwith upon receipt thereof pay the same over the Trustee to be held, administered and disbursed by the Trustee in accordance with provisions of the Lease Agreements that would be applicable if the Lease Agreements were then in force and effect, and if there be no such provisions which would be so applicable, then the Trustee shall hold, administer and disburse such moneys solely for the discharge of the Issuer's obligations under this Indenture. In addition, any documents or securities tendered to the Trustee to be held in trust or escrow shall be received by Trustee only upon receipt of written instructions from the Issuer or bondholder, as applicable, directing the Trustee as to the documents' or securities' custody and the mechanism for releasing any such documents and securities from escrow or Trustee's custody.

Section 5.11. RESERVED.

Section 5.12. Refunds to Borrower. Anything herein to the contrary notwithstanding, so long as an event of default has not occurred and is continuing under this Indenture or under the Lease Agreements, the Trustee is authorized to refund to the Borrowers within two weeks after the principal payment date annually all excess amounts remaining in the FMH Bond Fund and HMD Bond Fund, respectively, after payment of all amounts due in the previous twelve months including the Trustee's and Issuer's fees. Such refund may be made as a credit on a loan payment. The foregoing notwithstanding, moneys in either the FMH Bond Fund or HMD Bond Fund being held pending redemption of either FMH Bonds or HMD Bonds shall not be refunded to a Borrower.

**ARTICLE VI.
CUSTODY AND APPLICATION OF PROCEEDS OF BONDS**

Section 6.01. Disbursement of Issuance Costs. When the Bonds have been executed as provided in this Indenture, they shall be delivered to the Trustee which shall authenticate them and deliver them to the Purchaser as specified in the Delivery Instructions of the Issuer. On the Closing Date, the Trustee shall disburse the moneys received as proceeds of the Bonds in accordance with instructions as specified in the Delivery Instructions of the Issuer. Subsequent to the Closing Date and prior to the Completion Date, the Trustee shall disburse the moneys received as proceeds of the Bonds in accordance with Written Requests received by the Trustee in a manner consistent with Section 2.02 hereof.

Section 6.02. Deposit in the Loan Fund. After making the necessary use of funds as provided in Section 6.01 above, the Trustee shall then deposit the remainder of the proceeds in the Loan Fund. Issuer and Trustee agree that deposits to the Loan Fund shall be evidenced in a manner consistent with the Home Office Payment Agreement.

Section 6.03. Disbursements from the Loan Fund. Moneys in the Loan Fund shall be disbursed to the respective Borrower as a reimbursement of or paid directly to vendors to pay Project costs which shall include costs of acquisition, costs of construction, architect's and engineer's fees, payment of interim indebtedness of the respective Borrower incurred for Project

costs, and all other necessary expenses incidental to the completion of the Project. Such expenditures shall be paid in accordance with and pursuant to written draw requests which shall be signed by one or more duly designated representatives of the respective Borrower (which designation shall be in writing and filed with the Trustee). In addition to the requirements of the Lease Agreements, draw requests shall specify:

- (1) The number of the request for payment;
- (2) The name of the person, firm or corporation to whom payment is to be made;
- (3) The amount of the payment; and
- (4) That the disbursement is for a proper expense of or pertaining to the Project.

Upon receipt of each draw request the Trustee may issue its check upon the Loan Fund payable to the person, firm or corporation designated in the draw request. Issuer and Trustee agree that withdrawals from the Loan Fund shall be evidenced in a manner consistent with the Home Office Payment Agreement.

Section 6.04. Transfer to Bond Fund. Whenever the Issuer shall notify the Trustee in writing that any balance remaining in the Loan Fund will not be needed for completion of the Project, the remaining balance (if the balance is at least \$5,000) shall be deposited into the FMH Bond Fund or the HMD Bond Fund, as appropriate, and used to redeem either the FMH Bonds or the HMD Bonds, as appropriate, on the first Interest Payment Date following notification. If the balance is less than \$5,000, it shall be transferred to either the FMH Bond Fund or the HMD Bond Fund, as appropriate, and applied as a credit against a subsequent payment.

ARTICLE VII. INVESTMENTS

Section 7.01. Investment of Moneys in Funds. Moneys on deposit with the Trustee shall be invested at the direction of the Borrowers.

ARTICLE VIII. DISCHARGE OF LIEN

Section 8.01. Discharge of Lien. If the Issuer shall pay or cause to be paid to the owners of the Bonds the principal and interest to become due thereon at the times and in the manner stipulated therein, and if the Issuer shall keep, perform and observe all and singular the covenants and promises in the Bonds and in this Indenture expressed as to be kept, performed and observed by it on its part, then these presents and the estate and rights hereby granted shall cease, determine and be void, and thereupon the Trustee shall cancel and discharge the lien of this Indenture, and execute and deliver to the Issuer such instruments in writing as shall be requisite to satisfy the lien thereof, and reconvey to the Issuer the estate hereby conveyed, and assign and deliver to the Issuer the estate hereby conveyed, and assign and deliver to the Issuer and property at the time subject to the lien of this Indenture which may then be in its possession,

including trust funds, except funds held by it for the payment of the principal of and interest on the Bonds.

Any Bond shall be deemed to be paid when payment of the principal of and premium, if any, and interest on such Bond (whether at maturity or upon redemption or otherwise), either (i) shall have been made or caused to be made in accordance with the terms of the Indenture, or (ii) shall have been provided for by irrevocably depositing with the Trustee, in trust and irrevocably setting aside exclusively for such payment, (1) moneys sufficient to make such payment or (2) Government Securities, maturing as to principal and interest in such amount and at such times as will provide sufficient moneys to make such payments, and all necessary and proper fees, compensation and expenses of the Trustee and any paying agent pertaining to the Bonds with respect to which such deposit is made and all other liabilities of the Borrowers under the Lease Agreements shall have been paid or the payment thereof provided for to the satisfaction of the Trustee.

The Issuer may at any time surrender to the Trustee for cancellation by it any Bonds previously authenticated and delivered hereunder, which the Issuer may have acquired in any manner whatsoever, and such Bonds upon such surrender and cancellation, shall be deemed to be paid and retired.

ARTICLE IX. DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDOWNERS

Section 9.01. Events of Default. If any of the following events occur, subject to the provisions of Section 9.12 hereof, it is hereby defined as and declared to be and to constitute an “event of default”;

(a) Default in the due and punctual payment of any interest on any Bond hereby secured and outstanding;

(b) Default in the due and punctual payment of the principal of, and premium, if any, on any Bond hereof secured and outstanding, whether at the stated maturity thereof, or upon proceedings for redemption thereof, or upon the maturity thereof by declaration;

(c) Default in the performance or observance of covenants, agreements or conditions on the Issuer’s part to be performed in this Indenture, or in the Bonds contained, and the continuance thereof for a period of thirty (30) days after written notice to the Issuer by the Trustee or by the owners of not less than ten percent (10%) in aggregate principal amount of Bonds outstanding hereunder; or

(d) The occurrence of an “Event of Default” under the Lease Agreement.

The term “default” shall mean default by the Issuer in the performance or observance of any of the covenants, agreement or conditions on its part contained in this Indenture, or in the Bonds outstanding hereunder, exclusive of any period of grace required to constitute a default an “event of default” as hereinabove provided.

Section 9.02. Acceleration.

Upon the occurrence of an event of default, the Trustee may, and upon the written request of the owners of twenty-five percent (25%) in aggregate principal amount of Bonds outstanding hereunder, shall, by notice in writing delivered to the Issuer and the Borrowers declare the principal of all Bonds hereby secured then outstanding and the interest accrued thereon immediately due and payable and such principal and interest shall thereupon become and be immediately due and payable.

Section 9.03. Trustee's Right to Enter and Take Possession. Upon the occurrence of an event of default, the Issuer, upon demand of the Trustee, shall forthwith surrender to it the actual possession of, and it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of, all or any part of the Pledged Property with the books, papers and accounts of the Issuer pertaining thereto and to hold, operate and manage the same, and from time to time to make all needful repairs and improvements as the Trustee shall deem wise; and the Trustee, with or without such permission, may collect, receive and sequester the rents, revenues, issues, earnings, income, products and profits therefrom (exclusive of any of the foregoing which may have been pledged to secure other obligations of the Issuer) and out of the same and any moneys received from any receiver of any part thereof pay, and/or set up proper reserves for the payment of, all proper costs and expenses of so taking, holding and managing the same, including reasonable compensation to the Trustee, its agents and counsel, and any charges of the Trustee hereunder and any taxes, assessments and other charges prior to the lien of this Indenture which the Trustee may deem it wise to pay, and all expenses of such repairs and improvements, and apply the remainder of the moneys so received by the Trustee in accordance with the provisions of Section 9.08 hereof. Whenever all that is due upon such Bonds and installments of interest under the terms of this Indenture shall have been paid and all defaults made good, the Trustee shall surrender possession to the Issuer, its successors or assigns; the same right of entry, however, to exist upon any subsequent event of default.

While in possession of such property the Trustee shall render annually to the owners of the Bonds, at their addresses as set forth on the bond registration book maintained by the Trustee, a summarized statement of income and expenditures in connection therewith.

Section 9.04. Other Remedies; Rights and Obligations with Reference to Remedies. Upon the occurrence of an event of default, the Trustee may, as an alternative, proceed either after entry or without entry, to pursue any available remedy by suit at law or in equity to enforce the payment of the principal of and interest on the Bonds then outstanding hereunder or to enforce compliance with any other covenant or obligation of the Issuer, including without limitation, foreclosure and mandamus.

Upon the occurrence of an event of default, the Trustee shall, if so requested in writing by sixty-six and two-thirds percent (66-2/3%) in value of the registered owners of the Bonds, assign to the registered owners of the Bonds all its right, title and interest in the Lease Agreements in exchange for the Bonds, which assignment shall be full and complete satisfaction and discharge of all liabilities and obligations of the Issuer on the Bonds and of the Trustee under this Indenture.

If an event of default shall have occurred, and if it shall have been requested in writing so to do by the owners of twenty-five percent (25%) in aggregate principal amount of Bonds outstanding hereunder and shall have been indemnified as provided in Section 10.01 hereof, the Trustee shall be obligated to exercise such one or more of the rights and power conferred upon it by this Section and by Section 9.03 as the Trustee, being advised by counsel, shall deem most expedient in the interests of the bondowners.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the bondowners) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any default or event of default shall impair any such right or power or shall be construed to be a waiver of any such default or event of default or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or event of default hereunder, whether by the Trustee or by the bondowners, shall extend to or shall affect any subsequent default or event of default or shall impair any rights or remedies consequent thereon.

Section 9.05. Right of Majority of Bondowners to Take Charge. Anything in this Indenture to the contrary notwithstanding, the owners of a majority in aggregate principal amount of Bonds outstanding hereunder shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceeding hereunder; provided that such direction shall not be otherwise than in accordance with the provision of law and of this Trust Indenture. Anything in this Indenture to the contrary notwithstanding, so long as a single person or entity owns 100% of the outstanding Bonds, the Trustee shall not exercise any remedies except those that the Trustee is specifically directed to take in a writing by the sole Bondholder.

Section 9.06. Appointment of Receiver. Upon the occurrence of an event of default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the bondowners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Pledged Property and of the rents, revenues, issues, earnings, income, products and profits thereof, pending such proceedings with such powers as the court making such appointment shall confer.

Section 9.07. Waiver by Issuer of Benefit of Laws and Rights of Appraisal and Redemption. In case of an event of default on its part, as aforesaid to the extent that such rights may then lawfully be waived, neither the Issuer nor anyone claiming through it or under it shall or will set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or redemption as now or hereafter in force, in order to prevent or hinder the enforcement of this Indenture, but the Issuer, for itself and all who may claim through or under it, hereby waives, to

the extent that it lawfully may do so, the benefit of all such laws and all right of appraisal and redemption to which it may be entitled under the laws of the State of Arkansas.

Section 9.08. Application of Available Moneys. Issuer and Trustee agree and anticipate that amounts due and payable pursuant to this Indenture (other than the annual Trustee's fees, any expenses of the Trustee, and other amounts due and payable to independent third parties) shall be evidenced in a manner consistent with the Home Office Payment Agreement. Moneys remaining, if any, after payment of the annual Trustee's fees, any expenses of the Trustee, and other amounts due and payable to independent third parties shall be applied by the Trustee as follows:

(a) To the payment of costs and expenses of suit, if any, and the reasonable compensation of the Trustee, its agents, attorneys and counsel, and of all proper expenses, liabilities and advances incurred or made hereunder by the Trustee or by any bondowner.

(b) Unless the principal of all the Bonds all have become or shall have been declared due and payable, all such moneys shall be applied:

FIRST: To the payment to the persons entitled thereto of all installments of interest then due, in the order of the maturity of the installments of such interest, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege;

SECOND: To the payment to persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, with interest on such Bonds from the respective dates upon which they become due, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege; and

THIRD: To the payment of the interest on and the principal of the Bonds, and to the redemption of Bonds, all in accordance with the provisions of Article V of this Indenture.

(c) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest or of interest over principal, or of any bond over any other Bond, ratably, according to the amounts due respectively for principal and or privilege.

(d) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article then, subject to the provisions of paragraph (c) of this Section, in the event that the

principal of all the Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of paragraph (b) of this Section.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by it at such times, and from time to time, as it shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an interest payment date unless it shall deem another date more suitable) upon which such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date and shall not be required to make payment to the owner of any unpaid Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 9.09. Remedies Vested in Trustee. All rights of action (including the right to file proof of claim) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding relating thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee, without the necessity of joining as plaintiffs or defendants any owners of the Bond hereby secured, and any recovery of judgment shall be for the equal benefit for the owners of the outstanding Bonds in the order herein provided.

Section 9.10. Rights and Remedies of Bondowners. No owner of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless a default has occurred of which the Trustee has been notified as provided in subsection (g) of Section 10.01, or of which by the subsection it is deemed to have notice, nor unless such default shall have become an event of default and the owners of twenty-five percent (25%) in aggregate principal amount of Bonds outstanding hereunder shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, nor unless also they have offered to the Trustee indemnity as provided in Section 10.01; nor unless the Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name; and such notification request and offer of indemnity are hereby declared in every such case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture or for the appointment of a receiver for any other remedy hereunder; it being understood and intended that not one or more owners of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided for the equal benefit of the owners of all Bonds outstanding hereunder. Nothing in this Indenture contained shall, however, affect or impair the right of any bondowners to enforce the payment of the principal of and interest on any Bond at and after the maturity thereof, or to the obligation of the Issuer to pay the principal of and interest

on each of the Bonds issued hereunder to the respective owners thereof at the time and place in the Bonds expressed.

Section 9.11. Termination of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case the Issuer and the Trustee shall be restored to their former positions and rights hereunder with respect to the property herein conveyed, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken, except to the extent the Trustee is legally bound by such adverse determination.

Section 9.12. Waivers of Events of Default. The Trustee may in its discretion waive any event of default hereunder and its consequences and rescind any declaration of maturity of principal, and shall do so upon the written request of the owners of (i) 50% in aggregate principal amount of all the Bonds outstanding hereunder in respect of which default in the payment of principal and/or interest exists, or (ii) 50% in principal amount of all the Bonds outstanding hereunder in the case of any other default, provided, however, that there shall not be waived (a) any event of default in the payment of the principal of any Bonds issued hereunder and outstanding at the date of maturity specified therein or (b) any default in the payment of the interest or of Bond Fund moneys, unless prior to such waiver or rescission all arrears of interest, with interest at the rate borne by the Bonds in respect of which such default shall have occurred on overdue installments of interest or all arrears of Bond Fund payments, as the case may be, and all expenses of the Trustee and Paying Agent, shall have been paid or provided for, and in case of any such waiver or rescission or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, Trustee and the bondowners shall be restored to their former positions and rights thereunder respectively; but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

ARTICLE X. THE TRUSTEE

Section 10.01. Acceptance of Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform the trust upon and subject to the following expressed terms and conditions:

(a) The Trustee may execute any of the trusts or powers hereof and perform any duties required of it by or through attorneys, agents, receivers or employees, and shall be entitled to advice of counsel concerning all matters of trusts hereof and its duties hereunder, and may in all cases pay reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorney, surveyor, engineer or accountant selected by it in the exercise of reasonable care, or, if selected or retained by the Issuer prior to the occurrence of a default of which the Trustee has been notified as provided in sub-section (g) of this Section, or of which by said sub-section the Trustee is deemed to have notice, approved by the Trustee in the exercise of

such care. The Trustee shall not be responsible for any loss or damage resulting from an action or non-action in accordance with any such opinion or advice.

(b) The Trustee shall not be responsible for any recital herein, or in the Bonds (except in respect to the certificate of the Trustee endorsed on such Bonds), or for the recording or re-recording, filing or re-filing of this Indenture, or for insuring the property herein conveyed or collecting any insurance moneys, or for the validity of the execution by the Issuer of this Indenture or of any supplemental indentures or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured herein, or for the value of the title of the property here conveyed or otherwise as to the maintenance of the security hereof; except that in the event the Trustee enters into possession of a part or all of the property herein conveyed pursuant to any provision of this Indenture, it shall use due diligence in preserving such property; and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the Issuer, except as hereinafter set forth; but the Trustee may require of the Issuer full information and advice as to the performance of the covenants, conditions and agreement aforesaid as to the condition of the property herein conveyed.

(c) The Trustee shall not be accountable for the use of any Bonds authenticated or delivered hereunder. The Trustee may become the owner of Bonds with the same rights which it would have if not Trustee. No merger of title shall occur if at any time the Trustee owns all of the Bonds.

(d) The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed by it, in the exercise of reasonable care, to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of the owner of any Bond secured hereby, shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof.

(e) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate of the Issuer signed by its Mayor and attested by its City Clerk as sufficient evidence of the facts therein contained and prior to the occurrence of a default of which it has been notified as provided in sub-section (g) of this Section, or of which by said subsection it is deemed to have notice, and shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion, at the reasonable expense of the Issuer, in every case secure such further evidence as it may think necessary or advisable, but shall in no case be bound to secure the same. The Trustee may accept a certificate of the City Clerk of the Issuer under its seal to the effect that a resolution or ordinance in the form therein set forth has been adopted by the Issuer as conclusive evidence that such resolution or ordinance has been duly adopted, and is in full force and effect.

(f) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty of the Trustee, and the Trustee shall be answerable only for its own gross negligence or willful misconduct.

(g) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the Issuer to make or cause to be made any of the payments to the Trustee required to be made by Article IV unless the Trustee shall be specifically notified in writing of such default by the Issuer or by the owners of at least ten percent (10%) in aggregate principal amount of Bonds outstanding hereunder and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered to the office of the Trustee, and in the absence of such notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid.

(h) The Trustee shall not be personally liable for any debts contracted or for damages to persons or to personal property injured or damaged, or for salaries or nonfulfillment of contracts during any period in which it may be in the possession of or managing the real and tangible personal property as in this Indenture provided.

(i) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right fully to inspect all of the property herein conveyed, including all books, papers and records of the Issuer pertaining to the Project and the Bonds, and to take such memoranda from and in regard thereto as may be desired.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(k) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificate, opinions, appraisals, or the information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Trustee, deemed desirable for the purpose of establishing the right of the Issuer to the authentication of any Bonds, the withdrawal of any cash, the release of any property, or the taking of any other action by the Trustee.

(l) Before taking such action hereunder, the Trustee may require that it be furnished an indemnity bond satisfactory to it for the reimbursement to it of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from the gross negligence or willful misconduct of the Trustee, by reason of any action so taken by the Trustee.

Section 10.02. Fees, Charges and Expenses of Trustee. The Trustee shall be entitled to payment and/or reimbursement for its reasonable fees for services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee in and about the execution of the trusts created by this Indenture and in and about the

exercise and performance by the Trustee of the powers and duties of the Trustee hereunder, and for all reasonable and necessary costs and expenses incurred in defending any liability in the premises of any character whatsoever (unless such liability is adjudicated to have resulted from the gross negligence or willful misconduct of the Trustee). In this regard, it is understood that the Issuer pledges no funds or revenues other than those provided for in the Lease Agreements and the Revenues derived from and the avails of the Pledged Property to the payment of any obligation of the Issuer set forth in this Indenture, including the obligations set forth in this Section, but nothing herein shall be construed as prohibiting the Issuer from using any other funds and revenues for the payment of any of its obligations under this Indenture. Upon default by the Issuer but only upon default, pursuant to the provisions of this Indenture pertaining to default, the Trustee shall have a first lien with right of payment prior to payment on account of principal or interest of a Bond issued hereunder upon the Trust Estate for the reasonable and necessary advances, fees, costs and expenses incurred by the Trustee.

Section 10.03. Notice to Bondowners of Default. If a default occurs of which the Trustee is by Section 10.01(g) deemed to have notice, is notified by the Issuer or by the owners of at least 10% in aggregate principal amount of Bonds then outstanding, then the Trustee shall give written notice by mail or by other acceptable standard, including facsimile, to each owner of Bonds then outstanding and to such other person or entity any owner directs the Trustee to notify.

Section 10.04. Intervention by Trustee. In any judicial proceeding to which the Issuer is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of owners of Bonds issued hereunder, the Trustee may intervene on behalf of the bondowners and shall do so if requested in writing by the owners of at least ten percent (10%) of the aggregate principal amount of Bonds outstanding hereunder. The rights and obligations of the Trustee under this Section are subject to the approval of the court having jurisdiction in the premises.

Section 10.05. Successor Trustee. Any bank or trust company into which the Trustee may be merged, or with which it may be consolidated or any bank or trust company resulting from any such merger or consolidation, ipso facto, shall be and become successor trustee hereunder and vested with all of the title to the whole property or trust estate and all the trusts, powers, discretions, immunities, privileges, and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding; provided, however, that such successor trustee shall have capital and surplus of at least \$75,000,000, and provided that the Issuer approves the successor trustee.

Section 10.06. Resignation by Trustee. The Trustee and any successor trustee may at any time resign from the trusts hereby created by giving thirty (30) days written notice to the Issuer and the registered owners of the Bonds, and such resignation shall take effect at the end of such thirty (30) days, or upon the earlier appointment of a successor trustee by the bondowners or by the Issuer. Such notice may be served personally or sent by registered mail or other acceptable standard, including facsimile.

Section 10.07. Removal of Trustee; Sale of Trust Business. The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee and to the Issuer and signed by the owners of a majority in aggregate principal amount of Bonds outstanding hereunder. The Trustee may be removed by the Issuer at any time if a successor trustee has been appointed.

In the case of the sale of all or substantially all of the Trustee's trust business to another bank or trust company, the Issuer shall have the absolute right, at its sole discretion, to appoint a successor trustee pursuant to Section 10.08 hereof.

Section 10.08. Appointment of Successor Trustee. In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by the court, a successor may be appointed by the Issuer by an instrument executed and signed by its Mayor and attested by its City Clerk under its seal. Every such successor trustee shall be a trust company or bank in good standing, having capital and surplus of not less than \$75,000,000.

Section 10.09. Successor Trustee Qualifications. Every successor appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Issuer an instrument in writing accepting such appointment hereunder, and thereupon such successor trustee, without any further act or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall nevertheless, on the written request of the Issuer or of its successor trustee, execute and deliver an instrument transferring to such successor all the estate, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor trustee shall deliver all securities, moneys and any other property held by it as trustee hereunder to its successor. Should any instrument in writing from the Issuer be required by a successor trustee for more fully and certainly vesting in such successor the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor trustee, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. The resignation of any trustee and the instrument or instruments removing any trustee and appointing a successor hereunder, together with all other instruments provided for in this Article shall, at the expense of the Issuer, be forthwith filed and/or recorded by the successor trustee in each recording office where the Indenture shall have been filed and/or recorded.

Section 10.10. Right of Trustee to Pay Taxes and Other Charges. In case the Issuer shall fail seasonably to pay or to cause to be paid any tax, assessment or governmental or other charge upon any part of the property herein conveyed, to the extent, if any, that the Issuer may be liable for same, the Trustee may pay such tax, assessment or governmental charge, without prejudice, however, to any rights of the Trustee or the bondowners hereunder arising in consequence of such failure; and any amount at any time so paid under this Section, with interest thereon from the date of payment at the rate of ten percent (10%) per annum, shall be repaid by the Issuer upon demand, and shall become so much additional indebtedness secured by this Indenture, and the same shall be given a preference in payment over any of the Bonds and shall be paid out of the proceeds of revenues collected from the property herein conveyed, if not otherwise caused to be paid by the Issuer, but the Trustee shall not be under obligations to make any such payment unless it shall have been requested to do so by the owners of at least ten percent (10%) of the aggregate principal amount of the Bonds outstanding hereunder and shall have been provided with adequate funds for the purpose of such payment.

Section 10.11. Trustee Protected in Relying Upon Resolutions, etc. The resolutions, opinions, certificates and other instruments provided for in this Indenture may be accepted and relied upon by the Trustee as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for the payment and withdrawal of cash hereunder.

Section 10.12. Trustee Which Has Resigned or Been Removed Ceases to be Paying Agent. In the event of a change in the office of Trustee, if the Trustee is the Paying Agent, the former Trustee which has resigned or been removed shall cease to be Paying Agent.

Section 10.13. Paying Agent's Fees and Charges. There shall be paid reasonable Paying Agent's fees and charges of the Paying Agent for handling the payment of the principal of, premium (if any) and interest on the Bonds, and funds sufficient to pay the same shall be deposited with the Paying Agent prior to the dates on which payments are required to be made on principal and interest.

Section 10.14. Appointment of Co-Trustee or Separate Trustee. The Issuer and the Trustee shall have power to appoint and upon the request of the Trustee the Issuer shall for such purpose join with the Trustee in the execution of all instruments necessary or proper to appoint another corporation or one or more persons approved by the Trustee, either to act as co-trustee or co-trustees jointly with the Trustee of all or any of the property subject to the lien hereof, or to act as separate trustee or trustees of all or any such property, with such powers as may be provided in the instrument of appointment and to vest in such corporation or person or persons as such separate trustee or co-trustee any property, title, right or power deemed necessary or desirable. In the event that the Issuer shall not have joined in such appointment within fifteen days after the receipt by it of a request so to do the Trustee alone shall have the power to make such appointment. Should any deed, conveyance or instrument in writing from the Issuer be required by the separate trustee or co-trustee so appointed for more fully and certainly vesting in and confirming to him or to it such properties, rights powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. Every such co-trustee and separate trustee shall, to

the extent permitted by law, be appointed subject to the following provisions and conditions, namely:

(1) The Bonds shall be authenticated and delivered, and all powers, duties, obligations and rights conferred upon the Trustee in respect of the custody of all money and securities pledged or deposited hereunder, shall be exercised solely by the Trustee; and

(2) The Trustee, at any time by an instrument in writing, may remove any such separate trustee or co-trustee.

Every instrument, other than this Indenture, appointing any such co-trustee or separate trustee, shall refer to this Indenture and the conditions of this Article X expressed, and upon the acceptance in writing by such separate trustee or co-trustee, it shall be vested with the estate or property specified in such instrument, jointly with the Trustee (except insofar as local law makes it necessary for any separate trustee to act alone), subject to all the trusts, conditions and provisions of this Indenture. Any such separate trustee or co-trustee may at any time, by an instrument in writing, constitute the Trustee as its agent or attorney, to the extent authorized by law, to do all acts and things and exercise all discretion authorized or permitted by it, for and on behalf of it and its name. In case any separate trustee or co-trustee shall die, become incapable of acting, resign or be removed, all the estates properties, rights, powers, trusts, duties and obligations of the separate trustee or co-trustee shall vest in and be exercised by the Trustee until the appointment of a new trustee or a successor to such separate trustee or co-trustee.

ARTICLE XI. SUPPLEMENTAL INDENTURES AND AMENDMENTS TO THE LEASE AGREEMENTS

Section 11.01. Supplemental Indentures Not Requiring Consent of Bondowners.

The Issuer and the Trustee may, from time to time, without the consent of or notice to the bondholders, enter into such indentures supplemental hereto as shall not be inconsistent with the terms and provisions hereof (which supplemental indenture shall hereafter form a part hereof) (a) to cure any ambiguity or formal defect or omission in this Indenture or in any supplemental indenture; or (b) to grant to or confer or impose upon the Trustee for the benefit of the bondowners any additional rights, remedies, powers, authority, security, liabilities or duties which may lawfully be granted, conferred, or imposed; (c) to add to the covenants and agreements of, and limitations and restrictions upon, the Issuer in this Indenture other covenants, agreements, limitations and restrictions to be observed by the Issuer which are not contrary to or inconsistent with this Indenture as theretofore in effect; (d) to confirm, as further assurance, any pledge under, and the subjection to any claim, lien or pledge created or to be created by, this Indenture, of the Revenues of the Issuer from the Lease Agreements or of any other moneys, securities or funds; (e) to comply with the requirements of the Trust Indenture Act of 1939, as from time to time amended; or (f) to modify, alter, amend or supplement this Indenture in any other respect which, in the opinion of bond counsel, is not materially adverse to the bondholders and which does not involve a change described in clause (a), (b), (c), (d) or (e) of Section 11.02 hereof.

Section 11.02. Supplemental Indentures Requiring Consent of Bondowners. Subject to the terms and provisions contained in this Section, and not otherwise, the owners of not less than two-thirds (2/3) in aggregate principal amount of the Bonds then outstanding shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the Issuer and the Trustee of such indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided, however, that nothing herein contained shall permit or be construed as permitting (a) an extension of the maturity of the principal of or the interest on any Bond issued hereunder, or (b) a reduction in the principal amount of any Bond or redemption premium or the rate of interest thereon, or (c) the creation of any lien ranking prior to or on a parity with the lien of this Indenture on the Trust Estate, except as expressly permitted herein, or (d) a privilege or priority of any Bond or Bonds over any other Bond or Bonds or (e) a reduction in the aggregate principal amount of the Bonds required for consent to such supplemental indenture. Nothing herein contained, however, shall be construed as making necessary the approval of bondowners of the execution of any supplemental indenture as provided in Section 11.01 of this Article.

If at any time the Issuer shall request the Trustee to enter into any supplemental indenture for any of the purposes of this Section, the Trustee shall, at the expense of the Issuer cause notice of the proposed execution of such supplemental indenture to be mailed by first class mail or sent by other acceptable standard, including facsimile, to each owner at his, her or its address on the Bond registration book maintained by the Trustee. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the principal office of the Trustee for inspection by bondowners. The Trustee shall not, however, be subject to any liability to any bondowner by reason of its failure to publish or mail such notice, and any such failure shall not affect the validity of such supplemental indenture consented to and approved as provided in this Section. If the owners of not less than two-thirds (2/3) in aggregate principal amount of the Bonds outstanding at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

Section 11.03. Amendments to the Lease Agreements. The Trustee may from time to time, and at any time, consent to any amendment, change or modification of the Lease Agreements for the purpose of curing any ambiguity or formal defect or omission or making any other change therein, which in the reasonable judgment of the Trustee, in reliance on an opinion of bond counsel, is not to the prejudice of the Trustee or the holders of the Bonds. The Trustee shall not consent to any other amendment, change or modification of the Lease Agreements without the approval or consent of the holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds at the time outstanding.

Section 11.04. Procedure for Amendments. If at any time the Issuer or Borrowers shall request the Trustee's consent to a proposed amendment, change or modification requiring bondholder approval under Section 11.03 hereof, the Trustee, shall, at the expense of the requesting party, cause notice of such proposed amendment, change or modification to be sent in the same manner as provided by Section 11.02 hereof with respect to supplemental indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file in the principal office of the Trustee for inspection by any interested bondholder. The Trustee shall not, however, be subject to any liability to any bondholder by reason of its failure to mail such notice, and any such failure shall not affect the validity of such amendment, change or modification when consented to by the Trustee in the manner hereinabove provided.

ARTICLE XII. MISCELLANEOUS

Section 12.01. Consents, etc., of Bondowners. Any request, direction, objection or other instrument required by this Indenture to be signed and executed by the bondowners may be in any number of concurrent writings of similar tenor and may be signed or executed by such bondowners in person or by agent appointed in writing. Proof of the execution of any such request, direction, objection or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture and shall be conclusive if in favor of the Trustee with regard to any action taken by it under such request or other instrument, namely:

The fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by any affidavit of any witness to such execution.

Section 12.02. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture, or the Bonds issued hereunder, is intended or shall be construed to give to any person other than the parties hereto, and the owners of the Bonds secured by this Indenture, any legal or equitable rights, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions hereof being intended to be and being for the sole exclusive benefit of the parties hereto and the owners of the Bonds secured as herein provided.

Section 12.03. Severability. If any provisions of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or paragraphs in this Indenture contained shall not affect the remaining portions of this Indenture or any part thereof.

Section 12.04. Notice. Notices as required in this Indenture shall be considered delivered when posted in United States mail, postage prepaid and addressed as set forth below (or at such other address as may have been provided by the party to all other parties hereto by proper notice):

If intended for the Issuer:	City of Jonesboro, Arkansas P.O. Box 1845 Jonesboro, Arkansas 72403 Attn: Mayor
With a copy to:	Carol M Duncan 410 W. Washington Ave Jonesboro, AR 72401
If intended for the Trustee:	[To Be Determined] _____, Arkansas 72____ Attn: Corporate Trust Department
If intended for FMH:	FMH Conveyors LLC _____ Jonesboro, AR 72403 Attention: President
If intended for HMD:	HMD Jonesboro, LLC _____ Jonesboro, AR 72403 Attention: President
If intended for the Bondholder:	[Insert information]
With a copy to:	Such other persons and entities as the Bondholder may identify in writing.

Section 12.05. Arkansas Substantive Law Governs. This Indenture shall be considered to have been executed in the State and it is the intention of the parties that the substantive law of the State governs as to all questions of interpretation, validity and effect.

Section 12.06. Uniform Commercial Code. This Indenture is also a security agreement under the Uniform Commercial Code of the State. The Issuer shall file one or more financing statements and renewals thereof with respect to the security interest granted by this Indenture and file such statements or renewals thereof in the appropriate public office.

Section 12.07. Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.08. Limitation on Liability. Notwithstanding any other provision of this Indenture to the contrary:

(a) the obligations of the Issuer with respect to the Bonds are not general obligations of the Issuer but are special, limited obligations of the Issuer payable by the Issuer solely from the security for the Bonds;

(b) nothing contained in the Bonds or in this Indenture shall be considered as assigning or pledging any funds or assets of the Issuer other than the Trust Estate;

(c) except with respect to their status as special, limited obligations of the Issuer, payable by the Issuer solely from the security for the Bonds, the Bonds shall not be a debt of the State or of any other political subdivision of the State, and neither the State nor any other political subdivision of the State shall be liable for the payment of the Bonds;

(d) neither the faith and credit of the Issuer, the State nor any other political subdivision of the State are pledged to the payment of the principal or of interest on the Bonds;

(e) neither the revenues nor the property of the Issuer, the State or any other political subdivision of the State are pledged to the payment of the principal or of interest on or as security for the Bonds except as specifically set forth in this Indenture;

(f) no failure of the Issuer to comply with any term, condition, covenant or agreement in this Indenture or in any document executed by the Issuer in connection with the Pledged Property, or the issuance, sale and delivery of the Bonds shall subject the Issuer to liability for any claim for damages, costs or other charge except to the extent that the same can be paid or recovered from the Trust Estate; and

(g) the Issuer shall not be required to advance any moneys derived from any source other than the Trust Estate for any of the purposes of this Indenture, any of the other bond documents or any of the loan documents, whether for the payment of the principal or redemption price of, or interest on, the Bonds, the payment of any fees or administrative expenses or otherwise.

Section 12.09. No Personal Liability; No Recourse. No recourse under or upon any obligation, covenant, warranty or agreement contained in this Indenture or in any Bond, or under any judgment obtained against the Issuer, or the enforcement of any assessment, or any legal or equitable proceedings by virtue of any constitution or statute or otherwise, or under any circumstances under or independent of this Indenture, shall be had against the members of the Issuer's city council or any of the members, officers, agents or employees of the Issuer, as such, past, present or future of the Issuer, either directly or through the Issuer or otherwise, for the payment for or to the Issuer or any receiver of the Issuer, or for or to the owner of any Bond, or otherwise, of any sum that may be due and unpaid by the Issuer upon any such Bond. Any and

all personal liability of every nature whether at common law or in equity or by statute or by constitution or otherwise of the members of the Issuer's board of directors or of any such member, officer, agent or employee, as such, by reason of any act or omission on his or her part or otherwise, for the payment for or to the owner of any Bond or otherwise of any sum that may remain due and unpaid upon the Bonds secured by this Indenture of any of them is, by the acceptance of such Bond, expressly waived and released as a condition of and in consideration for the execution of this Indenture and the issuance of the Bonds. Anything in this Indenture to the contrary notwithstanding, it is expressly understood by the parties to this Indenture that (a) the Issuer may rely exclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Trustee or any Bondholder as to the existence of any fact or state of affairs, (b) the Issuer shall not be under any obligation under this Indenture to perform any record keeping or to provide any legal services, it being understood that such services shall be performed or caused to be performed by the Trustee (with respect to record keeping only, and not with respect to any legal services) or by the Bondholders and (c) none of the provisions of this Indenture shall require the Issuer to expend or risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers under this Indenture, unless it shall first have been adequately indemnified to its satisfaction against any costs, expenses and liability which it may incur as a result of taking such action. No recourse for the payment of any part of the principal of, premium, if any, or interest on the Bonds or for the satisfaction of any liability arising from, founded upon or existing by reason of the issuance, purchase or ownership of the Bonds shall be had against the members of the Issuer's board of directors or any officer, member, agent or employee of the Issuer, as such, all such liability being expressly released and waived as a condition of and as a part of the consideration for the execution of this Indenture and the issuance of the Bonds. No covenant, stipulation, obligation or agreement of the Issuer contained in this Indenture shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, officer, agent or employee of the Issuer or the members of the Issuer's board of directors in other than that person's official capacity. No member, officer, agent or employee of the Issuer shall be individually or personally liable for the payment of the principal or redemption price of or interest on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the Issuer has caused these presents to be signed in its name and behalf by its Mayor, and, to further evidence its acceptance of the trust hereby created, Issuer has caused these presents to be signed in its name and behalf by its duly appointed officers all as of the day and year first above written.

CITY OF JONESBORO, ARKANSAS

By: _____
Harold Perrin, Mayor

ATTEST:

By: _____
Donna Jackson, City Clerk

(S E A L)

[TO BE DETERMINED], as Trustee

By: _____
Name: _____
Title: _____

STATE OF ARKANSAS)
) ss. **ACKNOWLEDGMENT**
COUNTY OF CRAIGHEAD)

On this day, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named **Harold Perrin** and **Donna Jackson** to me personally well known, who stated that they are the Mayor and City Clerk, respectively, of the **CITY OF JONESBORO, ARKANSAS**, a city of the first class, and were duly authorized in those capacities to execute the foregoing instrument for and in the name and behalf of said City, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2016.

Notary Public

My commission expires:

(S E A L)

STATE OF ARKANSAS)
) ss.
COUNTY OF _____)

ACKNOWLEDGMENT

On this day before me, a Notary Public, duly commissioned, qualified and acting, within and for the State and County aforesaid, appeared in person the within named _____, _____ of **[TO BE DETERMINED]**, a banking corporation organized under the laws of the State of Alabama, to me personally known, who stated that she was duly authorized in her capacity to execute the foregoing instrument for and in the name of the Bank and further stated and acknowledged that she had signed, executed and delivered the foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this ___ day of _____, 2016.

Notary Public

My commission expires:

(S E A L)

Exhibit A-1

Form of Initial Bond

R-1

\$2,000,000

**UNITED STATES OF AMERICA
STATE OF ARKANSAS
\$2,000,000
CITY OF JONESBORO, ARKANSAS
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS
(FMH CONVEYORS LLC PROJECT)
SERIES 2016**

INTEREST RATE	MATURITY DATE:	ISSUE DATE
_____ %	_____, 20__	_____, 2016

REGISTERED OWNER: [FMH SUB LLC]
PRINCIPAL AMOUNT: **TWO MILLION AND 00/100 DOLLARS**
(OR THE TOTAL AMOUNT OUTSTANDING AS REFLECTED BY THE
RECORD OF ADVANCES AND PRINCIPAL PAYMENTS ATTACHED
HERETO)

KNOW ALL PERSONS BY THESE PRESENTS:

That the City of Jonesboro, Arkansas, a city of the first class and a political subdivision under the laws of the State of Arkansas (the "Issuer") for value received, promises to pay to the Registered Owner stated above, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, the Principal Amount (stated above) on the Maturity Date (stated above), and to pay in like coin or currency, interest on said Principal Amount from the Issue Date (stated above) until paid as follows:

Interest on the unpaid Principal Amount (i) shall be payable annually on _____ of each year, beginning on _____, 2017 with the final principal and interest payment due on the maturity date, _____, 20__, and (ii) shall accrue from the Issue Date (stated above) at the Interest Rate (stated above) until the Issuer's obligation with respect to payment of such Principal Amount shall be discharged; provided that, the date of each Advance hereunder shall be the interest commencement date from which the principal amount of such Advance bears interest. Payment of interest shall be by check or draft of [To Be Determined], as Trustee and Paying Agent (the "Trustee"), to the Registered Owner as shown on the bond registration book of the Issuer maintained by the Trustee on the fifteenth calendar day of the month preceding the month in which the interest payment date occurs. Payment of principal shall be made at the principal office of the Trustee in _____, Arkansas, upon due surrender of this Bond on the Maturity Date (stated above) if not sooner called for redemption.

This Bond is one of an authorized issue of bonds of the Issuer in the Principal Amount of not to exceed \$2,000,000 (the “Bonds”) which are issued for the purpose of providing funds for the making of loans to FMH Conveyors LLC (the “Borrower”) to finance certain industrial enterprise within the State of Arkansas (the “Project”). The Bonds are all issued under and are all equally and ratably secured and entitled to the protection given by a Trust Indenture (the “Indenture”), dated as of _____, 2016, duly executed and delivered by the Issuer to the Trustee. Reference is hereby made to the Indenture and all indentures supplemental thereto for the provisions, among others, with respect to the nature and extent of the security, the issuance of additional series on a parity of security with the Bonds, the rights, duties and obligations of the Issuer, the Trustee and the Registered Owners of the Bonds, and the terms upon which the Bonds are issued and secured. The Bonds are secured by payments to be made by the Borrower pursuant to a Lease Agreement between the Borrower and the Issuer.

This Bond is issued with the intent that the laws of the State of Arkansas will govern its construction.

THESE BONDS ARE ISSUED UNDER THE PROVISIONS OF TITLE 14, CHAPTER 164, SUBCHAPTER 2 OF THE ARKANSAS CODE ANNOTATED, AS AMENDED (THE “ACT”), AND CONSTITUTE SPECIAL OBLIGATIONS OF THE ISSUER ONLY. IN NO EVENT SHALL THEY CONSTITUTE AN INDEBTEDNESS OF THE STATE OF ARKANSAS, OR AN INDEBTEDNESS FOR WHICH THE FAITH AND CREDIT OF THE STATE OF ARKANSAS OR ANY OF ITS REVENUES ARE PLEDGED OR AN INDEBTEDNESS SECURED BY A LIEN OR SECURITY INTEREST IN ANY PROPERTY OF THE STATE OF ARKANSAS. THE BONDS ARE NOT SECURED BY A PLEDGE OF THE FULL FAITH AND CREDIT OF THE ISSUER, NOR THE PLEDGE OF ANY OF ITS REVENUES EXCEPT AS SPECIFICALLY SET FORTH IN THE INDENTURE.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been signed by the Trustee.

The Issuer hereby covenants that it has been duly organized in accordance with law; and that all acts, conditions and things required to be done precedent to and in the issuance of this Bond have existed, have happened, and have been performed as required by law.

The Bonds are not general obligations of the Issuer, but are special obligations payable solely from revenues derived from the Project. The Project consists of certain land, buildings, improvements, equipment and facilities which have been leased by the Issuer to the Borrower under the terms of a Lease Agreement which provides for the loan and repayment of moneys in such amounts as shall be sufficient to pay the principal of and interest on the Bonds as the same become due. Provision has been made in the Lease Agreement for the loan repayments or rental payments to be made directly to the Trustee and deposited in special accounts of the Issuer designated “City of Jonesboro, Arkansas Industrial Development Revenue Bond Fund” (the “Bond Fund”). Certain Project revenues (including particularly repayments of the loans under the Lease Agreement) have been duly pledged by the Indenture to the payment of the principal of and interest on the Bonds. The Bonds do not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory limitation.

The owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in and defend any suit or other proceeding with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under the Indenture and then outstanding may be declared and may become due and payable before the stated maturity thereof, together with accrued interest thereon.

Modifications or alterations of the Indenture, or of any indenture supplemental thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

The Bonds shall be subject to redemption prior to maturity as follows:

(1) On any interest payment date, the Bonds may be redeemed in whole or in part, at the option of the Issuer at the direction of the Borrower, from the proceeds of insurance in the event of major damage or destruction of the Project pursuant to the provisions of the Lease Agreement, or from legal curtailment of the use and occupancy of all or substantially all of such Project for any reason other than condemnation. If called for redemption upon the occurrence of any of the events described in the preceding sentence, this Bond shall be redeemed in whole or in part, in the manner provided in this Bond and the Indenture, at one hundred percent (100%) of the principal amount thereof, plus accrued interest to the date of redemption.

(2) On any interest payment date, the Bond will be redeemed in whole or in part from the proceeds of condemnation of all or substantially all of the Project at a redemption price equal to one hundred percent (100%) of the principal amount being redeemed plus accrued interest to the redemption date.

(3) At any time, the Bonds shall be redeemed in whole or in part, at the option of the Issuer, from Bond proceeds not needed for construction of the Project, upon written notice to the Trustee at a redemption price equal to one hundred percent (100%) of the principal amount being redeemed plus accrued interest to the redemption date.

(4) At any time, the Bonds shall be redeemed in whole or in part, at the option of the Issuer, if the Issuer notifies the Trustee in writing that an event of default has occurred under the Lease Agreement and that it requests a redemption of such Bonds at a redemption price equal to one hundred percent (100%) of the principal amount being redeemed plus accrued interest to the redemption date.

(5) The Bonds (or any portion thereof in \$5,000 multiples) will be subject to redemption prior to maturity, at the option of the Borrower, in whole or in part, on any date, at a redemption price equal to the principal amount being redeemed plus accrued interest to the date of redemption.

Notice of redemption shall be mailed by first class mail or by other acceptable standard, including facsimile, to the registered owner of the Bonds addressed to such registered owner at his, her or its registered address and placed in the mails or otherwise sent not less than thirty (30)

days prior to the date fixed for redemption. Each notice shall specify the numbers and the maturities of the Bonds being called and the date on which they shall be presented for payment. After the date specified in such call, the Bond or Bonds so called will cease to bear interest provided funds for their payment have been deposited with the Trustee, and, except for the purpose of payment, shall no longer be protected by the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture.

In the event of a partial redemption of this Bond, the Owner hereof is authorized to effect a reduction in the face amount of this Bond by making a notation on the payment grid attached hereto in lieu of surrendering this Bond to the Trustee for cancellation and the issuance of a new Bond or Bonds in the amount of the unredeemed portion hereof.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed in its name by its Mayor and City Clerk, thereunto duly authorized, with the manual or facsimile signature of the Mayor and the manual or facsimile signature of the City Clerk, and the corporate seal to be impressed or imprinted, all as of the ___ day of _____, 2016.

CITY OF JONESBORO, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

[S E A L]

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds issued under the provisions of the within mentioned Indenture.

[TO BE DETERMINED], as Trustee

By: _____
Authorized Signatory

Dated: _____, 2016

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Social Security or Federal Taxpayer Identification Number)

(Please print or typewrite Name and Address, including Zip Code, of Assignee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints the Registrar under the Indenture as Attorney to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature guaranteed by:

NOTICE:

SIGNATURE GUARANTEE SHOULD BE MADE BY A GUARANTOR INSTITUTION PARTICIPATING IN THE SECURITIES TRANSFER AGENTS MEDALLION PROGRAM OR IN SUCH OTHER GUARANTEE PROGRAM ACCEPTABLE TO THE TRUSTEE.

NOTICE:

THE SIGNATURE OF THE REGISTERED OWNER TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS IT APPEARS ON THE FACE OF THE WITHIN BOND IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.

Exhibit A-2

Form of Initial Bond

R-1

\$12,000,000

**UNITED STATES OF AMERICA
STATE OF ARKANSAS
\$12,000,000
CITY OF JONESBORO, ARKANSAS
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS
(HMD JONESBORO, LLC PROJECT)
SERIES 2016**

INTEREST RATE MATURITY DATE: ISSUE DATE

_____ % _____, 20__ _____, 2016

REGISTERED OWNER: [HMD SUB LLC]
PRINCIPAL AMOUNT: TWELVE MILLION AND 00/100 DOLLARS
(OR THE TOTAL AMOUNT OUTSTANDING AS REFLECTED BY THE
RECORD OF ADVANCES AND PRINCIPAL PAYMENTS ATTACHED
HERETO)

KNOW ALL PERSONS BY THESE PRESENTS:

That the City of Jonesboro, Arkansas, a city of the first class and a political subdivision under the laws of the State of Arkansas (the "Issuer") for value received, promises to pay to the Registered Owner stated above, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, the Principal Amount (stated above) on the Maturity Date (stated above), and to pay in like coin or currency, interest on said Principal Amount from the Issue Date (stated above) until paid as follows:

Interest on the unpaid Principal Amount (i) shall be payable annually on _____ of each year, beginning on _____, 2017 with the final principal and interest payment due on the maturity date, _____, 20__, and (ii) shall accrue from the Issue Date (stated above) at the Interest Rate (stated above) until the Issuer's obligation with respect to payment of such Principal Amount shall be discharged; provided that, the date of each Advance hereunder shall be the interest commencement date from which the principal amount of such Advance bears interest. Payment of interest shall be by check or draft of [To Be Determined], as Trustee and Paying Agent (the "Trustee"), to the Registered Owner as shown on the bond registration book of the Issuer maintained by the Trustee on the fifteenth calendar day of the month preceding the month in which the interest payment date occurs. Payment of principal shall be made at the principal office of the Trustee in _____, Arkansas, upon due surrender of this Bond on the Maturity Date (stated above) if not sooner called for redemption.

This Bond is one of an authorized issue of bonds of the Issuer in the Principal Amount of not to exceed \$12,000,000 (the “Bonds”) which are issued for the purpose of providing funds for the making of loans to HMD Jonesboro, LLC (the “Borrower”) to finance certain industrial enterprise within the State of Arkansas (the “Project”). The Bonds are all issued under and are all equally and ratably secured and entitled to the protection given by a Trust Indenture (the “Indenture”), dated as of _____, 2016, duly executed and delivered by the Issuer to the Trustee. Reference is hereby made to the Indenture and all indentures supplemental thereto for the provisions, among others, with respect to the nature and extent of the security, the issuance of additional series on a parity of security with the Bonds, the rights, duties and obligations of the Issuer, the Trustee and the Registered Owners of the Bonds, and the terms upon which the Bonds are issued and secured. The Bonds are secured by payments to be made by the Borrower pursuant to a Lease Agreement between the Borrower and the Issuer.

This Bond is issued with the intent that the laws of the State of Arkansas will govern its construction.

THESE BONDS ARE ISSUED UNDER THE PROVISIONS OF TITLE 14, CHAPTER 164, SUBCHAPTER 2 OF THE ARKANSAS CODE ANNOTATED, AS AMENDED (THE “ACT”), AND CONSTITUTE SPECIAL OBLIGATIONS OF THE ISSUER ONLY. IN NO EVENT SHALL THEY CONSTITUTE AN INDEBTEDNESS OF THE STATE OF ARKANSAS, OR AN INDEBTEDNESS FOR WHICH THE FAITH AND CREDIT OF THE STATE OF ARKANSAS OR ANY OF ITS REVENUES ARE PLEDGED OR AN INDEBTEDNESS SECURED BY A LIEN OR SECURITY INTEREST IN ANY PROPERTY OF THE STATE OF ARKANSAS. THE BONDS ARE NOT SECURED BY A PLEDGE OF THE FULL FAITH AND CREDIT OF THE ISSUER, NOR THE PLEDGE OF ANY OF ITS REVENUES EXCEPT AS SPECIFICALLY SET FORTH IN THE INDENTURE.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been signed by the Trustee.

The Issuer hereby covenants that it has been duly organized in accordance with law; and that all acts, conditions and things required to be done precedent to and in the issuance of this Bond have existed, have happened, and have been performed as required by law.

The Bonds are not general obligations of the Issuer, but are special obligations payable solely from revenues derived from the Project. The Project consists of certain land, buildings, improvements, equipment and facilities which have been leased by the Issuer to the Borrower under the terms of a Lease Agreement which provides for the loan and repayment of moneys in such amounts as shall be sufficient to pay the principal of and interest on the Bonds as the same become due. Provision has been made in the Lease Agreement for the loan repayments or rental payments to be made directly to the Trustee and deposited in special accounts of the Issuer designated “City of Jonesboro, Arkansas Industrial Development Revenue Bond Fund” (the “Bond Fund”). Certain Project revenues (including particularly repayments of the loans under the Lease Agreement) have been duly pledged by the Indenture to the payment of the principal of and interest on the Bonds. The Bonds do not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory limitation.

The owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in and defend any suit or other proceeding with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under the Indenture and then outstanding may be declared and may become due and payable before the stated maturity thereof, together with accrued interest thereon.

Modifications or alterations of the Indenture, or of any indenture supplemental thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

The Bonds shall be subject to redemption prior to maturity as follows:

(1) On any interest payment date, the Bonds may be redeemed in whole or in part, at the option of the Issuer at the direction of the Borrower, from the proceeds of insurance in the event of major damage or destruction of the Project pursuant to the provisions of the Lease Agreement, or from legal curtailment of the use and occupancy of all or substantially all of such Project for any reason other than condemnation. If called for redemption upon the occurrence of any of the events described in the preceding sentence, this Bond shall be redeemed in whole or in part, in the manner provided in this Bond and the Indenture, at one hundred percent (100%) of the principal amount thereof, plus accrued interest to the date of redemption.

(2) On any interest payment date, the Bond will be redeemed in whole or in part from the proceeds of condemnation of all or substantially all of the Project at a redemption price equal to one hundred percent (100%) of the principal amount being redeemed plus accrued interest to the redemption date.

(3) At any time, the Bonds shall be redeemed in whole or in part, at the option of the Issuer, from Bond proceeds not needed for construction of the Project, upon written notice to the Trustee at a redemption price equal to one hundred percent (100%) of the principal amount being redeemed plus accrued interest to the redemption date.

(4) At any time, the Bonds shall be redeemed in whole or in part, at the option of the Issuer, if the Issuer notifies the Trustee in writing that an event of default has occurred under the Lease Agreement and that it requests a redemption of such Bonds at a redemption price equal to one hundred percent (100%) of the principal amount being redeemed plus accrued interest to the redemption date.

(5) The Bonds (or any portion thereof in \$5,000 multiples) will be subject to redemption prior to maturity, at the option of the Borrower, in whole or in part, on any date, at a redemption price equal to the principal amount being redeemed plus accrued interest to the date of redemption.

Notice of redemption shall be mailed by first class mail or by other acceptable standard, including facsimile, to the registered owner of the Bonds addressed to such registered owner at his, her or its registered address and placed in the mails or otherwise sent not less than thirty (30)

days prior to the date fixed for redemption. Each notice shall specify the numbers and the maturities of the Bonds being called and the date on which they shall be presented for payment. After the date specified in such call, the Bond or Bonds so called will cease to bear interest provided funds for their payment have been deposited with the Trustee, and, except for the purpose of payment, shall no longer be protected by the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture.

In the event of a partial redemption of this Bond, the Owner hereof is authorized to effect a reduction in the face amount of this Bond by making a notation on the payment grid attached hereto in lieu of surrendering this Bond to the Trustee for cancellation and the issuance of a new Bond or Bonds in the amount of the unredeemed portion hereof.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed in its name by its Mayor and City Clerk, thereunto duly authorized, with the manual or facsimile signature of the Mayor and the manual or facsimile signature of the City Clerk, and the corporate seal to be impressed or imprinted, all as of the ___ day of _____, 2016.

CITY OF JONESBORO, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

[S E A L]

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds issued under the provisions of the within mentioned Indenture.

[TO BE DETERMINED], as Trustee

By: _____
Authorized Signatory

Dated: _____, 2015

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Social Security or Federal Taxpayer Identification Number)

(Please print or typewrite Name and Address, including Zip Code, of Assignee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints the Registrar under the Indenture as Attorney to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature guaranteed by:

NOTICE:

SIGNATURE GUARANTEE SHOULD BE MADE BY A GUARANTOR INSTITUTION PARTICIPATING IN THE SECURITIES TRANSFER AGENTS MEDALLION PROGRAM OR IN SUCH OTHER GUARANTEE PROGRAM ACCEPTABLE TO THE TRUSTEE.

NOTICE:

THE SIGNATURE OF THE REGISTERED OWNER TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS IT APPEARS ON THE FACE OF THE WITHIN BOND IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.

Exhibit B-1

Form of Bond After Completion Date

R-__

\$ _____

**UNITED STATES OF AMERICA
STATE OF ARKANSAS
CITY OF JONESBORO, ARKANSAS
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS
(FMH CONVEYORS LLC PROJECT)
SERIES 2016**

INTEREST RATE	MATURITY DATE:	ISSUE DATE
_____ %	_____, 20__	_____, 20__

REGISTERED OWNER: [FMH SUB LLC]

PRINCIPAL AMOUNT: _____ **MILLION AND 00/100 DOLLARS**

KNOW ALL PERSONS BY THESE PRESENTS:

That the City of Jonesboro, Arkansas, a city of the first class and a political subdivision under the laws of the State of Arkansas (the "Issuer") for value received, promises to pay to the Registered Owner stated above, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, the Principal Amount (stated above) on the Maturity Date (stated above), and to pay in like coin or currency, interest on said Principal Amount from the Issue Date (stated above) until paid as follows:

Interest on the unpaid Principal Amount (i) shall be payable annually on _____ of each year, beginning on _____, 2017 with the final principal and interest payment due on the maturity date, _____, 20__, and (ii) shall accrue from the Issue Date (stated above) at the Interest Rate (stated above) until the Issuer's obligation with respect to payment of such Principal Amount shall be discharged. Payment of interest shall be by check or draft of [To Be Determined], as Trustee and Paying Agent (the "Trustee"), to the Registered Owner as shown on the bond registration book of the Issuer maintained by the Trustee on the fifteenth calendar day of the month preceding the month in which the interest payment date occurs. Payment of principal shall be made at the principal office of the Trustee in _____, Arkansas, upon due surrender of this Bond on the Maturity Date (stated above) if not sooner called for redemption.

This Bond is one of an authorized issue of bonds of the Issuer in the Principal Amount of \$ _____ (the "Bonds") which are issued for the purpose of providing funds for the making of loans to FMH Conveyors LLC (the "Borrower") to finance certain industrial enterprise within the State of Arkansas (the "Project"). The Bonds are all issued under and are all equally and ratably secured and entitled to the protection given by a Trust Indenture (the "Indenture"), dated as of

_____, 2016, duly executed and delivered by the Issuer to the Trustee. Reference is hereby made to the Indenture and all indentures supplemental thereto for the provisions, among others, with respect to the nature and extent of the security, the issuance of additional series on a parity of security with the Bonds, the rights, duties and obligations of the Issuer, the Trustee and the Registered Owners of the Bonds, and the terms upon which the Bonds are issued and secured. The Bonds are secured by payments to be made by the Borrower pursuant to a Lease Agreement between the Borrower and the Issuer.

This Bond is issued with the intent that the laws of the State of Arkansas will govern its construction.

THESE BONDS ARE ISSUED UNDER THE PROVISIONS OF TITLE 14, CHAPTER 164, SUBCHAPTER 2 OF THE ARKANSAS CODE ANNOTATED, AS AMENDED (THE “ACT”), AND CONSTITUTE SPECIAL OBLIGATIONS OF THE ISSUER ONLY. IN NO EVENT SHALL THEY CONSTITUTE AN INDEBTEDNESS OF THE STATE OF ARKANSAS, OR AN INDEBTEDNESS FOR WHICH THE FAITH AND CREDIT OF THE STATE OF ARKANSAS OR ANY OF ITS REVENUES ARE PLEDGED OR AN INDEBTEDNESS SECURED BY A LIEN OR SECURITY INTEREST IN ANY PROPERTY OF THE STATE OF ARKANSAS. THE BONDS ARE NOT SECURED BY A PLEDGE OF THE FULL FAITH AND CREDIT OF THE ISSUER, NOR THE PLEDGE OF ANY OF ITS REVENUES EXCEPT AS SPECIFICALLY SET FORTH IN THE INDENTURE.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been signed by the Trustee.

The Issuer hereby covenants that it has been duly organized in accordance with law; and that all acts, conditions and things required to be done precedent to and in the issuance of this Bond have existed, have happened, and have been performed as required by law.

The Bonds are not general obligations of the Issuer, but are special obligations payable solely from revenues derived from the Project. The Project consists of certain land, buildings, improvements, equipment and facilities which have been leased by the Issuer to the Borrower under the terms of a Lease Agreement which provides for the loan and repayment of moneys in such amounts as shall be sufficient to pay the principal of and interest on the Bonds as the same become due. Provision has been made in the Lease Agreement for the loan repayments or rental payments to be made directly to the Trustee and deposited in special accounts of the Issuer designated “City of Jonesboro, Arkansas Industrial Development Revenue Bond Fund” (the “Bond Fund”). Certain Project revenues (including particularly repayments of the loans under the Lease Agreement) have been duly pledged by the Indenture to the payment of the principal of and interest on the Bonds. The Bonds do not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory limitation.

The owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in and defend any suit or other proceeding with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the

manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under the Indenture and then outstanding may be declared and may become due and payable before the stated maturity thereof, together with accrued interest thereon.

Modifications or alterations of the Indenture, or of any indenture supplemental thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

The Bonds shall be subject to redemption prior to maturity as follows:

(1) On any interest payment date, the Bonds may be redeemed in whole or in part, at the option of the Issuer at the direction of the Borrower, from the proceeds of insurance in the event of major damage or destruction of the Project pursuant to the provisions of the Lease Agreement, or from legal curtailment of the use and occupancy of all or substantially all of such Project for any reason other than condemnation. If called for redemption upon the occurrence of any of the events described in the preceding sentence, this Bond shall be redeemed in whole or in part, in the manner provided in this Bond and the Indenture, at one hundred percent (100%) of the principal amount thereof, plus accrued interest to the date of redemption.

(2) On any interest payment date, the Bond will be redeemed in whole or in part from the proceeds of condemnation of all or substantially all of the Project at a redemption price equal to one hundred percent (100%) of the principal amount being redeemed plus accrued interest to the redemption date.

(3) At any time, the Bonds shall be redeemed in whole or in part, at the option of the Issuer, from Bond proceeds not needed for construction of the Project, upon written notice to the Trustee at a redemption price equal to one hundred percent (100%) of the principal amount being redeemed plus accrued interest to the redemption date.

(4) At any time, the Bonds shall be redeemed in whole or in part, at the option of the Issuer, if the Issuer notifies the Trustee in writing that an event of default has occurred under the Lease Agreement and that it requests a redemption of such Bonds at a redemption price equal to one hundred percent (100%) of the principal amount being redeemed plus accrued interest to the redemption date.

(5) The Bonds (or any portion thereof in \$5,000 multiples) will be subject to redemption prior to maturity, at the option of the Borrower, in whole or in part, on any date, at a redemption price equal to the principal amount being redeemed plus accrued interest to the date of redemption.

Notice of redemption shall be mailed by first class mail or by other acceptable standard, including facsimile, to the registered owner of the Bonds addressed to such registered owner at his registered address and placed in the mails or otherwise sent not less than thirty (30) days prior to the date fixed for redemption. Each notice shall specify the numbers and the maturities of the Bonds being called and the date on which they shall be presented for payment. After the date specified in such call, the Bond or Bonds so called will cease to bear interest provided funds for their payment have been deposited with the Trustee, and, except for the purpose of payment,

shall no longer be protected by the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture.

In the event of a partial redemption of this Bond, the Owner hereof is authorized to effect a reduction in the face amount of this Bond by making a notation on the payment grid attached hereto in lieu of surrendering this Bond to the Trustee for cancellation and the issuance of a new Bond or Bonds in the amount of the unredeemed portion hereof.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed in its name by its Mayor and City Clerk, thereunto duly authorized, with the manual or facsimile signature of the Mayor and the manual or facsimile signature of the City Clerk, and the corporate seal to be impressed or imprinted, all as of the ____ day of _____, 20__.

CITY OF JONESBORO, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

[S E A L]

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds issued under the provisions of the within mentioned Indenture.

[TO BE DETERMINED], as Trustee

By: _____
Authorized Signatory

Dated: _____

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Social Security or Federal Taxpayer Identification Number)

(Please print or typewrite Name and Address, including Zip Code, of Assignee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints the Registrar under the Indenture as Attorney to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature guaranteed by:

NOTICE:

SIGNATURE GUARANTEE SHOULD BE MADE BY A GUARANTOR INSTITUTION PARTICIPATING IN THE SECURITIES TRANSFER AGENTS MEDALLION PROGRAM OR IN SUCH OTHER GUARANTEE PROGRAM ACCEPTABLE TO THE TRUSTEE.

NOTICE:

THE SIGNATURE OF THE REGISTERED OWNER TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS IT APPEARS ON THE FACE OF THE WITHIN BOND IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.

Exhibit B-2

Form of Bond After Completion Date

R-__

\$ _____

**UNITED STATES OF AMERICA
STATE OF ARKANSAS
CITY OF JONESBORO, ARKANSAS
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS
(HMD JONESBORO, LLC PROJECT)
SERIES 2016**

INTEREST RATE MATURITY DATE: ISSUE DATE

_____% _____, 20__ _____, 20__

REGISTERED OWNER: [HMD SUB LLC]

PRINCIPAL AMOUNT: _____ **MILLION AND 00/100 DOLLARS**

KNOW ALL PERSONS BY THESE PRESENTS:

That the City of Jonesboro, Arkansas, a city of the first class and a political subdivision under the laws of the State of Arkansas (the "Issuer") for value received, promises to pay to the Registered Owner stated above, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, the Principal Amount (stated above) on the Maturity Date (stated above), and to pay in like coin or currency, interest on said Principal Amount from the Issue Date (stated above) until paid as follows:

Interest on the unpaid Principal Amount (i) shall be payable annually on _____ of each year, beginning on _____, 2017 with the final principal and interest payment due on the maturity date, _____, 20__, and (ii) shall accrue from the Issue Date (stated above) at the Interest Rate (stated above) until the Issuer's obligation with respect to payment of such Principal Amount shall be discharged. Payment of interest shall be by check or draft of [To Be Determined], as Trustee and Paying Agent (the "Trustee"), to the Registered Owner as shown on the bond registration book of the Issuer maintained by the Trustee on the fifteenth calendar day of the month preceding the month in which the interest payment date occurs. Payment of principal shall be made at the principal office of the Trustee in _____, Arkansas, upon due surrender of this Bond on the Maturity Date (stated above) if not sooner called for redemption.

This Bond is one of an authorized issue of bonds of the Issuer in the Principal Amount of \$ _____ (the "Bonds") which are issued for the purpose of providing funds for the making of loans to HMD Jonesboro, LLC (the "Borrower") to finance certain industrial enterprise within the State of Arkansas (the "Project"). The Bonds are all issued under and are all equally and ratably secured and entitled to the protection given by a Trust Indenture (the "Indenture"), dated as of _____, 2016, duly executed and delivered by the Issuer to the Trustee. Reference

is hereby made to the Indenture and all indentures supplemental thereto for the provisions, among others, with respect to the nature and extent of the security, the issuance of additional series on a parity of security with the Bonds, the rights, duties and obligations of the Issuer, the Trustee and the Registered Owners of the Bonds, and the terms upon which the Bonds are issued and secured. The Bonds are secured by payments to be made by the Borrower pursuant to a Lease Agreement between the Borrower and the Issuer.

This Bond is issued with the intent that the laws of the State of Arkansas will govern its construction.

THESE BONDS ARE ISSUED UNDER THE PROVISIONS OF TITLE 14, CHAPTER 164, SUBCHAPTER 2 OF THE ARKANSAS CODE ANNOTATED, AS AMENDED (THE "ACT"), AND CONSTITUTE SPECIAL OBLIGATIONS OF THE ISSUER ONLY. IN NO EVENT SHALL THEY CONSTITUTE AN INDEBTEDNESS OF THE STATE OF ARKANSAS, OR AN INDEBTEDNESS FOR WHICH THE FAITH AND CREDIT OF THE STATE OF ARKANSAS OR ANY OF ITS REVENUES ARE PLEDGED OR AN INDEBTEDNESS SECURED BY A LIEN OR SECURITY INTEREST IN ANY PROPERTY OF THE STATE OF ARKANSAS. THE BONDS ARE NOT SECURED BY A PLEDGE OF THE FULL FAITH AND CREDIT OF THE ISSUER, NOR THE PLEDGE OF ANY OF ITS REVENUES EXCEPT AS SPECIFICALLY SET FORTH IN THE INDENTURE.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been signed by the Trustee.

The Issuer hereby covenants that it has been duly organized in accordance with law; and that all acts, conditions and things required to be done precedent to and in the issuance of this Bond have existed, have happened, and have been performed as required by law.

The Bonds are not general obligations of the Issuer, but are special obligations payable solely from revenues derived from the Project. The Project consists of certain land, buildings, improvements, equipment and facilities which have been leased by the Issuer to the Borrower under the terms of a Lease Agreement which provides for the loan and repayment of moneys in such amounts as shall be sufficient to pay the principal of and interest on the Bonds as the same become due. Provision has been made in the Lease Agreement for the loan repayments or rental payments to be made directly to the Trustee and deposited in special accounts of the Issuer designated "City of Jonesboro, Arkansas Industrial Development Revenue Bond Fund" (the "Bond Fund"). Certain Project revenues (including particularly repayments of the loans under the Lease Agreement) have been duly pledged by the Indenture to the payment of the principal of and interest on the Bonds. The Bonds do not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory limitation.

The owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in and defend any suit or other proceeding with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under

the Indenture and then outstanding may be declared and may become due and payable before the stated maturity thereof, together with accrued interest thereon.

Modifications or alterations of the Indenture, or of any indenture supplemental thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

The Bonds shall be subject to redemption prior to maturity as follows:

(1) On any interest payment date, the Bonds may be redeemed in whole or in part, at the option of the Issuer at the direction of the Borrower, from the proceeds of insurance in the event of major damage or destruction of the Project pursuant to the provisions of the Lease Agreement, or from legal curtailment of the use and occupancy of all or substantially all of such Project for any reason other than condemnation. If called for redemption upon the occurrence of any of the events described in the preceding sentence, this Bond shall be redeemed in whole or in part, in the manner provided in this Bond and the Indenture, at one hundred percent (100%) of the principal amount thereof, plus accrued interest to the date of redemption.

(2) On any interest payment date, the Bond will be redeemed in whole or in part from the proceeds of condemnation of all or substantially all of the Project at a redemption price equal to one hundred percent (100%) of the principal amount being redeemed plus accrued interest to the redemption date.

(3) At any time, the Bonds shall be redeemed in whole or in part, at the option of the Issuer, from Bond proceeds not needed for construction of the Project, upon written notice to the Trustee at a redemption price equal to one hundred percent (100%) of the principal amount being redeemed plus accrued interest to the redemption date.

(4) At any time, the Bonds shall be redeemed in whole or in part, at the option of the Issuer, if the Issuer notifies the Trustee in writing that an event of default has occurred under the Lease Agreement and that it requests a redemption of such Bonds at a redemption price equal to one hundred percent (100%) of the principal amount being redeemed plus accrued interest to the redemption date.

(5) The Bonds (or any portion thereof in \$5,000 multiples) will be subject to redemption prior to maturity, at the option of the Borrower, in whole or in part, on any date, at a redemption price equal to the principal amount being redeemed plus accrued interest to the date of redemption.

Notice of redemption shall be mailed by first class mail or by other acceptable standard, including facsimile, to the registered owner of the Bonds addressed to such registered owner at his registered address and placed in the mails or otherwise sent not less than thirty (30) days prior to the date fixed for redemption. Each notice shall specify the numbers and the maturities of the Bonds being called and the date on which they shall be presented for payment. After the date specified in such call, the Bond or Bonds so called will cease to bear interest provided funds for their payment have been deposited with the Trustee, and, except for the purpose of payment,

shall no longer be protected by the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture.

In the event of a partial redemption of this Bond, the Owner hereof is authorized to effect a reduction in the face amount of this Bond by making a notation on the payment grid attached hereto in lieu of surrendering this Bond to the Trustee for cancellation and the issuance of a new Bond or Bonds in the amount of the unredeemed portion hereof.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed in its name by its Mayor and City Clerk, thereunto duly authorized, with the manual or facsimile signature of the Mayor and the manual or facsimile signature of the City Clerk, and the corporate seal to be impressed or imprinted, all as of the ____ day of _____, 20__.

CITY OF JONESBORO, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

[S E A L]

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds issued under the provisions of the within mentioned Indenture.

[TO BE DETERMINED], as Trustee

By: _____
Authorized Signatory

Dated: _____

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Social Security or Federal Taxpayer Identification Number)

(Please print or typewrite Name and Address, including Zip Code, of Assignee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints the Registrar under the Indenture as Attorney to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature guaranteed by:

NOTICE:

SIGNATURE GUARANTEE SHOULD BE MADE BY A GUARANTOR INSTITUTION PARTICIPATING IN THE SECURITIES TRANSFER AGENTS MEDALLION PROGRAM OR IN SUCH OTHER GUARANTEE PROGRAM ACCEPTABLE TO THE TRUSTEE.

NOTICE:

THE SIGNATURE OF THE REGISTERED OWNER TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS IT APPEARS ON THE FACE OF THE WITHIN BOND IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.

CITY OF JONESBORO, ARKANSAS

Issuer

and

[FMH SUB LLC]

and

[HMD SUB LLC]

Purchasers

BOND PURCHASE AGREEMENT

Dated _____, 2016

Not to Exceed

\$2,000,000

City of Jonesboro, Arkansas

Taxable Industrial Development Revenue Bonds

(FMH Conveyors LLC Project)

Series 2016

and

\$12,000,000

City of Jonesboro, Arkansas

Taxable Industrial Development Revenue Bonds

(HMD Jonesboro, LLC Project)

Series 2016

BOND PURCHASE AGREEMENT

<p>Not to Exceed \$2,000,000 City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (FMH Conveyors LLC Project) Series 2016</p>	<p>Not to Exceed \$12,000,000 City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (HMD Jonesboro, LLC Project) Series 2016</p>
---	---

_____, 2016

[FMH SUB LLC] (hereunder “FMH Purchaser”)

[HMD SUB LLC] (hereunder “HMD Purchaser”)

Ladies and Gentlemen:

The City of Jonesboro, Arkansas (the “Issuer”), a political subdivision organized and existing under the laws of the State of Arkansas, hereby agrees with you as follows:

**SECTION 1.
PURCHASE AND SALE OF BONDS**

1.1. Issuance of Bonds. The Issuer has authorized the issuance of its Taxable Industrial Development Revenue Bonds (FMH Conveyors LLC Project), Series 2016 in a principal amount not to exceed Two Million and No/100 Dollars (\$2,000,000) (the “FMH Bonds”) and its Taxable Industrial Development Revenue Bonds (HMD Jonesboro, LLC Project), Series 2016 in a principal amount not to exceed Twelve Million and No/100 Dollars (\$12,000,000) (the “HMD Bonds,” and collectively with the FMH Bonds, the “Bonds”), pursuant to and in accordance with Amendment 65 to the Constitution of the State of Arkansas (“Amendment 65”), Act No. 9 of the First Extraordinary Session of the Sixty-Second General Assembly of the State of Arkansas for the year 1960, codified as Ark. Code Ann. Sections 14-164-201 *et seq.* as amended (“Act 9”), and Ordinance _____ of the Issuer (the “Ordinance”), duly adopted by its City Council on _____, 2016, such Bonds to be dated, to bear interest and to be payable as set forth in, and to be issued pursuant to the terms of a Trust Indenture (the “Indenture”) dated as of _____, 2016, by and between the Issuer and [To be determined], as trustee (the “Trustee”). The FMH Bonds shall be issued as a single typewritten drawdown bond with a stated principal of \$2,000,000; provided, however, that the principal amount due thereon shall be only such amount as has been drawn by FMH (as defined below) as reflected on the Schedule of Draws and Redemptions attached to the FMH Bonds. The HMD Bonds shall be issued as a single typewritten drawdown bond with a stated principal

of \$12,000,000; provided, however, that the principal amount due thereon shall be only such amount as has been drawn by HMD (as defined below) as reflected on the Schedule of Draws and Redemptions attached to the HMD Bonds. The Bonds shall bear interest on the principal amount drawn by FMH and HMD, respectively, at the rate of _____% per annum, payable annually on _____, commencing _____, 2017. The Bonds will mature on _____, 2036. The proceeds from the sale of the Bonds shall be applied to acquire, construct and equip certain industrial facilities (the "Project") near the corporate boundaries of the Issuer (or to reimburse FMH and HMD, respectively, for said costs). The Issuer shall lease a portion of the Project to FMH Conveyors LLC, a Delaware limited liability company ("FMH"), pursuant to the terms of a Lease Agreement dated as of _____, 2016 (the "FMH Lease Agreement"). The FMH Bonds will be secured by (i) the assignment by the Issuer to the Trustee for the benefit of the owner(s) of the bonds of the rights of the Issuer under the FMH Lease Agreement, and (ii) such other funds and accounts as are described in the Indenture. The Issuer shall lease a portion of the Project to HMD Jonesboro, LLC, a Tennessee limited liability company ("HMD"), pursuant to the terms of a Lease Agreement dated as of _____, 2016 (the "HMD Lease Agreement"). The HMD Bonds will be secured by (i) the assignment by the Issuer to the Trustee for the benefit of the owner(s) of the bonds of the rights of the Issuer under the HMD Lease Agreement, and (ii) such other funds and accounts as are described in the Indenture.

1.2. Closing. The Issuer hereby agrees to sell the FMH Bonds to [FMH SUB LLC] and, subject to the terms and conditions herein set forth, you hereby agree to purchase from the Issuer, from time to time, all or any portion of the Bonds at 100% of the principal amount drawn by FMH pursuant to a Draw Certificate as provided in the Indenture. The Issuer hereby agrees to sell the HMD Bonds to [HMD SUB LLC] and, subject to the terms and conditions herein set forth, you hereby agree to purchase from the Issuer, from time to time, all or any portion of the Bonds at 100% of the principal amount drawn by HMD pursuant to a Draw Certificate as provided in the Indenture. The closing of the purchase of the Bonds shall be at 10:00 A.M. local time, on _____, 2016 (the "Closing Date"), at the offices of Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C., 425 West Capitol Avenue, Suite 1800, Little Rock, Arkansas 72201, or at such other time and place as shall be subsequently agreed upon by the parties. At the closing and upon each subsequent draw, FMH and HMD, respectively, will deliver a duly executed Draw Certificate to the Trustee on behalf of the Issuer, you will deliver to the Trustee, in immediately available funds, the principal amount specified in the Draw Certificate, and the Trustee will deliver to FMH and HMD, respectively, or its order, in immediately available funds, the principal amount specified in the Draw Certificate.

Notwithstanding any provision of this Bond Purchase Agreement (the "Agreement") to the contrary, the Issuer, FMH Purchaser, HMD Purchaser, FMH, HMD, and the Trustee may enter into or accept the terms of a home office payment agreement for the making of all payments due under this Agreement and other documents contemplated by this Agreement upon such conditions as shall be satisfactory to the parties thereto contemporaneous with the issuance of the Bonds (the "Home Office Payment Agreement").

SECTION 2.
WARRANTIES, REPRESENTATIONS AND
AGREEMENTS OF THE ISSUER

The Issuer warrants, represents and agrees to and for your benefit and the benefit of FMH and HMD that:

2.1. Organization and Authority. The Issuer is a duly organized and validly existing political subdivision of the State of Arkansas and has all requisite power and authority under Amendment 65 and Act 9 to issue, sell and deliver the Bonds as provided herein and to consummate all other transactions involving the Issuer contemplated by this Agreement, the FMH Lease Agreement, the HMD Lease Agreement, the Indenture, the Home Office Payment Agreement, an Agreement for Payment in Lieu of Taxes to be dated as of the date of its delivery by and between the Issuer and FMH (the “FMH PILOT Agreement”), and an Agreement for Payment in Lieu of Taxes to be dated as of the date of its delivery by and between the Issuer and HMD (the “HMD PILOT Agreement”).

2.2. Pending Litigation. There is no action, suit, proceeding or investigation pending or threatened against or affecting the Issuer, or, to the best knowledge of the Issuer, any basis therefor, wherein an unfavorable decision or finding would adversely affect the transactions contemplated by this Agreement, or which in any way would adversely affect the validity or enforceability of the Bonds, this Agreement, the FMH Lease Agreement, the HMD Lease Agreement, the Indenture, the Home Office Payment Agreement, the FMH PILOT Agreement, or the HMD PILOT Agreement.

2.3. Sale and Other Transactions are Legal and Authorized. The sale of the Bonds, the execution, delivery and due performance of this Agreement, the FMH Lease Agreement, the HMD Lease Agreement, the Indenture, the Home Office Payment Agreement, the FMH PILOT Agreement, or the HMD PILOT Agreement, and all transactions contemplated by this Agreement and those agreements are within the purposes, powers and authority of the Issuer, and have been done in full compliance with the provisions of the Ordinance, Amendment 65 and Act 9, as applicable, and all other applicable laws of the State of Arkansas. When delivered to you in accordance with this Agreement, the Bonds being purchased by you hereunder will be duly authorized, executed, issued and delivered and will constitute the legal, valid and binding obligation of the Issuer payable solely from the revenues and other funds pledged in the Indenture therefor, and the owner(s) of the Bonds and their assigns will be entitled to the benefits of this Agreement, the Home Office Payment Agreement, the Indenture and either the FMH Lease Agreement or the HMD Lease Agreement.

2.4. Governmental Consents. All consents, approvals, authorizations and orders of, or filings, registrations or qualifications with, any governmental or regulatory authorities which are required to be obtained by the Issuer for the consummation of the transactions contemplated by this Agreement have been duly and validly obtained or performed and are in full force and effect.

2.5. Use of Proceeds for Public Purposes. The Issuer has determined that the Project and the use of the proceeds from the sale of the Bonds therefor will accomplish the public

purposes set forth in Act 9 and that under Article 16, Section 5 of the Constitution of the State of Arkansas (as currently interpreted by the Arkansas Supreme Court), the Project will be exempt from ad valorem taxes because it is owned by the Issuer.

SECTION 3. CONDITIONS OF CLOSING

Your obligation to purchase and pay for the FMH Bonds or the HMD Bonds, as appropriate, to be delivered to you on the Closing Date and on the dates of any subsequent draws thereunder shall be subject to the following conditions precedent:

3.1. Opinion of Counsel. Your receipt from Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C., bond counsel, of an approving opinion satisfactory to you.

3.2. Warranties and Representations True as of the Closing Date. You shall not have received notice from the Issuer that any of the warranties and representations of the Issuer contained in Section 2 hereof shall be untrue in any material respect as of the Closing Date or as of the date of any subsequent draw; there shall exist no “event of default” (as defined in the FMH Lease Agreement or the HMD Lease Agreement, as appropriate, and the Indenture) on such date; and you shall have received a certificate of Issuer to such effect.

3.3. Execution and Delivery of Documents. The FMH Lease Agreement, the HMD Lease Agreement, the Indenture, the Home Office Payment Agreement, the FMH PILOT Agreement and the HMD PILOT Agreement shall each have been duly executed and delivered by the respective parties thereto, and each shall be in full force and effect on the Closing Date and on the date of each subsequent draw under the Bonds.

3.4. Filings. All recordations and filings appropriate or required by law in order fully to perfect, preserve and protect the assignment of the FMH Lease Agreement or the HMD Lease Agreement, as appropriate, and the lien of the Indenture and the security interests created by the FMH Lease Agreement or the HMD Lease Agreement, as appropriate, and the rights of the Trustee thereunder shall have been performed.

3.5. Proceedings Satisfactory. All corporate and other proceedings taken or to be taken in connection with the transactions relating hereto and all documents incident thereto shall be satisfactory in substance and form to you and your counsel, and you and your counsel shall have received such counterpart originals or certified or other copies of such documents as you or they may reasonably request.

3.6. No Litigation. No litigation or proceeding shall be threatened or pending in any court or other official body (i) to restrain or enjoin the issuance or delivery of the Bonds, (ii) which in any way questions or affects the validity of the Bonds, any provisions thereof, any provisions of the Ordinance, this Agreement, the FMH Lease Agreement, the HMD Lease Agreement, the Indenture, the FMH PILOT Agreement, the HMD PILOT Agreement, the Home Office Payment Agreement or any proceedings taken with respect to the foregoing, or (iii) which questions the Issuer’s creation, organization or existence or the titles to office of any of its officers, or its powers to acquire, finance and lease the Project.

**SECTION 4.
SPECIAL COVENANTS**

4.1. Delivery Expenses. Payment of all costs of issuance in connection with the preparation, execution, printing and delivery of the Bonds to the place of closing and all fees and expenses of Bond Counsel, Issuer's counsel and your counsel shall be paid, or caused to be paid, from the proceeds of the Bonds or otherwise at the election of FMH or HMD, as appropriate.

4.2. Special Obligations. Notwithstanding anything herein to the contrary, all covenants and agreements contained in this Agreement on behalf of the Issuer shall be subject to the provisions of this Section 4.2. The Bonds shall be special limited obligations of the Issuer as provided in Act 9, the principal of and interest on which are payable solely from revenues or other receipts, funds, monies and property pledged or mortgaged therefor under the Indenture, and any amounts payable by the Issuer under this Agreement, the FMH Lease Agreement, the HMD Lease Agreement or the Indenture are payable solely therefrom. Neither the State of Arkansas nor any political subdivision thereof shall in any event be liable for the payment of the principal of or interest on the Bonds.

**SECTION 5.
MISCELLANEOUS**

5.1. Expenses. FMH and HMD shall pay and indemnify the Issuer for the amount of all expenses reasonably incurred in connection with the issuance of the Bonds and not otherwise paid from Bond proceeds.

5.2. Notices. All communications provided for hereunder shall be sent by fax or by first class or certified mail and, if to you, addressed to you in the manner in which this letter is addressed; if to the Issuer, at P.O. Box 1845, Jonesboro, Arkansas 72403, Attention: Mayor; with a copy to Carol M. Duncan, Attorney at Law, 410 W. Washington Ave., Jonesboro, Arkansas 72401; and if to FMH, to FMH Conveyors LLC, _____, Attention: Member; and if to HMD, to HMD Jonesboro, LLC, _____, Attention: Member or to such other address with respect to any party as such party shall notify the others in writing.

5.3. Survival of Representations and Warranties. All representations and warranties contained herein or made in writing by the Issuer in connection herewith shall survive the execution and delivery of this Agreement and the Bonds.

5.4. Successors and Assigns. All covenants and agreements in this Agreement contained by or on behalf of any of the parties hereto shall bind and inure to the benefit of the respective successors and assigns of the parties hereto whether so expressed or not. The provisions of this Agreement are intended to be for the benefit of all owner(s) from time to time of the Bonds, and shall be enforceable by any such owner, whether or not an express assignment to such owner of rights under this Agreement has been made by you or your successors or assigns. You may not assign any portion of your rights and obligations hereunder without the written consent of the Issuer, FMH and HMD, which consent shall not be unreasonably withheld or delayed.

5.5. Responsibility of Individuals. All covenants, stipulations, promises, agreements and obligations of the Issuer contained in this Agreement shall be deemed to be covenants, stipulations, promises, agreements and obligations of the Issuer and not of any director, officer, employee or agent of the Issuer in his or her individual capacity.

5.6. Satisfaction Requirement. If any agreement, certificate or other writing, or any action taken or to be taken, is by the terms of this Agreement required to be satisfactory to you, the determination of such satisfaction shall be made by you in your sole and exclusive judgment exercised in good faith.

5.7. Representation of Purchasers. You specifically understand and agree that, prior to the sale of the Bonds to you, you will be required to execute and deliver a letter in substantially the form attached hereto as Exhibit A. You further understand and acknowledge that your obligation under Section 1.2 hereof to purchase from time to time an amount of the Bonds up to the entire authorized principal amount will survive and be unaffected by any transfer or purported transfer by you of any interest in the Bonds.

5.8. Governing Law. This Agreement is being delivered and is intended to be performed in the State of Arkansas, and shall be construed and enforced in accordance with the laws of such State.

5.9. Modifications. This Agreement may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

5.10. Descriptive Headings. The descriptive headings of the several Sections of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

5.11. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.

[Signature Pages Follow]

If you are in agreement with the foregoing, please sign the form of acceptance on the enclosed counterpart of this document and return the same to the undersigned, whereupon this shall become a binding agreement between you and the undersigned.

Very truly yours,

CITY OF JONESBORO, ARKANSAS

By: _____
Harold Perrin, Mayor

ATTEST:

By: _____
Donna Jackson, City Clerk

ACCEPTED:

[HMD SUB LLC]

an _____ limited liability company

By: **HMD JONESBORO, LLC**
a Tennessee limited liability company,
Its sole Member

By: _____
Name: _____
Title: _____

[FMH SUB LLC]

an _____ limited liability company

By: **FMH CONVEYORS LLC**
a Delaware limited liability company,
Its sole Member

By: _____
Name: _____
Title: _____

APPROVED:

FMH CONVEYORS LLC

a Delaware limited liability company

By: _____
Name: _____
Title: _____

HMD JONESBORO, LLC

a Tennessee limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT A

FORM OF INVESTOR LETTER

[Prepared on Letterhead of Bond Purchaser]

_____, 2016

Mitchell, Williams, Selig,
Gates & Woodyard, P.L.L.C.
100 East Huntington, Suite C
Jonesboro, AR 72401

[To be determined]
Attention: Corporate Trust Department

City of Jonesboro, Arkansas
Attention: Mayor
P.O. Box 1845
Jonesboro, Arkansas 72403

[FMH CONVEYORS LLC/HMD
JONESBORO, LLC]
Attention: President

<p style="text-align: center;">\$2,000,000 City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (FMH Conveyors LLC Project) Series 2016</p>	<p style="text-align: center;">\$12,000,000 City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (HMD Jonesboro, LLC Project) Series 2016</p>
---	---

Ladies and Gentlemen:

In connection with the purchase by us of the above-described bonds (the “Bonds”), we hereby certify as follows:

1. We understand that we will not receive from the City of Jonesboro, Arkansas (the “Issuer”), [FMH Conveyors LLC/HMD Jonesboro, LLC] (the “Company”), [To be determined] (the “Trustee”), their governing bodies, their members or any of their officers, employees or agents or Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C. (“Bond Counsel”) any information with respect to the use of the proceeds of the Bonds and the Project, as defined in the Trust Indenture dated as of _____, 2016 (the “Indenture”), the Bonds themselves, the provisions for payment thereof, the security therefor or the sufficiency of such provisions for payment thereof and security therefor, except (a) in the documentation executed in connection with the issuance of the Bonds, copies of which have been provided to us and reviewed by us prior to our purchase of the Bonds (the “Bond Documents”), and (b) as has been specifically requested by us from the Company and which has been provided to us and reviewed by us prior to our purchase of the Bonds (the “Additional Information”).

2. Neither the Issuer, the Company, the Trustee, their governing bodies, their members nor any of their officers, employees or agents nor Bond Counsel will have any responsibility to us for the accuracy or completeness of information obtained by us from any source regarding the Project, the Issuer, the Company or its assets, business, circumstances, financial condition and properties, or regarding the Bonds, the provisions for payment thereof, or the sufficiency of any security therefor, including, without limitation, any information specifically provided by any of such parties contained in the Bond Documents. We acknowledge that, as between us and all of such parties: (a) we have assumed responsibility for obtaining such information and making such review as we have deemed necessary or desirable in connection with our decision to purchase the Bonds, and (b) the Bond Documents and the Additional Information constitute all the information and, with the investigation made by us (including specifically our investigation of the Company and the Project) prior to our purchase of the Bonds, review that we have deemed necessary or desirable in connection with our decision to purchase the Bonds.

3. We have been offered copies of or full access to all documents relating to the issuance of the Bonds and all records, reports, financial statements and other information concerning the Issuer, the Company and the Project and pertinent to the source of payment for the Bonds which we, as a reasonable investor, have requested and to which we, as a reasonable investor, would attach significance in making investment decisions. We have been afforded the opportunity to ask such questions of representatives of the Company as we have deemed necessary in making our investment decisions; and we have based our decision to invest in the Bonds solely on our own investigation, including, without limitation, our review of such documents, records, reports, financial statements and other information concerning the Company and the Project and discussions with representatives of the Company.

4. We are either (a) a bank, registered investment company, insurance company or other “accredited investor” as defined in Rule 501 of Regulation D of the United States Securities and Exchange Commission, or (b) described in paragraph 5. If described in this paragraph 4, we are duly and validly organized under the laws of our jurisdiction of incorporation or organization, and we can bear the economic risk of the purchase of the Bonds and have such knowledge and experience in business and financial matters, including the analysis of a participation in the purchase of similar investments, as to be capable of evaluating the merits and risks of an investment in the Bonds on the basis of the information and review described in paragraph 2. If I am a natural person described in this paragraph 4: (i) I have a net worth, or joint net worth with my spouse, of at least \$1,000,000, or (ii) I had an individual income in excess of \$200,000 in each of the two most recent years or joint income with my spouse in excess of \$300,000 in each of those years and have a reasonable expectation of reaching the same income level in the current year.

5. If not described in paragraph 4, we are a registered investment advisor purchasing the Bonds for inclusion in the portfolio of a registered investment company advised by us and over whose transactions we have discretionary power. If described in this paragraph 5, we have such knowledge and experience in business and financial

matters, including the analysis of a participation in the purchase of similar investments, as to be capable of evaluating the merits and risks of an investment in the Bonds on the basis of the information and review described in paragraph 2, and the investment company for which we are purchasing the Bonds is duly and validly organized under the laws of its jurisdiction of incorporation or organization and can bear the economic risk of the purchase of the Bonds.

6. The Bonds have been purchased for our own account for investment and not with a view to the distribution, transfer or resale thereof, provided that the disposition of the Bonds shall at all times be within our sole control.

7. We are duly and legally authorized to purchase obligations such as the Bonds.

8. Except as otherwise set forth in the representations and warranties of the Issuer contained in the Bond Purchase Agreement relating to the Bonds, we have not and will not rely on any action taken by the Issuer of the Bonds, including, but not limited to, issuance of the Bonds, as evidence that the Bonds or the Project financed with the proceeds of the Bonds comply with the provisions of any legislation.

9. We have satisfied ourselves that the Bonds are a lawful investment for this organization under all applicable laws.

10. We have carefully read the Bond Documents and the Additional Information in its entirety and understand the risks described therein and understand and acknowledge that there may exist other risks with respect to the Bonds that are not described therein.

11. We acknowledged that no credit rating has been sought or obtained with respect to the Bonds, and we acknowledged that the Bonds are a speculative investment and that there is a high degree of risk in such investment.

12. We acknowledge that we have read the form of approving opinion of Bond Counsel regarding the Bonds.

[FMH/HMD] SUB LLC
an _____ limited liability company
Bond Purchaser

By: [FMH CONVEYORS LLC/HMD
JONESBORO, LLC]
a Delaware/Tennessee limited liability
company,
Its sole Member

By: _____
Name: _____
Title: _____

LEASE AGREEMENT
BY AND BETWEEN
CITY OF JONESBORO, ARKANSAS
AND
FMH CONVEYORS LLC

Dated as of _____, 2016

MITCHELL | WILLIAMS

MITCHELL, WILLIAMS, SELIG, GATES & WOODYARD, P.L.L.C.
425 WEST CAPITOL AVENUE, SUITE 1800
LITTLE ROCK, AR 72201

LEASE AGREEMENT

TABLE OF CONTENTS

**ARTICLE I
DEFINITIONS**

Section 1.01. Definitions2
Section 1.02. Use of Words.....4

**ARTICLE II
ACQUISITION OF PROJECT**

Section 2.01. Acquiring of Project4
Section 2.02. Itemization of Project Costs5
Section 2.03. Certificate of Completion Date5

**ARTICLE III
DEMISING CLAUSES, DURATION OF LEASE TERM
AND RENTAL PROVISIONS**

Section 3.01. Demise of Leased Premises.....5
Section 3.02. Term of Lease Agreement6
Section 3.03. Basic Rent; Additional Rent; Absolute and Unconditional Obligation to
pay Basic Rent and Additional Rent6
Section 3.04. Method of Payment of Basic Rent and Additional Rent8
Section 3.05. Home Office Payment Agreement8
Section 3.06. Day for Payment.....8

**ARTICLE IV
TAXES AND ASSESSMENTS (IMPOSITIONS)**

Section 4.01. Taxes and Assessments8
Section 4.02. Leased Premises Exempt From Ad Valorem Taxes; Contest of
Attempted Levy Authorized9

**ARTICLE V
INSURANCE**

Section 5.01. Insurance Required.....9

**ARTICLE VI
REPAIRS AND MAINTENANCE OF
LEASED PREMISES AND ALTERATIONS**

Section 6.01. Lessee Obligated to Maintain Buildings and Improvements10
Section 6.02. Lessee Has Right to Make Additions, Alterations and Changes.....10

Section 6.03.	Structural Improvements and Alterations Become Property of Lessor; Machinery, Equipment and Other Property Installed at Lessee’s Expense Remain Its Property With Right of Removal.....	10
Section 6.04.	Property on Leased Premises at Sole Risk of Lessee.....	11
Section 6.05.	Permitted Encumbrances	11

**ARTICLE VII
USE OF LEASED PREMISES - COMPLIANCE WITH ORDERS, ETC.**

Section 7.01.	Permitted Use of Leased Premises and Compliance with Laws, Etc	12
Section 7.02.	Lessor’s Covenant Not to Impose Burdensome Laws, Etc	12
Section 7.03.	Lessor’s Covenant Not to Condemn	12

**ARTICLE VIII
WORK PERFORMED BY LESSEE**

Section 8.01.	Obligations of Parties Concerning Work on Leased Premises and Obtaining Necessary Permits	12
---------------	--	----

**ARTICLE IX
MECHANICS’ LIENS**

Section 9.01.	Lessee to Keep Leased Premises Free of Construction Liens.....	13
---------------	--	----

**ARTICLE X
INDEMNIFICATION OF LESSOR**

Section 10.01.	Indemnification of Lessor	13
----------------	---------------------------------	----

**ARTICLE XI
LESSOR MAY PERFORM LESSEE’S OBLIGATIONS**

Section 11.01.	Lessor May Perform Lessee’s Obligations; Lessee to Reimburse Lessor for Costs and Expenses Incurred in Doing So.....	14
----------------	---	----

**ARTICLE XII
PUBLIC UTILITIES AND CHARGES**

Section 12.01.	Lessee to Pay Public Utility Charges	14
----------------	--	----

**ARTICLE XIII
INSPECTION OF LEASED PREMISES BY LESSOR**

Section 13.01.	Lessor to have Right of Inspection and Right to Perform Work Subject to Certain Restrictions	14
----------------	---	----

**ARTICLE XIV
DAMAGE AND DESTRUCTION**

Section 14.01. Lessee to Restore in Event of Damage or Destruction; Application of Insurance Moneys.....15

Section 14.02. No Diminution in Lessee’s Obligation to Pay Basic Rent and Perform Other Covenants15

Section 14.03. Lessee Not Obligated to Restore if Purchase Option Exercised or All Outstanding Bonds Paid15

**ARTICLE XV
CONDEMNATION**

Section 15.01. Rights of Parties in Event of Condemnation; Bonds Protected in Any Event.....16

Section 15.02. Lessee Obligated to Continue Basic and Additional Rental Payments Until Condemnation Award Available.....17

Section 15.03. Lessee’s Right to Exercise Purchase Option Continues in Force Notwithstanding Condemnation Proceedings17

Section 15.04. Right of Lessee to Participate in Condemnation Proceedings18

**ARTICLE XVI
ASSIGNMENT**

Section 16.01. Assignment and Subletting Permitted But Lessee Not Relieved of Obligations; Assignment to Trustee Permitted18

**ARTICLE XVII
PRIORITY OF LEASE**

Section 17.01. Lease Agreement Superior and Prior19

**ARTICLE XVIII
REMEDIES ARE CUMULATIVE - NO IMPLIED WAIVER**

Section 18.01. Specific Relief; Remedies are Cumulative, No Implied Waiver.....19

**ARTICLE XIX
DEFAULT PROVISIONS**

Section 19.01. Events of Default.....19

Section 19.02. Remedies20

Section 19.03. Remedies Not Exclusive21

Section 19.04. Rental, Damages and Reletting Handled as Provided in Lease and Agreement and Indentures.....21

**ARTICLE XX
PURCHASE OPTION**

Section 20.01. Purchase Option21

**ARTICLE XXI
NOTICES**

Section 21.01. Notices.....21

**ARTICLE XXII
RECORDING**

Section 22.01. Recording22

**ARTICLE XXIII
GENERAL**

Section 23.01. Arkansas Law Applicable22
Section 23.02. Severability.....22
Section 23.03. Captions for Reference Only23
Section 23.04. Provisions Binding on Successors.....23
Section 23.05. Consent Required for Modification.....23
Section 23.06. Reasonable Consent23
Section 23.07. Consolidation, Merger or Sale Permitted In Certain Circumstances23

**ARTICLE XXIV
REMOVAL AND DISPOSAL OF PROPERTY**

Section 24.01. Lessee’s Rights and Obligations Concerning Removal and Disposal of
Building Service Equipment23
Section 24.02. Lessee’s Rights and Obligations Concerning Removal and Disposal of
Project Machinery and Equipment.....24

**ARTICLE XXV
RESERVED**

**ARTICLE XXVI
REPRESENTATIONS AND WARRANTIES**

Section 26.01. Representations and Warranties of the Lessor25
Section 26.02. General Representations and Warranties of the Lessee25

- EXHIBIT A** - EQUIPMENT LIST
- EXHIBIT B** - LEGAL DESCRIPTION
- EXHIBIT C** - OPTION AGREEMENT
- EXHIBIT D** - EXISTING LEASES

LEASE AGREEMENT

This LEASE AGREEMENT (the “Lease Agreement”) is entered into on this ____ day of _____, 2016, by and between the **CITY OF JONESBORO, ARKANSAS** (“Lessor” or “Issuer”) and **FMH CONVEYORS LLC**, a limited liability company organized under and existing by virtue of the laws of the State of Delaware (“Lessee”);

WITNESSETH:

WHEREAS, Lessor is a duly organized and existing city of the first class and a political subdivision, under the laws of the State of Arkansas with full and lawful power and authority to enter into this Lease Agreement, acting by and through its City Council, in the public interest and for a public purpose in securing and developing industry, all pursuant to the provisions of Amendment 65 to the Constitution of the State of Arkansas and Act No. 9 of the First Extraordinary Session of the Sixty-Second General Assembly of the State of Arkansas for the year 1960, codified as Ark. Code Ann. Sections 14-164-201 *et seq.* as amended (the “Act”) and as interpreted by the Arkansas Supreme Court in *Wayland v. Snapp*, 233 Ark. 57, 334 S.W. 2d 633 (1960), and *Pulaski County v. Jacuzzi Bros. Div.*, 332 Ark. 91, 964 S.W.2d 788 (1998); and

WHEREAS, the Issuer is authorized by the Act to issue the bonds for the purpose of financing the costs of acquiring, constructing and equipping lands, buildings or facilities for industrial enterprises as defined in the Act pursuant to a Trust Indenture dated as of _____, 2016 (the “Indenture”) by and between the Issuer and [To be determined], as Trustee; and

WHEREAS, permanent financing of the Project Costs (as defined herein), necessary costs and expenditures incidental thereto and the cost of the issuance of bonds, is being furnished by the Issuer through issuance of its Taxable Industrial Development Revenue Bonds (FMH Conveyors LLC Project) Series 2016 (the “Series 2016 FMH Bonds” or the “Bonds”) and through issuance of its Taxable Industrial Development Revenue Bonds (HMD Jonesboro, LLC Project) Series 2016 (the “Series 2016 HMD Bonds”); and

WHEREAS, the Lessor and the Lessee desire to enter into this Lease Agreement in connection with the issuance of the Bonds under the Indenture; and

WHEREAS, Lessee is authorized under its Articles of Organization and Operating Agreement and under the laws of the State of its organization to enter into this Lease Agreement and to perform all covenants and obligations on its part to be performed under and pursuant to this Lease Agreement; and

WHEREAS, Lessor is authorized by the Act and under the laws of the State to enter into this Lease Agreement and to perform all covenants and obligations on its part to be performed under and pursuant to this Lease Agreement;

WHEREAS, Lessee is not prohibited under the terms of any outstanding trust indenture, deeds of trust, mortgages, loan agreements or other instruments or evidences of indebtedness of whatever nature from entering into this Lease Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Lease

Agreement (or if so, a proper waiver or consent has been obtained) and affirmatively so represents to Lessor; and

WHEREAS, the industrial undertaking will consist of the acquisition, construction, and equipping of an industrial facility within the corporate boundaries of the Issuer, including, but not limited to, the acquisition of land and/or leasehold rights, construction of buildings, infrastructure and improvements, and acquisition and installation of equipment for the manufacture, fabrication or processing of custom-engineered conveyors to be located at the intersection of Barnhill Road and Highland Drive in Jonesboro, Arkansas, all as financed with the proceeds of the Series 2016 FMH Bonds and the Series 2016 HMD Bonds (the "Project") which Project shall otherwise exclude building, machinery and equipment financed by Lessee from other sources; and

WHEREAS, contemporaneous with the issuance of the Bonds and the execution and delivery of this Lease Agreement, the Issuer is issuing its Series 2016 HMD Bonds pursuant to the Indenture and entering into a lease agreement with HMD Jonesboro, LLC for the purpose of financing the portion of the Project that is not being financed with the Series 2016 FMH Bonds.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Lessor and Lessee, and in consideration of the mutual benefits and covenants herein contained, Lessor and Lessee agree as follows:

ARTICLE I DEFINITIONS

Section 1.01. Definitions. In addition to the words and terms otherwise defined in this Lease Agreement, the following words and terms as used in this Lease Agreement shall have the following meanings unless the context clearly indicates a different meaning or intent:

"Authorized Lessee Representatives" - The person or persons at the time designated to act on behalf of the Lessee by written certificate furnished to the Lessor containing the specimen signatures of any such person and signed on behalf of the Lessee. Such certificate may designate an alternate or alternates.

"Authorized Lessor Representative" - The person at the time designated to act in behalf of the Lessor by written certificate furnished to the Lessee containing the specimen signature of such person and signed on behalf of the Lessor. Such certificate may designate an alternate or alternates.

"Bond Fund" - The FMH Bond Fund created by Section 5.01 of the Indenture into which moneys are to be deposited and out of which disbursements are to be made for paying the principal of, premium, if any, and interest on the Bonds in the manner and for the purposes specified in the Indenture.

"Bonds" - The Series 2016 FMH Bonds.

“Completion Date” – The date of completion of the acquisition, construction and equipment of the Project as that date shall be determined by the Lessee and certified in writing to the Trustee.

“Home Office Payment Agreement” – The Home Office Payment Agreement between the Lessor, the Lessee, the Trustee, and the Purchaser evidencing the intent of the parties with respect to payment obligations under the Indenture, the bond purchase agreement between Lessor and the Purchaser relating to the Bonds, and this Lease Agreement.

“Lease Agreement” - This Lease Agreement between the Lessor and the Lessee.

“Lease Term” or “Term” - The term of the Lease Agreement set forth in Section 3.02.

“Leased Premises” – The land, facilities and related improvements covered by this Lease Agreement and defined in Section 3.01 hereof.

“Lessee” or “FMH” – FMH Conveyors LLC, a Delaware limited liability company, and any assignee that assumes the obligations of the Lessee pursuant to the provisions of this Lease Agreement.

“Lessor” -- City of Jonesboro, Arkansas.

“Loan” – The loan from the Lessor to the Lessee which permits Lessee to use Bond proceeds to finance Project Costs.

“Loan Fund” - The fund created by Section 5.08 of the Trust Indenture into which the portion of the proceeds of the sale of the Bonds specified in Section 6.02 of the Indenture is to be deposited and out of which disbursements are to be made for Project Costs in the manner and for the purposes specified in Article VI of the Trust Indenture and Section 2.01 hereof.

“Option Agreement” – The Option Agreement attached hereto as Exhibit C.

“Permitted Encumbrances” - At any particular time (i) this Lease Agreement and Indenture, (ii) the encumbrances which affect the Leased Premises as set forth in a title commitment, (iii) utility, access and other easements and rights of way, restrictions, reversions and exceptions that the Lessee certifies will not interfere with or impair the operations being conducted in the Project, (iv) such minor defects, irregularities, encumbrances, easements, rights of way, and clouds on title as normally exist with respect to properties similar in character to the Project, and as do not materially impair the property affected thereby for the purpose for which it was acquired or held by the Lessor, (v) security interests, liens and mortgages in favor of creditors of Lessee as described in Section 6.05 hereof, and (vi) the Existing Lease or Future Subleases, if any, as described in Section 6.05 hereof.

“Project” - The facilities and related improvements more specifically identified in the Recitals hereto and financed out of proceeds of the Bonds and leased under this Lease Agreement.

“Project Costs” - The costs of acquiring, developing, constructing and equipping the Project described in Section 2.02 of this Lease Agreement.

“Purchaser” - The original purchaser of the Bonds.

“Rent” or “Rents” - The Basic Rent (provided for in Section 3.03A(1) hereof) and the Additional Rent (provided for in Section 3.03B hereof), unless the context clearly indicates both are not intended.

“Series 2016 FMH Bonds” - The \$2,000,000 City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (FMH Conveyors LLC Project), Series 2016.

“State” - The State of Arkansas.

“Trust Indenture” or “Indenture” - The Trust Indenture to be executed between the City and the Trustee securing the Series 2016 FMH Bonds and the Series 2016 HMD Bonds.

“Trustee” - The Trustee for the time being, whether original or successor, with the original Trustee being [To be determined], a _____ banking corporation organized and operating under the laws of _____ and authorized to exercise corporate trust powers in the State of Arkansas, and being duly qualified to accept and administer the trusts created by the Indenture, and having a corporate trust office located in _____, Arkansas.

Section 1.02. Use of Words. Words of the masculine gender shall be deemed and construed to include the correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words shall include the plural, as well as the singular, number.

ARTICLE II ACQUISITION OF PROJECT

Section 2.01. Acquiring of Project. The Lessee has undertaken and will complete the acquiring of a portion of the Project and has executed, or will execute all necessary contracts therefor. The Lessee shall be reimbursed out of the Loan Fund for all qualifying expenditures made by it in connection with acquiring, developing, constructing and equipping its portion of the Project in the manner set forth in Section 6.03 of the Indenture. Title to the machinery, equipment and facilities paid for with the proceeds of the Loan shall be transferred to the Lessor and become part of the Leased Premises described in Section 3.01. The same shall be subject to such liens or encumbrances as may be placed thereon by Lessee prior to such transfer.

Lessee, with the cooperation of Lessor when necessary, shall obtain all necessary approvals from any and all governmental agencies requisite to the acquisition, development, construction and equipping of its portion of the Project, and its portion of the Project shall be acquired, developed and constructed in compliance with all State and local laws, ordinances and regulations applicable thereto. All requests, approvals and agreements required on the part of Lessor and on the part of Lessee shall be in writing, signed by the authorized representative of the party making such request, granting such approval, or entering into such agreement. The Lessor and Lessee shall, concurrently with the delivery of this Lease Agreement, notify each other of the Authorized Lessor Representative and the Authorized Lessee Representative,

respectively. It is agreed that each party may have more than one representative and may change the representative or representatives from time to time, with each such change to be in writing forwarded to the other party. The representative of each party so designated shall be authorized to enter into and execute any contracts or agreements or to grant any approvals or to take any action for and on behalf of the party hereto represented by such person and the other party to this Lease Agreement shall be entitled to rely upon the representative as having full authority to bind the party hereto represented by such person.

Section 2.02. Itemization of Project Costs. Costs incurred by Lessor and Lessee under Section 2.01 hereof and in other sections of this Article II shall be referred to as “Project Costs” and it is agreed that if Project Costs exceed the available proceeds received from the sale of the Bonds, the Lessee shall pay the entire amount of any such excess. Project Costs, as that term is used in this Lease Agreement, include the costs incurred by Lessor, Lessee or others in acquiring, developing, constructing and equipping Lessee’s portion of the Project and the costs of making the Loan and the issuance of the Bonds.

It is covenanted and agreed by Lessee that the proceeds of the Loan will be used for Project Costs.

Proceeds derived from the sale of the Bonds shall be deposited in the funds, handled, invested and disbursed in accordance with the provisions of the Trust Indenture. It is agreed that the Trust Indenture will be delivered and become effective after the delivery and effectiveness of this Lease Agreement and it is covenanted and agreed that so long as the Lessee is not in default under this Lease Agreement beyond any applicable notice and cure period, the Trust Indenture shall not be amended or supplemented without the approval of the Lessee of the amendment or supplement being made.

Section 2.03. Certificate of Completion Date. Promptly after the Completion Date, the Lessee shall submit to the Issuer and the Trustee a certificate, executed by an Authorized Lessee Representative, which shall specify the Completion Date and shall state that acquisition, construction and equipping of its portion of the Project has been completed and the Project Costs have been paid or set aside for payment, except for any Project Costs which have been incurred but are not then due and payable, or the liability for the payment of which is being contested or disputed by the Lessee. Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights against third parties which exist at the date thereof or which may subsequently come into being.

ARTICLE III DEMISING CLAUSES, DURATION OF LEASE TERM AND RENTAL PROVISIONS

Section 3.01. Demise of Leased Premises. Lessor, for and in consideration of the rents, covenants and agreements herein reserved, mentioned and contained, on the part of Lessee to be paid, kept and performed, agrees to and does hereby lease to Lessee, and Lessee agrees to, and does hereby lease, take and hire from Lessor, subject to the terms, conditions and provisions of this Lease Agreement expressed, the following:

The improvements described in **Exhibit A**, or elsewhere, which are located on the land described on **Exhibit B**, including, without limitation, all replacements and substitutions which become the property of the Lessor, pursuant to the provisions of this Lease Agreement. All such machinery, equipment and other personal property shall be described in a ledger maintained by Lessee on the Leased Premises and shall be marked by an appropriate tag or other device as being the property of the Lessor; provided, however, the failure to so tag or mark shall not prevent any item of Project machinery and equipment from becoming part of the Project machinery and equipment if such machinery and equipment and other personal property is listed on the above described ledger in a manner sufficient to distinguish such machinery and equipment from Lessee's other property. Lessee shall not alter or remove such tags, nor shall Lessee permit or suffer any person to alter or remove such tags during the term of this Lease.

The properties described in this Section 3.01 are herein collectively referred to as the "Leased Premises."

TO HAVE AND TO HOLD the Leased Premises unto the Lessee for the term of this Lease Agreement as hereinafter set forth.

Section 3.02. Term of Lease Agreement. The initial term of this Lease Agreement shall commence as of _____, 2016, and shall continue until _____, 20__ and as long thereafter as the Lessee has failed to make all required payments of Basic Rent or Additional Rent.

Section 3.03. Basic Rent; Additional Rent; Absolute and Unconditional Obligation to pay Basic Rent and Additional Rent.

A. Basic Rent.

(1) Lessee covenants to pay to Lessor, in the manner hereinafter provided in Section 3.04, Basic Rent annually in the amounts necessary to pay interest and principal of all outstanding Bonds as the same become due under the provisions of the Indenture. Basic Rent shall be payable annually on _____ commencing on _____, 2017 through _____, 20__, or until the principal of and interest on the Bonds shall have been fully paid, or the required provision made for the payment thereof in accordance with the provisions of the Trust Indenture. In the event a Basic Rent payment date falls on a non-business day, the Basic Rent payment involved shall not be due and payable until the time of opening of business on the next succeeding day thereafter that is a business day.

(2) If, during any year while any of the Bonds shall be outstanding, the Basic Rent shall be insufficient to pay the principal of, premium, if any, and interest on the Bonds as the same become due, the amount of the insufficiency shall be paid by the Lessee as additional Basic Rent. If at any time the amount in the Bond Fund, hereinabove referred to and hereafter described in Section 3.04, is

sufficient to pay in full the principal of, premium, if any, interest on, and, if redemption is involved, redemption expenses in connection with, all of the outstanding Bonds, then no further Basic Rent shall be payable hereunder. If any moneys remain in the Bond Fund after payment or the making of provision for payment in accordance with the provisions of Article V of the Trust Indenture, of the principal of, premium, if any, interest on, and, if redemption is involved, redemption expenses in connection with, all outstanding Bonds, such remaining moneys shall be refunded to Lessee as excess Basic Rent.

B. Additional Rent. During the term hereof, Lessee shall pay as Additional Rent payable to the Lessor, any expenses which are required to be incurred by Lessor pursuant to the provisions of this Lease Agreement or the Trust Indenture the payment of which is not otherwise provided for by applicable provisions of this Lease Agreement or the Trust Indenture, and all impositions (as defined in Section 4.01), expenses, liabilities, obligations and other payments of whatever nature which Lessee has agreed to pay or assume under the provisions of this Lease Agreement. If at any time any amounts paid by Lessee as Additional Rent hereunder are or become in excess of the amounts required for the purposes for which they were paid, such excess amounts shall be refunded to the Lessee.

C. Payment. Until the principal of, premium, if any, and interest on the Bonds shall have been paid or provision for such payment shall have been made in accordance with the provisions of Article V of the Trust Indenture, Lessee's obligation to pay Basic Rent and Additional Rent shall be absolute and unconditional and the Basic Rent and the Additional Rent shall be payable on the dates or at the times specified, and without abatement or set-off, and regardless of any contingencies whatsoever, and notwithstanding any circumstances or occurrences that may now exist or that may hereafter arise or take place, including, but without limiting the generality of the foregoing:

- (1) The unavailability of the Leased Premises, or any part thereof, for use by the Lessee at any time by reason of the failure to complete the Project by any particular time or at all or by reason of any other contingency, occurrence or circumstances whatsoever;
- (2) Damage to or destruction of the Leased Premises, or any part thereof;
- (3) Legal curtailment of Lessee's use of the Leased Premises, or any part thereof;
- (4) Change in Lessor's legal organization or status;
- (5) Any assignment under the provisions of Article XVI including, without limitation, an assignment as part of a transaction involving merger, consolidation or sale of all or substantially all of Lessee's assets, as provided in Section 16.01; subject, however, to the provisions of Section 16.01 that

performance by an assignee or sublessee shall be considered as performance pro tanto by Lessee;

(6) Any termination of this Lease Agreement for any reason whatsoever, including, without limitation, termination under Article XIX;

(7) Failure of consideration or commercial frustration of purposes;

(8) Any default of the Lessor under this Lease Agreement, or any other fault or failure of the Lessor whatsoever.

Lessee covenants that it will not enter into any contract, indenture or agreement of any nature whatsoever which shall in any way limit, restrict or prevent Lessee from performing any of its obligations under this Lease Agreement.

Section 3.04. Method of Payment of Basic Rent and Additional Rent. Payments of Basic Rent shall be made to Lessor by Lessee remitting the same directly to the Trustee, for the account of Lessor, and shall be deposited by the Trustee in the FMH Bond Fund provided for in the Trust Indenture, to be used by the Trustee as provided in the Trust Indenture. Additional Rent specified in Section 3.03B shall be paid by Lessee remitting the same directly to the Lessor, in the case of the Lessor's expenses and charges, and either making direct payment in the case of impositions and other costs, expenses, liabilities and payments assumed and agreed to be paid by Lessee under this Lease Agreement, or reimbursing Lessor, if, pursuant to the provisions of this Lease Agreement, Trustee shall make payment thereof.

Section 3.05. Home Office Payment Agreement. Notwithstanding any provision of this Lease Agreement to the contrary, the Lessor, the Lessee, the Purchaser, the Trustee and any of their successors or assigns may enter into or accept the terms of a home office payment agreement providing for the making of all payments due under this Lease Agreement at a place and in a manner other than as provided in this Lease Agreement upon such conditions as shall be satisfactory to the parties thereto. Contemporaneous with the delivery of the Bonds and this Lease Agreement, the appropriate parties will enter into the Home Office Payment Agreement.

Section 3.06. Day for Payment. Whenever any payment to be made hereunder shall be stated to be due on a Saturday, Sunday or a day banks are closed under the laws of the State or the United States of America, such payment shall be made on the next business day.

ARTICLE IV TAXES AND ASSESSMENTS (IMPOSITIONS)

Section 4.01. Taxes and Assessments. Subject to the provisions of Section 4.02, Lessee shall pay all taxes and assessments, general and specific, if any, levied and assessed on the Leased Premises during the term, and all water and sewer charges, assessments, and other governmental charges and impositions whatsoever, foreseen and unforeseen, which if not paid when due, would impair the lien of the Trust Indenture on the Leased Premises or the security of the Bonds, encumber Lessor's title, or impair the right of the Lessor to receive the rent hereunder or in any manner whatsoever diminish the amounts thereof, all of which are herein called "impositions;" provided, however, that any impositions relating to a fiscal period of the

taxing authority, part of which extends beyond the term, shall be apportioned as of the expiration of the term. Lessor shall promptly forward to Lessee any notice, bill or other statement received by Lessor concerning any impositions. Lessee may pay any imposition in installments if so payable by law, whether or not interest accrues on the unpaid balance. Lessee may contest any imposition or the consent thereby by proper legal proceedings diligently conducted. It is anticipated that the only ad valorem taxes and assessments that may be paid by the Lessee relating to the Leased Premises will be controlled by the Payment in Lieu of Taxes Agreement dated _____, 2016 (the "PILOT Agreement").

Section 4.02. Leased Premises Exempt From Ad Valorem Taxes; Contest of Attempted Levy Authorized. The Lessor covenants that it will not part with title to the Leased Premises or any part thereof during the term or take any other affirmative action which may reasonably be construed as tending to cause or induce the levy or assessment of ad valorem taxes on the Leased Premises; provided, however, that Lessor shall not contest the exercise of the Purchase Option provided in Article XX pursuant to the terms thereof.

Lessor has represented to Lessee and the Lessor and the Lessee acknowledge that under their and other interpretations of present law, no part of the Leased Premises will be subject to ad valorem taxation by the State or by any political or taxing subdivision thereof, and these factors, among others, materially induced the Lessee to enter into this Lease Agreement. However, the Lessee will pay all impositions, if any, in connection with the Leased Premises, which may be lawfully levied or assessed upon the Leased Premises, when the same shall become due; provided, however, that Lessee may contest any such impositions and need not pay during the pendency of such contest, except that the Lessee shall in all events pay to prevent the Leased Premises from becoming subject to loss or forfeiture. The Lessor hereby agrees that it will cooperate with the Lessee in resisting any such impositions if and to whatever extent the Lessee may request. Lessee's compliance with the PILOT Agreement will constitute compliance with the terms of this Section 4.02 with regard to any ad valorem taxation affecting the Leased Premises.

ARTICLE V INSURANCE

Section 5.01. Insurance Required.

A. Lessee shall, at Lessee's sole cost and expense, keep the Leased Premises insured in a commercially reasonable manner and in commercially reasonable amounts.

B. At all times during the term, Lessee shall, at no cost or expense to Lessor, maintain or cause to be maintained:

- (i) Commercial General Liability insurance against claims for bodily injury or death occurring upon, in or about the Leased Premises, with such insurance to afford protection to the limits of not less than \$500,000 in respect of bodily injury or death to any one person and to the limit of not less than \$1,000,000 in respect of any one accident; and

- (ii) Property damage insurance against claims for damage to property occurring upon, in or about the Leased Premises with such insurance to afford protection to the limit of not less than \$100,000 in respect of damages to the property of any one owner.

C. Copies or certificates of the insurance provided for by this Article or elsewhere in this Lease Agreement shall be delivered by Lessee to the Lessor upon the request of Lessor. And, in the case of expiring policies throughout the term, copies or certificates of any new or renewal policies shall be delivered by Lessee to Lessor upon the request of Lessor.

D. Reserved.

E. All insurance required by this Section 5.01 shall be effected with insurance companies qualified to do business in the State selected by the Lessee. The Lessee shall have the sole right and responsibility to adjust any loss with the insurer involved and to conduct any negotiations in connection therewith.

ARTICLE VI REPAIRS AND MAINTENANCE OF LEASED PREMISES AND ALTERATIONS

Section 6.01. Lessee Obligated to Maintain Buildings and Improvements. Lessee shall throughout the term, at no cost and expense to Lessor, maintain, or cause to be maintained the improvements now or at any time erected on the lands included in the Leased Premises.

Section 6.02. Lessee Has Right to Make Additions, Alterations and Changes. Lessee shall have the right from time to time to make additions, alterations and changes in or to the improvements constituting part of the Leased Premises and shall have the right to construct new improvements. Lessee shall maintain detailed records of the nature and cost of such additions, alterations and changes, which shall be available for inspection by Lessor's representatives and agents on reasonable notice. It is understood and agreed that in the event the Lessee makes any additions, alterations and changes in or to the improvements constituting part of the Leased Premises as authorized by this Section 6.02, the Lessee shall be under no obligation at the expiration of the term to restore the Leased Premises to their original condition prior to such additions, alterations or changes.

Section 6.03. Structural Improvements and Alterations Become Property of Lessor; Machinery, Equipment and Other Property Installed at Lessee's Expense Remain Its Property With Right of Removal. All structural improvements and alterations made on the Leased Premises by or on behalf of Lessee shall immediately upon completion thereof be and become the property of the Lessor without payment therefor by Lessor but subject to this Lease Agreement. Any machinery and equipment, trade fixtures, movable partitions, furniture and furnishings and other property installed at the expense of Lessee, without reimbursement from Bond proceeds, shall remain the property of the Lessee with the right of removal, whether or not affixed and/or attached to the real estate, and the Lessee shall, so long as it is not in default hereunder, be entitled but shall not be obligated to remove the same, or any part thereof,

during the term, or within a reasonable time thereafter, but Lessee shall at its own cost and expense repair any and all damages to the Leased Premises resulting from or caused by their removal therefrom.

Section 6.04. Property on Leased Premises at Sole Risk of Lessee. All property of any kind which may be on the Leased Premises (whether belonging to the Lessor, Lessee or to any third person) shall be at the sole risk of Lessee and those claiming by, through or under Lessee and Lessor shall not be liable to Lessee or to those claiming by, through or under Lessee or to said third persons for any injury, loss or damage to any person or property on the Leased Premises.

Section 6.05. Permitted Encumbrances. Lessor acknowledges that the Leased Premises will be subject to prior liens at the time title is transferred to the Lessor. Regardless of whether or not Lessor is permitted by Arkansas law to place a lien on the Leased Premises, the Lessor agrees that it is contractually prohibited from placing any lien or attempting to place any lien on the Leased Premises without the express written consent of Lessee which consent may be withheld in the sole discretion of Lessee, and any attempt by Lessor to impose a lien that is not consistent with this Section 6.05 or Arkansas law is void.

Lessor acknowledges that prior to the date of this Lease Agreement, Lessee, as tenant, entered into a lease of the Leased Premises with HMD Jonesboro, LLC (the "Existing Lease") which is identified on Exhibit D attached hereto. Lessor and Lessee agree that the Existing Lease shall be recognized and treated as a sublease during the Term. Lessor further acknowledges that Lessee may sublease additional tracts within the Leased Premises pursuant to Section 16.01 of this Lease Agreement (each, a "Future Sublease"). Lessor agrees for the benefit of the lessee under the Existing Lease and each sublessee under Future Subleases that if this Lease Agreement is terminated, or Lessor comes into possession of the Leased Premises without termination, then in either such event Lessor shall recognize the Existing Lease and the Future Subleases and the rights of the lessee and sublessees thereunder provided that such lessee and sublessees attorn to Lessor. Notwithstanding the foregoing, Lessor will not be (i) liable for any act or omission of Lessee, (ii) subject to any offsets or counterclaims that any such lessee or sublessee may have against Lessee, (iii) bound by any notices given to Lessee of which Lessor did not also receive notice, or (iv) obligated to commence or complete any construction or installation of any improvements or to make any contribution towards any construction or installation of any improvements relating to the Existing Lease or any Future Sublease. The liability of Lessor under the Existing Lease or any Future Sublease will continue only so long as Lessor is the owner of the property subject to the Existing Lease or any Future Sublease and such liability will not continue or survive with respect to claims accruing after further transfer of such interest.

ARTICLE VII USE OF LEASED PREMISES - COMPLIANCE WITH ORDERS, ETC.

Section 7.01. Permitted Use of Leased Premises and Compliance with Laws, Etc. Subject to the following provisions of this Section 7.01, Lessor and Lessee agree that Lessee shall use the Leased Premises as a manufacturing facility and for any activities and purposes

incidental thereto or in furtherance thereof or for any lawful purpose approved by Lessor. Lessor agrees and confirms that Lessee's intended use of the Leased Premises for the manufacture, fabrication or processing of custom-engineered conveyors and for any activities and purposes incidental thereto or in furtherance thereof is a permitted use. Lessee shall during the term promptly comply with all valid statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or government authorities, now or hereafter applicable to the Leased Premises. Lessee shall, however, have the right to contest any of the foregoing, and if compliance therewith may legally be held in abeyance during such contest without incidence of any liens on the Leased Premises, Lessee may postpone compliance until final determination of such contest, provided such contest shall be prosecuted with due diligence; and even though a lien against the Leased Premises may be incurred by reason of such non-compliance, Lessee may nevertheless delay compliance therewith during contests thereof, provided Lessee, if required, furnishes Lessor reasonably satisfactory security against any loss by reason of such lien and effectively prevents foreclosure thereof. Lessee shall during the term comply with the mandatory requirement, rules and regulations of all insurers under the policies required to be carried under the provisions of this Lease Agreement.

Section 7.02. Lessor's Covenant Not to Impose Burdensome Laws, Etc. Lessor covenants that, to the full extent permitted by law, it will not attempt to impose upon the use or occupancy of the Leased Premises by the Lessee any laws, ordinances, rules or regulations more burdensome or restrictive than those in effect upon the date of execution of this Lease Agreement.

Section 7.03. Lessor's Covenant Not to Condemn. The Lessor covenants that during the Lease Term it will not take or condemn any part of the Leased Premises or attempt to do so.

ARTICLE VIII WORK PERFORMED BY LESSEE

Section 8.01. Obligations of Parties Concerning Work on Leased Premises and Obtaining Necessary Permits. Lessee shall not do or permit others under its control to do any work on the Leased Premises related to any repair, rebuilding, alteration of or addition to the improvements constituting part of the Leased Premises unless Lessee shall have first procured and paid for all requisite municipal and other governmental permits and authorizations. Lessor shall join in the application for any such permit or authorization whenever required, but Lessee shall indemnify and hold Lessor harmless against and from all costs and expenses which may be thereby incurred by Lessor. All such work shall be done in a good and workmanlike manner and in compliance with all applicable building, zoning and other laws, ordinances, governmental regulations and requirements and in accordance with the reasonable requirements, rules and regulations of all insurers under the policies required to be carried by the provisions of this Lease Agreement.

**ARTICLE IX
MECHANICS' LIENS**

Section 9.01. Lessee to Keep Leased Premises Free of Construction Liens. If any lien shall be filed against the interest of Lessor or Lessee in the Leased Premises or asserted against any rents payable hereunder, by reason of work, labor, services or materials supplied or claimed to have been supplied on or to the Leased Premises at the request or with the permission of Lessee, or anyone claiming under Lessee, Lessee shall, within thirty (30) days after receipt of notice of the filing thereof or the assertion thereof against such rents, cause the same to be discharged of record, or effectively prevent the enforcement or foreclosure thereof against the Leased Premises or such rents, by contest, payment, deposit, bond, insurance, order of Court or otherwise, the actual method being within Lessee's discretion. Nothing contained in this Lease Agreement shall be construed as constituting the express or implied consent to or permission of Lessor for the performance of any labor or services or the furnishing of any materials that would give rise to any such lien against Lessor's interest in the Leased Premises.

**ARTICLE X
INDEMNIFICATION OF LESSOR**

Section 10.01. Indemnification of Lessor. Commencing with the completion of the Project or when the Lessee takes possession if prior to the completion, Lessee shall and agrees to indemnify and save Lessor and the Trustee and to hold them harmless against and from all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on, the Leased Premises during the term, and against and from all claims arising during the term from (a) any condition of the Leased Premises, (b) any breach or default on the part of Lessee in the performance of any of its obligations under this Lease Agreement, (c) any act or negligence of Lessee or of any of its agents, contractors, servants, employees or licensees, or (d) any act or negligence of any assignee or sublessee of Lessee, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of Lessee. Lessee shall indemnify and save Lessor and the Trustee harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid, or in connection with any action or proceeding brought thereon, and upon notice from any of them, Lessee shall defend them or either of them in any such action or proceeding. Provided, however, Lessee has no obligation related to and shall not indemnify or hold harmless the Lessor or Trustee for any claims resulting from the negligence or willful misconduct of either the Lessor or Trustee.

**ARTICLE XI
LESSOR MAY PERFORM LESSEE'S OBLIGATIONS**

Section 11.01. Lessor May Perform Lessee's Obligations; Lessee to Reimburse Lessor for Costs and Expenses Incurred in Doing So. If Lessee shall fail to keep or perform any of its obligations as provided in this Lease Agreement in respect of (a) maintenance of insurance; (b) payment of impositions; (c) repairs and maintenance of the Leased Premises; (d) compliance with legal or insurance requirements; (e) keeping the Leased Premises lien free; (f) completion of construction and equipping of the Leased Premises; or (g) making of any other payment or performance of any other obligations, then Lessor may (but shall not be obligated to

do so), upon the continuance of such failure on Lessee's part for thirty (30) days after written notice to Lessee, or such longer period following notice as may be reasonably required to cure such failure, provided that corrective action is commenced within thirty (30) days thereafter and diligently pursued, and without waiving or releasing Lessee from any obligation, and as an additional but not exclusive remedy, make any such payment or perform any such obligation (not under circumstances where such payment or performance would defeat any rights, herein specifically given to Lessee, to withhold such performance or to contest such obligation to the extent herein provided), and all sums so paid by Lessor and all necessary incidental costs and expenses incurred by any of them in making such payment or performing such obligation shall be deemed Additional Rent and shall be paid to Lessor on demand, or at Lessor's option may be added to any installment of Basic Rent thereafter falling due, and if not so paid by Lessee, Lessor shall have the same rights and remedies as in the case of default by Lessee in the payment of the Basic Rent.

ARTICLE XII PUBLIC UTILITIES AND CHARGES

Section 12.01. Lessee to Pay Public Utility Charges. Lessee agrees to pay or cause to be paid all charges for water, gas, sewer, electricity, light, heat or power, telephone or other service used, rendered or supplied to or for the Lessee upon or in connection with the Leased Premises throughout the term of this Lease Agreement, and to indemnify Lessor and save it harmless against any liability or damage on such account.

ARTICLE XIII INSPECTION OF LEASED PREMISES BY LESSOR

Section 13.01. Lessor to have Right of Inspection and Right to Perform Work Subject to Certain Restrictions. Lessee shall permit Lessor, by its authorized representative, to enter the Leased Premises at all reasonable times and on reasonable prior written notice during usual business hours for the purpose of inspection, and for the performance of any work therein made necessary by reason of Lessee's default under any of the provisions of this Lease Agreement. Provided, however, Lessor's ability to perform work shall be limited to repair of an unsafe condition that has not been remedied by Lessee after receipt of written notice by Lessee from Lessor and expiration of any cure period. Lessor may, during the progress of any such work, keep and store on the Leased Premises all necessary materials, supplies and equipment and shall not be liable for reasonable inconvenience, annoyance, disturbance, loss of business or other damage to Lessee suffered by reason of the performance of any such work or the storage of materials, supplies and equipment. Such inspection and repair shall be conducted in a manner consistent with the prior and on-going practices and procedures of the Lessee and Lessor in the conduct of their normal affairs.

**ARTICLE XIV
DAMAGE AND DESTRUCTION**

Section 14.01. Lessee to Restore in Event of Damage or Destruction; Application of Insurance Moneys.

A. Lessee covenants and agrees that in the event of damage to or destruction of the Leased Premises, or any part thereof, by fire or other casualty, the Lessee shall immediately notify the Lessor and shall promptly proceed, at no cost and expense to Lessor, to restore, repair, rebuild or replace the Leased Premises as nearly as possible to the condition they were in immediately prior to such damage or destruction, subject to such alterations as Lessee may elect to make in conformity with the provisions of Article VI hereof. Any item of machinery and equipment acquired as a replacement hereunder, or any item acquired, in whole or in part, out of insurance proceeds under this Article XIV, whether or not a replacement of or substitute for any item of damaged or destroyed machinery and equipment, if the insurance proceeds with which such item of machinery and equipment was purchased, in whole or in part, were derived from insurance on property which was part of the Project machinery and equipment, owned by Lessor, shall be and become the property of Lessor and shall be part of the Project machinery and equipment and subject to this Lease Agreement. Such restoration, repairs, replacements or rebuilding shall be commenced promptly and prosecuted with reasonable diligence.

B. The Lessor shall have no responsibility as to the application by the Lessee of any insurance proceeds.

If the insurance money shall be insufficient to pay all costs of the restoration, the Lessee shall pay the deficiency and shall nevertheless proceed to complete the restoration and pay the cost thereof. Any balance of the insurance proceeds remaining over and above the cost of the restoration shall be retained by the Lessee.

Section 14.02. No Diminution in Lessee's Obligation to Pay Basic Rent and Perform Other Covenants. Lessee's obligation to make payment of the Basic Rent and all other covenants on the part of Lessee to be performed shall not be affected by any such destruction or damage, and Lessee hereby waives the provisions of any statute or law now or hereafter in effect contrary to such obligation of Lessee as herein set forth, or which releases Lessee therefrom.

Section 14.03. Lessee Not Obligated to Restore if Purchase Option Exercised or All Outstanding Bonds Paid. Notwithstanding the provisions of the foregoing sections of this Article XIV, Lessee shall not be required to repair, restore, replace or rebuild the Leased Premises, or any part thereof, (a) if Lessee, pursuant to the provisions of Article XX, shall elect to purchase the Leased Premises and shall proceed to pay the specified purchase price or (b) if the full amount necessary under the provisions of the Trust Indenture to pay or redeem all outstanding Bonds shall have been paid and Lessee has not elected to purchase the Leased Premises or (c) if the value of the Project without restoration is at least equal to the outstanding principal amount of the Bonds. If Lessee shall so elect to purchase, the proceeds of all insurance may be used as part of the purchase price and upon the request of Lessee shall be so applied. If there be any excess insurance proceeds over and above the amount necessary to pay

the purchase price, such excess shall be paid to and shall belong to the Lessee. If Lessee shall have paid the full amount necessary to pay or redeem all outstanding Bonds, any insurance proceeds shall be paid to and shall belong to Lessee.

ARTICLE XV CONDEMNATION

Section 15.01. Rights of Parties in Event of Condemnation; Bonds Protected in Any Event.

A. If during the term of this Lease Agreement title to all or substantially all of the Leased Premises shall be taken or condemned by a competent authority for any public use or purpose, the net amount awarded as damages or paid as a result of such taking (being the gross award less attorneys' fees and other expenses and costs incurred in the condemnation proceedings, hereinafter referred to as the "net award") shall be used on the next redemption date to pay in accordance with the provisions of the Trust Indenture, the entire principal, premium, if any, and interest on all Bonds outstanding under the Trust Indenture. If the net award together with the amount then in the Bond Fund, shall be insufficient to pay in full, on the next redemption date, the amount necessary to pay all principal, premium, if any, interest, and all other costs of redemption, on all Bonds outstanding under the Trust Indenture (all of which, for purposes of this Section, shall be called "total bond redemption expense"), Lessee agrees to pay, promptly upon payment of the net award, as Additional Rent hereunder, the amount by which the total bond redemption expense shall exceed the net award plus the amount then on deposit in the Bond Fund and available for payment and redemption of the Bonds outstanding under the Trust Indenture. For purposes of this Article and of Article XX, "title to all or substantially all of the Leased Premises shall be taken or condemned" shall be deemed to mean a taking of all of the Leased Premises or a taking of such substantial portion of the Leased Premises that the Lessee, as determined by the Lessee in its sole discretion, cannot reasonably operate the remainder in substantially the same manner as before. In the event the net award, together with any available amount in the Bond Fund, shall be in excess of the amount necessary to pay the total bond redemption expense, such excess shall belong to and be paid to the Lessee.

B. If less than substantially all of the Leased Premises shall be taken or condemned by a competent authority for any public use or purpose, neither the term nor any of the obligations of either party under this Lease Agreement shall be affected or reduced in any way, and

- (i) Lessee shall proceed to repair, rebuild and replace the remaining part of the Leased Premises as nearly as possible to the condition existing prior to such taking, to the extent that the same may be feasible, subject to the right on the part of the Lessee to make alterations which, in the reasonable judgment of Lessee (and in accordance with Article VI hereof), will improve the efficiency of the Leased Premises for the purposes of their intended use under this Lease Agreement; and

- (ii) The net award shall be paid to the Lessor and by it to the Lessee, and the Lessor hereby assigns the same to the Lessee for the use of the Lessee in repairing, rebuilding and replacing as provided in (i) above. The net award shall be transferred to the Lessee in the same manner as is provided in Section 14.01 with respect to insurance proceeds, provided that the words “insurance proceeds” there referred to shall for purposes of this subparagraph (ii) refer to “net award.” If the net award is in excess of the amount necessary to repair, rebuild and replace as specified in (i) above, such excess shall be deposited in the Bond Fund or if there are no Bonds outstanding under the Trust Indenture the excess shall belong to and shall be paid to the Lessee. If the net award is less than the amount necessary for the Lessee to repair, rebuild and replace as set forth in (i) above, the Lessee shall nevertheless complete the repair, rebuilding and replacement work and pay the cost thereof to the extent not covered by the net award.

C. In the event of a taking under either A or B above, the Lessee shall have the right to participate in and to submit proof in the condemnation proceedings and to receive any award (by way of negotiation, settlement or judgment) which may be made for damages sustained by Lessee by reason of the condemnation; provided, however, nothing in this subsection C shall be construed to diminish or impair in any way Lessee’s obligation under subsection A of this Section 15.01 to pay as Additional Rent the amount of any insufficiency of the net award and the funds in the Bond Fund to pay the total bond redemption expense as therein defined.

D. If the temporary use of the whole or any part of the Leased Premises shall be taken by right of eminent domain, this Lease Agreement shall not be thereby terminated and the parties shall continue to be obligated under all of its terms and provisions and Lessee shall be entitled to receive the entire amount of the award made for such taking, whether by way of damages, rent or otherwise.

Section 15.02. Lessee Obligated to Continue Basic and Additional Rental Payments Until Condemnation Award Available. In the event of a taking of all or substantially all of the Leased Premises as provided in Section 15.01A, the Lessee agrees to continue to make payment of the Basic Rent and the Additional Rent until the condemnation award shall be actually received by the Lessor.

Section 15.03. Lessee’s Right to Exercise Purchase Option Continues in Force Notwithstanding Condemnation Proceedings. Notwithstanding the fact that all or any part of the Leased Premises shall be taken by right of eminent domain, Lessee shall have the right to exercise the Purchase Option granted to it by the provisions of Article XX hereof and the foregoing provisions of this Article shall be construed in the light of the effect of the Purchase Option so exercised by Lessee. In the event of the exercise of the Purchase Option under Article XX and payment of the required purchase price, whether before or after such taking, the net award shall belong to Lessee.

Section 15.04. Right of Lessee to Participate in Condemnation Proceedings. Lessee shall have the sole right, proceeding in the name of the Lessor, to handle the defense of any condemnation proceeding pertaining to or affecting the Leased Premises or to handle the prosecution of any proceeding in connection with a condemnation, pertaining to or affecting the Leased Premises, and shall have the sole right, proceeding in the name of the Lessor, to negotiate any settlement or compensation for a taking pertaining to or affecting the Leased Premises and the Lessor agrees that it will cooperate with the Lessee in such manner as the Lessee requests with the end in view of obtaining the maximum possible amount justifiable as damages for the taking. The Lessee shall have the right, proceeding in its own name, to participate in the condemnation proceedings and to receive any award (by way of negotiation, settlement or judgment) which may be made for damages sustained by Lessee by reason of the condemnation.

ARTICLE XVI ASSIGNMENT

Section 16.01. Assignment and Subletting Permitted But Lessee Not Relieved of Obligations; Assignment to Trustee Permitted.

A. With the written consent of Lessor, which consent may not be unreasonably withheld, Lessee may assign this Lease Agreement or sublet the Leased Premises or parts thereof provided that no such assignment or subletting and no dealings or transactions between the Lessor and any sublessee or assignee shall relieve the Lessee of any of its obligations under this Lease Agreement and Lessee shall remain as fully bound as though no assignment or subletting had been made, and performance by any assignee or sublessee shall be considered as performance pro tanto by Lessee; provided, however, that Lessee may assign this Lease Agreement, and be thereby relieved of further obligation hereunder, in connection with a transaction involving merger, consolidation or sale as permitted under Section 23.07 provided the requirements thereof are met. Except for the sublease approved by Lessor prior to the execution of this Lease Agreement, the Lessee shall give sixty (60) days prior notice of such assignment or subletting to the Lessor. Lessee may sell or assign its interest in this Lease Agreement and be relieved of its obligations under this Lease in situations other than those described in Section 23.07, but only with the written consent of Lessor.

B. The Lessor shall not assign, encumber, sell or dispose of all or any part of its rights, title and interest in and to the Leased Premises and this Lease Agreement, except to the Lessee or a creditor of Lessee to which Lessee has granted a security interest in either the Leased Premises or the Lease Agreement in accordance with the provisions of this Lease Agreement, but subject to the provisions of Article XVII hereof, without the prior written consent of the Lessee. Lessor may assign its interests in the Lease Agreement to the Trustee.

C. Anything in this Section 16.01 to the contrary notwithstanding, Lessee may sublease without Lessor's consent up to fifty percent (50%) of the Leased Premises, with such percentage based on value, in one or more subleases, in each case following written notice to the Lessor or otherwise in compliance with Section 6.05 hereof.

**ARTICLE XVII
PRIORITY OF LEASE**

Section 17.01. Lease Agreement Superior and Prior. This Lease Agreement (and any amendment or supplement hereto executed in accordance with and pursuant to the provisions of this Lease Agreement) and the estate of Lessee hereunder are and shall continue to be superior and prior to the Trust Indenture (and all supplements thereto).

**ARTICLE XVIII
REMEDIES ARE CUMULATIVE - NO IMPLIED WAIVER**

Section 18.01. Specific Relief; Remedies are Cumulative, No Implied Waiver. Lessor and Lessee shall each be entitled to specific performance, and injunctive or other appropriate equitable relief for any breach or threatened breach of any of the provisions of this Lease Agreement, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity. The specific remedies provided for in this Lease Agreement are cumulative and are not exclusive of any other remedy. The failure of either party to insist in any one or more cases upon strict performance shall not be construed as a waiver or relinquishment for the future. No acceptance of rents with knowledge of any default shall be deemed a waiver of such default.

**ARTICLE XIX
DEFAULT PROVISIONS**

Section 19.01. Events of Default. (a) The following shall be “events of default” under this Lease Agreement and the terms “event of default” or “default” shall mean, whenever they are used in this Lease Agreement, any one or more of the following events:

A. Failure by the Lessee to pay the rents or any part thereof when due so as to prevent timely payment on the Bonds.

B. Failure by the Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subsection A of this Section, (i) for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, given to the Lessee by the Lessor unless the Lessor shall agree in writing to an extension of such time prior to its expiration or (ii) for such longer period as may be reasonably necessary to remedy such default provided that the Lessee is proceeding with reasonable diligence, to remedy the same.

C. The dissolution of the Lessee or the filing by the Lessee of a voluntary petition in bankruptcy, or failure by the Lessee promptly to lift any execution, garnishment or attachment of such consequence as will impair its ability to carry on its operations at the Leased Premises, or the commission by the Lessee of any act of bankruptcy, or adjudication of the Lessee as a bankrupt, or assignment by the Lessee for the benefit of its creditors, or the entry by the Lessee into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Lessee in any proceeding for its reorganization instituted under the provisions of the general bankruptcy act, as amended, or under similar act which may

hereafter be enacted. The term “dissolution or liquidation of the Lessee,” as used in this subsection, shall not be construed to include the cessation of the corporate or limited liability company existence of the Lessee resulting either from a merger or consolidation of the Lessee into or with another corporation or other entity or a dissolution or liquidation of the Lessee following a transfer of all or substantially all of its assets as an entirety, under the conditions permitting such actions contained in this Lease Agreement.

(b) In the event that Lessee has granted a leasehold mortgage to any third party, the leasehold mortgagee shall have the right to cure any of the above-referenced defaults. Lessor shall provide timely written notice of all defaults to all leasehold mortgagees at the addresses provided by such leasehold mortgagees to Lessor. Such notices shall state the term of the cure period which shall not be less than the greater of ten (10) business days or the cure period granted to Lessee hereunder or otherwise.

Section 19.02. Remedies. Whenever any event of default shall happen and then be continuing, the Lessor may take any of the following remedial steps:

A. The Lessor may, at its option, declare all installments of rent payable for the remainder of the term to be immediately due and payable, whereupon the same shall become immediately due.

B. The Lessor may re-enter and take possession of the Leased Premises without terminating this Lease Agreement, and sublease the Leased Premises on commercially reasonable terms for the account of the Lessee, holding the Lessee liable for the difference in the rent and other amounts payable by the Lessee hereunder.

C. The Lessor may terminate the term, exclude the Lessee from possession of the Leased Premises and use its best efforts to lease the Leased Premises to another for the account of the Lessee, holding the Lessee liable for all rent and other payments due up to the effective date of any such leasing.

D. The Lessor shall have access to inspect, examine and make copies of the books and records relating to the Leased Premises.

E. The Lessor may take whatever action at law or in equity may appear necessary or desirable to collect the rent and any other amounts payable by Lessee hereunder, then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Lessee under this Lease Agreement.

Any amounts collected pursuant to action taken under this Section shall be applied in accordance with the provisions of the Trust Indenture.

Notwithstanding the above, before exercising any remedy granted therein, Lessor shall by written notice, grant Lessee the option to cure any default for a period of thirty (30) days, and Lessor agrees that it shall contemporaneously provide a copy of any such notice and the opportunity to cure a default to all leasehold mortgagees.

Section 19.03. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Lessor is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof but any such right or power may be exercised from time to time as often as may be deemed expedient.

Section 19.04. Rental, Damages and Reletting Handled as Provided in Lease and Agreement and Indentures. The foregoing provisions of this Article relating to the receipt of moneys by Lessor as the result of an acceleration, upon a reletting or otherwise are each to be construed as providing that all such payments by Lessee or others shall be handled as provided in this Lease Agreement and in the Trust Indenture.

**ARTICLE XX
PURCHASE OPTION**

Section 20.01. Purchase Option. The Lessee shall have the right and option to purchase the Leased Premises at any time (the "Purchase Option"). Contemporaneous with the execution of this Lease Agreement, Lessee and Lessor shall execute the Option Agreement attached hereto and incorporated herein as Exhibit C. Lessee and Lessor agree and acknowledge that the consideration for the Purchase Option includes, not only the stated consideration within the Option Agreement, but also the mutual benefits and covenants of this Lease Agreement, the issuance, purchase and repayment of the Series 2016 FMH Bonds, and the accomplishment of the Lessee's portion of the Project, including, but not limited to, the Project's construction and operation by the Lessee.

**ARTICLE XXI
NOTICES**

Section 21.01. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, return receipt requested, postage prepaid addressed as set forth herein. The parties may, by notice given hereunder, designate any further or different address to which subsequent notices, certificates or other communications shall be sent.

If intended for Lessee: FMH Conveyors LLC

Attention: Member

With a copy to:

FMH Sub LLC
c/o FMH Conveyors LLC

Attention: Member

If intended for Issuer: City of Jonesboro, Arkansas
P.O. Box 1845
Jonesboro, Arkansas 72403
Attn: Mayor
With a copy to: Carol M. Duncan
Attorney at Law
410 W. Washington Ave.
Jonesboro, AR 72401

Any party may change the address and the name of addressee to which subsequent notices are to be sent by notice to the other parties given as aforesaid.

ARTICLE XXII RECORDING

Section 22.01. Recording. A Memorandum of this Lease Agreement and every assignment and modification thereof shall be recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Craighead County, Arkansas, upon the request of Lessee or Lessor.

ARTICLE XXIII GENERAL

Section 23.01. Arkansas Law Applicable. This Lease Agreement shall be construed and enforced in accordance with the laws of the State. Wherever in this Lease Agreement it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation. All factual representations set forth in the whereas clauses of this Lease Agreement shall be construed as express representations and covenants on the part of the party to which each such recital is applicable to the same extent as though set forth as an express representation and covenant by that party.

Section 23.02. Severability. If any provision of this Lease Agreement or the application thereof to any person or circumstance shall, to any extent, be determined to be invalid or unenforceable, the remainder of this Lease Agreement and the application of its provisions to persons or circumstances other than those as to which it has been determined to be invalid or unenforceable, shall not be affected thereby, and each provision of this Lease Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

Section 23.03. Captions for Reference Only. The Article captions in this Lease Agreement are for convenience and reference only and shall in no way define, limit or describe the scope or intent of this Lease Agreement or any part thereof, or in any wise affect this Lease Agreement and shall not be considered in any construction thereof.

Section 23.04. Provisions Binding on Successors. The provisions of this Lease Agreement shall bind and inure to the benefit of the parties hereto and their respective

successors, assigns and sub-lessees (it being understood that assignments and subleasing are governed by the provisions of Article XVI hereof).

Section 23.05. Consent Required for Modification. It is agreed that the Lessor and the Lessee shall not alter, modify or amend any of the terms of this Lease Agreement except by mutual written agreement with the consent of the Trustee as required by the Indenture.

Section 23.06. Reasonable Consent. In each instance in this Lease Agreement where the consent or approval of Lessor is required, such consent or approval shall not be unreasonably withheld, conditioned or delayed.

Section 23.07. Consolidation, Merger or Sale Permitted In Certain Circumstances. Notwithstanding any other provision of this Lease Agreement to the contrary, the Lessee will maintain its existence as a limited liability company and will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another corporation or other entity or permit one or more other corporations or other entities to consolidate with or merge into it; provided, however, the Lessee may consolidate with or merge into another domestic corporation or other entity (that is a corporation or other entity organized and existing under the laws of one of the states of the United States of America), or permit one or more other corporations or other entities to consolidate with or merge into it, or sell or otherwise transfer to another domestic corporation or other entity all or substantially all of its assets as an entirety and thereafter dissolve on the condition that such surviving, resulting or transferee corporation or other entity shall expressly assume in writing all of the obligations of the Lessee contained in this Lease Agreement and that the net tangible assets of the other corporation or other entity after the consolidation, merger or sale be at least equal to the net tangible assets of Lessee immediately prior to such consolidation, merger or sale and qualifies to do business in the State. In the event of such consolidation, merger or sale, as permitted by this Section, and the assumption by the surviving, resulting or transferee corporation or other entity of the obligations hereof, the Lessee shall be relieved of all further obligations hereunder. As used herein, "net tangible assets" means all assets of the corporation or other entity (except there shall not be included goodwill) less all liabilities. Sixty (60) days prior to any such consolidation, merger or sale, the Lessee shall give notice thereof to Lessor.

ARTICLE XXIV REMOVAL AND DISPOSAL OF PROPERTY

Section 24.01. Lessee's Rights and Obligations Concerning Removal and Disposal of Building Service Equipment. The Lessee may, provided Lessee is not in default in the payment of Basic Rent or Additional Rent as required by the provisions of this Lease Agreement and has not received notice of any other default on its part hereunder, remove, free of any right or claim of Lessor, any building service equipment or other improvements (hereinafter defined), subject however, in all cases to the following:

A. Except as provided in Section 24.02, building service equipment or other improvements may be so removed upon the substitution thereof, then or theretofore, by Lessee of other building service equipment or other improvements of a utility or value at least equal to that, at the time of removal, of the building service equipment removed;

B. Lessee shall pay all the costs and expenses of any such removal.

The term “building service equipment” is intended to refer to such things as are affixed to or incorporated in a building for its operation, such as boilers, pumps, tanks, sprinklers, lighting equipment and wiring, heating, plumbing and ventilating equipment, elevators, escalators, refrigerating, air conditioning and air cooling equipment, and items similar in general to any of the foregoing.

Section 24.02. Lessee’s Rights and Obligations Concerning Removal and Disposal of Project Machinery and Equipment. The Lessor and the Lessee recognize that after the Project machinery and equipment is installed portions thereof may become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary in the operation of the Leased Premises. The Lessor shall not be under any obligation to renew, repair or replace any such inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary items of Project machinery and equipment. In any instance where the Lessee in its sound discretion determines that any items of Project machinery and equipment have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary in the operation of the Leased Premises,

A. The Lessee may remove such items of Project machinery and equipment from the Leased Premises, and (on behalf of the Lessor) sell, trade-in, exchange or otherwise dispose of them without any responsibility or accountability to the Lessor therefor, provided that the Lessee substitute (either by direct payment of the cost thereof or by advance to the Lessor of the funds necessary there for, as hereinafter provided) and install anywhere in the Leased Premises other machinery or equipment having equal or greater utility (but not necessarily the same function) in the operation of the Leased Premises and provided further that such removal and substitution shall not impair the operating unit of the Leased Premises, and all such substituted machinery or equipment shall be the sole property of the Lessor, shall be and become a part of the Project machinery and equipment subject to this Lease Agreement and shall be held by the Lessee on the same terms and conditions as items originally comprising Project machinery and equipment; or

B. The Lessee may remove such items of Project machinery and equipment from the Leased Premises and sell, trade-in or exchange them on behalf of the Lessor, either to itself or to another, or scrap them (in whole or in part), without being required to substitute and install in the Leased Premises other items of machinery or equipment in lieu thereof.

To the extent necessary to comply with the Trust Indenture and/or the PILOT Agreement, the Lessee will promptly report such removals, substitutions, sales and other dispositions of items of Project machinery and equipment to the Lessor and will execute and deliver to the Lessor such documents as may from time to time be requested to confirm the title of the Lessor (subject to this Lease Agreement) to any items of machinery and equipment that under the provisions of this section are to become a part of Project machinery and equipment. The Lessee will pay any costs (including counsel fees) incurred in subjecting to the lien of the Trust Indenture any items of machinery or equipment that under the provisions of this section are to become a part of Project machinery and equipment. The Lessee will not remove or permit the

removal of any of Project machinery and equipment from the Leased Premises except in accordance with the provisions of this Section.

**ARTICLE XXV
RESERVED**

**ARTICLE XXVI
REPRESENTATIONS AND WARRANTIES**

Section 26.01. Representations and Warranties of the Lessor. The Lessor represents and warrants as follows:

A. The Lessor is a body corporate and politic, and is authorized pursuant to the provisions of the Act to enter into the transactions contemplated by this Lease Agreement.

B. The Lessor has full power and authority to enter into the transactions contemplated by this Lease Agreement and the Trust Indenture and to carry out its obligations hereunder and thereunder.

C. The Lessor is not in default under any provisions of the laws of the State material to the performance of its obligations under this Lease Agreement.

D. The Lessor is authorized by the Act to execute and deliver this Lease Agreement and the Trust Indenture and by proper action has duly authorized the execution and delivery hereof and thereof and as to the Lessor, this Lease Agreement and the Indenture are valid and legally binding and enforceable in accordance with their terms, except to the extent that the enforceability thereof may be limited by (i) bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable, (ii) general principles of equity, and (iii) the exercise of judicial discretion in appropriate cases.

E. The loan of the proceeds of the Bonds for the financing or refinancing of the acquisition, construction, and equipping of the Project by the Lessee, as provided by this Lease Agreement, will further the purposes of the Act.

Section 26.02. General Representations and Warranties of the Lessee. The Lessee represents and warrants as follows:

A. The Lessee is duly organized and existing under the laws of the State of Arkansas and has full power to enter into this Lease Agreement.

B. The making and performance of this Lease Agreement has been duly authorized by all necessary actions and does not contravene any law, regulation or decree or any contractual restriction binding on the Lessee.

C. Except for any Future Leases and the Existing Lease permitted by Section 6.05 and the lease, the Lessee is or will be the only Lessee of the Project. Except for the Permitted Encumbrances, the Project is free and clear of all mortgages, liens, charges and encumbrances, which constitute a lien or charge against its property, real or personal, tangible or intangible (except for such liens, if any, as will be waived or discharged at the time of the execution of this Lease Agreement).

D. The making and performance of this Lease Agreement, and each and every other document required to be delivered, has received or will receive in due course all necessary governmental approvals, and does not contravene any law, regulation or decree or any contractual restriction (other than those which shall be waived or discharged at the time of the execution of this Lease Agreement) binding on or affecting the Lessee.

E. This Lease Agreement, any other security documents and each and every other document required to be delivered under Article II hereof, when duly executed and delivered for value, will be legal and binding obligations of the Lessee, enforceable in accordance with their respective terms.

F. Except as otherwise disclosed, there are no pending or threatened actions or proceedings before any court or administrative agency which may materially adversely affect the financial condition or operations of the Lessee.

G. The Lessee is not in default under any material provision of any lease or rental agreement.

H. The Lessee is not in default under the terms of any material instrument or undertaking with respect to its obligations to repay any borrowed money.

I. The Lessee is not aware of any claim, or purported claim, of any laborer, materialman, contractor or other person who might assert a lien against the Property by reason of the construction or other improvement, other than those shown on the title commitment of the approved title insurance company, which shall be fully paid and satisfied from the proceeds of the Loan.

J. Estimated project costs have been determined in accordance with sound engineering and accounting principles, and the Lessee estimates that all of the proceeds of the Bonds (exclusive of accrued interest, if any, paid by the original purchasers thereof) will be expended to pay or reimburse such Project costs.

K. All financial information, data, representations, exhibits, terms and conditions required or submitted to the Lessor, if any, are true, accurate and complete in all material respects on the date of delivery by the Lessee.

All of the above representations and warranties shall survive the execution of this Lease Agreement.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be signed in several counterparts, each of which may be considered an original without the presentation of the others, by their duly authorized officials and officers as of the day and year first hereinabove written.

CITY OF JONESBORO, ARKANSAS, Lessor

By: _____
Harold Perrin, Mayor

ATTEST:

By: _____
Donna Jackson, City Clerk

(S E A L)

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be signed in several counterparts, each of which may be considered an original without the presentation of the others, by their duly authorized officials and officers as of the day and year first hereinabove written.

FMH CONVEYORS LLC, Lessee

A Delaware limited liability company

By: _____

Name: _____

Title: _____

STATE OF ARKANSAS)
) ss:
COUNTY OF CRAIGHEAD)

ACKNOWLEDGMENT

On this day, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named **Harold Perrin** and **Donna Jackson** to me personally well known, who stated that they are the Mayor and City Clerk, respectively, of the **CITY OF JONESBORO, ARKANSAS**, a city of the first class, and were duly authorized in those capacities to execute the foregoing instrument for and in the name and behalf of said City, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 22nd day of June, 2016.

Notary Public

My commission expires:

(S E A L)

STATE OF _____)
) ss:
COUNTY OF _____)

ACKNOWLEDGMENT

On this day, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named _____, to me personally well known, who stated that he was the _____ of **FMH CONVEYORS LLC**, a Delaware limited liability company, and was duly authorized in that capacity to execute the foregoing instruments 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 foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this ____ day of _____, 2016.

Notary Public

My commission expires:

(S E A L)

EXHIBIT A

All machinery, equipment and furnishings located on the Leased Premises and financed with the proceeds of the Series 2016 FMH Bonds.

EXHIBIT B

Legal Description

The Leased Premises is located in Craighead County, Arkansas and described as follows:

[To be inserted]

EXHIBIT C
Option Agreement
(See Attached)

OPTION AGREEMENT

This OPTION AGREEMENT (the "Option Agreement") is entered into and effective on the ____ day of _____, 2016, by and between the **CITY OF JONESBORO, ARKANSAS** ("Grantor") and **FMH CONVEYORS LLC**, a limited liability company organized under and existing by virtue of the laws of the State of Delaware ("Grantee").

WHEREAS, Grantor, as Lessor, and Grantee, as Lessee, have entered into a Lease Agreement (the "Lease Agreement") dated as of _____, 2016 relating to the Leased Premises (as defined in the Lease Agreement), and

WHEREAS, pursuant to the Lease Agreement, Grantor has given Grantee the right and option to purchase the Leased Premises at any time.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Grantor and Grantee, and in consideration of the mutual benefits and covenants herein contained, Grantor and Grantee agree as follows:

1. Definitions. In addition to the words and terms otherwise defined in this Option Agreement, capitalized words and terms shall have the definition given to them in the Lease Agreement.

2. Grantee Option. (a) The Grantee shall have the right and option to purchase the Leased Premises at any time if:

- (i) The Leased Premises shall sustain major damage or destruction; or
- (ii) Title to all or substantially all of the Leased Premises shall be condemned, by any competent authority other than the Grantor, as provided in Article XV of the Lease Agreement; or
- (iii) As a result of changes in the Constitution of the United States or of the State, or of legislative action, or by the final decree, judgment or order of any court or administrative body entered after Grantee's contest thereof in good faith, or change in Grantor's legal organization or status, the Lease Agreement becomes void or unenforceable or impossible of performance in accordance with the intent and purposes of the parties as expressed in the Lease Agreement, or unreasonable burdens or excessive liabilities are imposed upon either party to it; or
- (iv) There is legal curtailment of Grantee's use and occupancy of all or substantially all of the Leased Premises for any reason other than condemnation referred to in subsection (ii); or
- (v) Grantee determines to do so in its sole and absolute discretion; or

- (vi) Grantee is directed or requested to do so by any lienholder to which the Leased Premises was pledged as security prior to the commencement of the Lease Agreement.

If the Lease is terminated as a result of a default pursuant to Article XIX therein or otherwise, Grantee shall have the right and option to purchase the Leased Premises at any time during the period ending ninety (90) days after the effective date of such termination, in which event the Purchase Price payable shall include all expenses and reasonable attorney's fees of Grantor in connection with such termination, in addition to the amounts described Section 4.

The term "major damage or destruction" as used in subsection (i) is defined to mean any damage or injury to or destruction of the Leased Premises or any part thereof (whether or not resulting from an insured peril) such that the Leased Premises cannot reasonably be restored to its condition immediately preceding such damage, injury or destruction within a period of six (6) months, or which would prevent Grantee from carrying on its manufacturing operations therein for a period of at least six (6) months or the restoration cost of which would exceed the total amount of insurance carried on the Leased Premises in accordance with the provisions of Article V of the Lease Agreement, or such that it would not be economically feasible for the Grantee to repair the Leased Premises, as determined by the Grantee in its discretion.

(b) **Exercise of Purchase Option.** The Purchase Option may be exercised by Grantee giving written notice to Escrow Agent (hereinafter defined), with a copy to Grantor, of the exercise thereof specifying the time and place of closing. At the closing, Escrow Agent shall deliver the Conveyance Documents (hereinafter defined) to or upon the direction of Grantee or any leasehold mortgagee succeeding to the rights of Grantee. Grantor and Grantee agree and acknowledge that the Conveyance Documents shall transfer title to the Leased Premises free and clear of all liens and encumbrances except those identified as Permitted Encumbrances under the Lease Agreement or resulting from any failure of Grantee to perform any of its obligations under the Lease Agreement; provided, however, that if the Purchase Option is exercised under the provisions of Section 2(a)(ii) above, such title may be subject to the rights, titles and interests of any party having taken or who is attempting to take title to or use of all or substantially all or part of the Leased Premises by eminent domain.

3. Obligation to Purchase. At any time following or contemporaneous with the redemption of the Bonds, if the purchase option under the provisions of Section 2 has not been exercised, Grantee shall have the further unconditional right and obligation to purchase the Leased Premises for the Purchase Price (defined below).

4. Purchase Price. If the Grantee exercises Grantee's option to purchase the Leased Premises under the provisions of the Option Agreement:

- (i) if no Bonds shall be outstanding under the Trust Indenture at the time of purchase, the purchase price of the Leased Premises (the "Purchase Price") shall be One Hundred Dollars (\$100.00); and
- (ii) if Bonds are outstanding under the Trust Indenture at the time of the purchase, the purchase price of the Leased Premises shall be One Hundred Dollars (\$100.00), and in addition, either (x) contemporaneous with or prior to the date determined in Section 2(b), the full amount necessary under the provisions of the Trust Indenture to pay or redeem (on the first date thereafter on which all outstanding Bonds may be paid and redeemed after giving the necessary notice) all Bonds outstanding under the Trust Indenture (including, without limitation, principal, interest, and expenses of redemption), but after deduction of any amount then in the Bond Fund and available for such payment and redemption shall have been paid or otherwise satisfied pursuant to the terms of the Trust Indenture or (y) the Grantee shall assume all obligations with respect to repayment of the Bonds.

5. Prepayment of Purchase Price; Consideration. Contemporaneous with the execution of this Option Agreement, Grantee has paid One Hundred Dollars (\$100) to Grantor, and Grantor acknowledges receipt of such amount contemporaneous with the execution of the Option Agreement. Grantee and Grantor agree and acknowledge that the consideration for the Purchase Option and the Purchase Price for the Leased Premises includes the mutual benefits and covenants of the Lease Agreement, the issuance, purchase and repayment of the Series 2016 FMH Bonds, and the accomplishment of the Project, including, but not limited to, the Project's construction and operation by the Grantee.

6. Reserved.

7. Escrow of Transfer Documents. Contemporaneous with the execution of this Option Agreement, Grantor shall deliver into escrow a quitclaim deed, bills of sale and other appropriate conveyance instruments transferring title to the Leased Premises in a form consistent with Section 2(b) (collectively, the "Conveyance Documents"). The "Escrow Agent" shall be the Trustee for the Bonds or any successor trustee appointed pursuant to the Trust Indenture. The Escrow Agent shall hold the Conveyance Documents in escrow until the Purchase Option is exercised by the Grantee. Upon receipt of the notice specified in Section 2(b), the Escrow Agent is authorized to release the Conveyance Documents to or upon the direction of Grantee or any leasehold mortgagee succeeding to the rights of Grantee. Notwithstanding the escrow of the Conveyance Documents, upon exercise of the Purchase Option, Grantor shall execute and deliver new Conveyance Documents to Grantee at Grantee's request. It is agreed by Grantee and Grantor that the Escrow Agent shall be liable as a depository only and shall be and is hereby discharged from any and all liability for any act or omission done in good faith. The Escrow Agent may rely upon any paper, document or other writing reasonably believed to be authentic. The Escrow Agent shall not be required to construe this Option Agreement or any other instrument deposited herewith.

8. Notices. All notices, requests, demands or other communications required or permitted to be given or made hereunder shall be in writing and delivered personally or sent by prepaid, first-class, certified or express mail, return receipt requested, postage prepaid, to the addresses specified in the Lease Agreement or the Trust Indenture, as applicable.

9. No Recordation. This Option Agreement shall not be recorded. Grantor and Grantee shall sign and record a Memorandum of Lease and Option Agreement as well as every assignment and modification of either the Lease Agreement or the Option Agreement in the office of the Circuit Clerk and Ex-Officio Recorder of Craighead County, Arkansas.

10. General. Time is of the essence with respect to this Option Agreement. This option to purchase shall be governed by and construed under Arkansas law and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Option Agreement to be signed in several counterparts, each of which may be considered an original without the presentation of the others, by their duly authorized officials and officers as of the day and year first hereinabove written.

CITY OF JONESBORO, ARKANSAS, Lessor

By: _____
Harold Perrin, Mayor

ATTEST:

By: _____
Donna Jackson, City Clerk

(S E A L)

FMH CONVEYORS LLC, Lessee
a Delaware limited liability company

By: _____
Name: _____
Title: _____

Acknowledged by Escrow Agent:

[TO BE DETERMINED]

By: _____
Name: _____
Title: _____

STATE OF ARKANSAS)
) ss: **ACKNOWLEDGMENT**
COUNTY OF CRAIGHEAD)

On this day, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named **Harold Perrin** and **Donna Jackson** to me personally well known, who stated that they are the Mayor and City Clerk, respectively, of the **CITY OF JONESBORO, ARKANSAS**, a city of the first class, and were duly authorized in those capacities to execute the foregoing instrument for and in the name and behalf of said City, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2016.

Notary Public

My commission expires:

(S E A L)

EXHIBIT D

Existing Lease

Lease Agreement dated _____, 2016 between FMH Conveyors LLC, a Delaware limited liability company, as tenant, and HMD Developers, LLC, a Tennessee limited liability company, as landlord

LEASE AGREEMENT
BY AND BETWEEN
CITY OF JONESBORO, ARKANSAS
AND
HMD JONESBORO, LLC

Dated as of _____, 2016

MITCHELL | WILLIAMS

MITCHELL, WILLIAMS, SELIG, GATES & WOODYARD, P.L.L.C.
425 WEST CAPITOL AVENUE, SUITE 1800
LITTLE ROCK, AR 72201

LEASE AGREEMENT

TABLE OF CONTENTS

**ARTICLE I
DEFINITIONS**

Section 1.01. Definitions2
Section 1.02. Use of Words.....4

**ARTICLE II
ACQUISITION OF PROJECT**

Section 2.01. Acquiring of Project4
Section 2.02. Itemization of Project Costs5
Section 2.03. Certificate of Completion Date5

**ARTICLE III
DEMISING CLAUSES, DURATION OF LEASE TERM
AND RENTAL PROVISIONS**

Section 3.01. Demise of Leased Premises.....5
Section 3.02. Term of Lease Agreement6
Section 3.03. Basic Rent; Additional Rent; Absolute and Unconditional Obligation to
pay Basic Rent and Additional Rent6
Section 3.04. Method of Payment of Basic Rent and Additional Rent8
Section 3.05. Home Office Payment Agreement8
Section 3.06. Day for Payment.....8

**ARTICLE IV
TAXES AND ASSESSMENTS (IMPOSITIONS)**

Section 4.01. Taxes and Assessments8
Section 4.02. Leased Premises Exempt From Ad Valorem Taxes; Contest of
Attempted Levy Authorized9

**ARTICLE V
INSURANCE**

Section 5.01. Insurance Required.....9

**ARTICLE VI
REPAIRS AND MAINTENANCE OF
LEASED PREMISES AND ALTERATIONS**

Section 6.01. Lessee Obligated to Maintain Buildings and Improvements10
Section 6.02. Lessee Has Right to Make Additions, Alterations and Changes.....10

Section 6.03.	Structural Improvements and Alterations Become Property of Lessor; Machinery, Equipment and Other Property Installed at Lessee’s Expense Remain Its Property With Right of Removal.....	10
Section 6.04.	Property on Leased Premises at Sole Risk of Lessee.....	11
Section 6.05.	Permitted Encumbrances	11

**ARTICLE VII
USE OF LEASED PREMISES - COMPLIANCE WITH ORDERS, ETC.**

Section 7.01.	Permitted Use of Leased Premises and Compliance with Laws, Etc.....	11
Section 7.02.	Lessor’s Covenant Not to Impose Burdensome Laws, Etc	12
Section 7.03.	Lessor’s Covenant Not to Condemn	12

**ARTICLE VIII
WORK PERFORMED BY LESSEE**

Section 8.01.	Obligations of Parties Concerning Work on Leased Premises and Obtaining Necessary Permits	12
---------------	---	----

**ARTICLE IX
MECHANICS’ LIENS**

Section 9.01.	Lessee to Keep Leased Premises Free of Construction Liens.....	13
---------------	--	----

**ARTICLE X
INDEMNIFICATION OF LESSOR**

Section 10.01.	Indemnification of Lessor	13
----------------	---------------------------------	----

**ARTICLE XI
LESSOR MAY PERFORM LESSEE’S OBLIGATIONS**

Section 11.01.	Lessor May Perform Lessee’s Obligations; Lessee to Reimburse Lessor for Costs and Expenses Incurred in Doing So.....	13
----------------	--	----

**ARTICLE XII
PUBLIC UTILITIES AND CHARGES**

Section 12.01.	Lessee to Pay Public Utility Charges	14
----------------	--	----

**ARTICLE XIII
INSPECTION OF LEASED PREMISES BY LESSOR**

Section 13.01.	Lessor to have Right of Inspection and Right to Perform Work Subject to Certain Restrictions	14
----------------	--	----

**ARTICLE XIV
DAMAGE AND DESTRUCTION**

Section 14.01. Lessee to Restore in Event of Damage or Destruction; Application of Insurance Moneys.....15

Section 14.02. No Diminution in Lessee’s Obligation to Pay Basic Rent and Perform Other Covenants15

Section 14.03. Lessee Not Obligated to Restore if Purchase Option Exercised or All Outstanding Bonds Paid15

**ARTICLE XV
CONDEMNATION**

Section 15.01. Rights of Parties in Event of Condemnation; Bonds Protected in Any Event.....16

Section 15.02. Lessee Obligated to Continue Basic and Additional Rental Payments Until Condemnation Award Available.....17

Section 15.03. Lessee’s Right to Exercise Purchase Option Continues in Force Notwithstanding Condemnation Proceedings17

Section 15.04. Right of Lessee to Participate in Condemnation Proceedings18

**ARTICLE XVI
ASSIGNMENT**

Section 16.01. Assignment and Subletting Permitted But Lessee Not Relieved of Obligations; Assignment to Trustee Permitted18

**ARTICLE XVII
PRIORITY OF LEASE**

Section 17.01. Lease Agreement Superior and Prior19

**ARTICLE XVIII
REMEDIES ARE CUMULATIVE - NO IMPLIED WAIVER**

Section 18.01. Specific Relief; Remedies are Cumulative, No Implied Waiver.....19

**ARTICLE XIX
DEFAULT PROVISIONS**

Section 19.01. Events of Default.....19

Section 19.02. Remedies20

Section 19.03. Remedies Not Exclusive21

Section 19.04. Rental, Damages and Reletting Handled as Provided in Lease and Agreement and Indentures.....21

**ARTICLE XX
PURCHASE OPTION**

Section 20.01. Purchase Option21

**ARTICLE XXI
NOTICES**

Section 21.01. Notices.....21

**ARTICLE XXII
RECORDING**

Section 22.01. Recording22

**ARTICLE XXIII
GENERAL**

Section 23.01. Arkansas Law Applicable22
Section 23.02. Severability.....22
Section 23.03. Captions for Reference Only22
Section 23.04. Provisions Binding on Successors.....22
Section 23.05. Consent Required for Modification.....23
Section 23.06. Reasonable Consent23
Section 23.07. Consolidation, Merger or Sale Permitted In Certain Circumstances23

**ARTICLE XXIV
REMOVAL AND DISPOSAL OF PROPERTY**

Section 24.01. Lessee’s Rights and Obligations Concerning Removal and Disposal of
Building Service Equipment23
Section 24.02. Lessee’s Rights and Obligations Concerning Removal and Disposal of
Project Machinery and Equipment.....24

**ARTICLE XXV
RESERVED**

**ARTICLE XXVI
REPRESENTATIONS AND WARRANTIES**

Section 26.01. Representations and Warranties of the Lessor25
Section 26.02. General Representations and Warranties of the Lessee25

- EXHIBIT A** - EQUIPMENT LIST
- EXHIBIT B** - LEGAL DESCRIPTION
- EXHIBIT C** - OPTION AGREEMENT

LEASE AGREEMENT

This LEASE AGREEMENT (the “Lease Agreement”) is entered into on this ___ day of _____, 2016, by and between the **CITY OF JONESBORO, ARKANSAS** (“Lessor” or “Issuer”) and **HMD JONESBORO, LLC**, a limited liability company organized under and existing by virtue of the laws of the State of Tennessee (“Lessee”);

WITNESSETH:

WHEREAS, Lessor is a duly organized and existing city of the first class and a political subdivision, under the laws of the State of Arkansas with full and lawful power and authority to enter into this Lease Agreement, acting by and through its City Council, in the public interest and for a public purpose in securing and developing industry, all pursuant to the provisions of Amendment 65 to the Constitution of the State of Arkansas and Act No. 9 of the First Extraordinary Session of the Sixty-Second General Assembly of the State of Arkansas for the year 1960, codified as Ark. Code Ann. Sections 14-164-201 *et seq.* as amended (the “Act”) and as interpreted by the Arkansas Supreme Court in *Wayland v. Snapp*, 233 Ark. 57, 334 S.W. 2d 633 (1960), and *Pulaski County v. Jacuzzi Bros. Div.*, 332 Ark. 91, 964 S.W.2d 788 (1998); and

WHEREAS, the Issuer is authorized by the Act to issue the bonds for the purpose of financing the costs of acquiring, constructing and equipping lands, buildings or facilities for industrial enterprises as defined in the Act pursuant to a Trust Indenture dated as of _____, 2016 (the “Indenture”) by and between the Issuer and [To be determined], as Trustee; and

WHEREAS, permanent financing of the Project Costs (as defined herein), necessary costs and expenditures incidental thereto and the cost of the issuance of bonds, is being furnished by the Issuer through issuance of its Taxable Industrial Development Revenue Bonds (HMD Jonesboro, LLC Project) Series 2016 (the “Series 2016 HMD Bonds” or the “Bonds”) and through issuance of its Taxable Industrial Development Revenue Bonds (FMH Conveyors LLC Project) Series 2016 (the “Series 2016 FMH Bonds”); and

WHEREAS, the Lessor and the Lessee desire to enter into this Lease Agreement in connection with the issuance of the Bonds under the Indenture; and

WHEREAS, Lessee is authorized under its Articles of Organization and Operating Agreement and under the laws of the State of its organization to enter into this Lease Agreement and to perform all covenants and obligations on its part to be performed under and pursuant to this Lease Agreement; and

WHEREAS, Lessor is authorized by the Act and under the laws of the State to enter into this Lease Agreement and to perform all covenants and obligations on its part to be performed under and pursuant to this Lease Agreement;

WHEREAS, Lessee is not prohibited under the terms of any outstanding trust indenture, deeds of trust, mortgages, loan agreements or other instruments or evidences of indebtedness of whatever nature from entering into this Lease Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Lease

Agreement (or if so, a proper waiver or consent has been obtained) and affirmatively so represents to Lessor; and

WHEREAS, the industrial undertaking will consist of the acquisition, construction, and equipping of an industrial facility within the corporate boundaries of the Issuer, including, but not limited to, the acquisition of land and/or leasehold rights, construction of buildings, infrastructure and improvements, and acquisition and installation of equipment for the manufacture, fabrication or processing of custom-engineered conveyors to be located at the intersection of Barnhill Road and Highland Drive in Jonesboro, Arkansas, all as financed with the proceeds of the Series 2016 FMH Bonds and the Series 2016 HMD Bonds (the "Project") which Project shall otherwise exclude building, machinery and equipment financed by Lessee from other sources; and

WHEREAS, contemporaneous with the issuance of the Bonds and the execution and delivery of this Lease Agreement, the Issuer is issuing its Series 2016 FMH Bonds pursuant to the Indenture and entering into a lease agreement with FMH Conveyors LLC for the purpose of financing the portion of the Project that is not being financed with the Series 2016 HMD Bonds.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Lessor and Lessee, and in consideration of the mutual benefits and covenants herein contained, Lessor and Lessee agree as follows:

ARTICLE I DEFINITIONS

Section 1.01. Definitions. In addition to the words and terms otherwise defined in this Lease Agreement, the following words and terms as used in this Lease Agreement shall have the following meanings unless the context clearly indicates a different meaning or intent:

"Authorized Lessee Representatives" - The person or persons at the time designated to act on behalf of the Lessee by written certificate furnished to the Lessor containing the specimen signatures of any such person and signed on behalf of the Lessee. Such certificate may designate an alternate or alternates.

"Authorized Lessor Representative" - The person at the time designated to act in behalf of the Lessor by written certificate furnished to the Lessee containing the specimen signature of such person and signed on behalf of the Lessor. Such certificate may designate an alternate or alternates.

"Bond Fund" - The HMD Bond Fund created by Section 5.01 of the Indenture into which moneys are to be deposited and out of which disbursements are to be made for paying the principal of, premium, if any, and interest on the Bonds in the manner and for the purposes specified in the Indenture.

"Bonds" - The Series 2016 HMD Bonds.

“Completion Date” – The date of completion of the acquisition, construction and equipment of the Project as that date shall be determined by the Lessee and certified in writing to the Trustee.

“Home Office Payment Agreement” – The Home Office Payment Agreement between the Lessor, the Lessee, the Trustee, and the Purchaser evidencing the intent of the parties with respect to payment obligations under the Indenture, the bond purchase agreement between Lessor and the Purchaser relating to the Bonds, and this Lease Agreement.

“Lease Agreement” - This Lease Agreement between the Lessor and the Lessee.

“Lease Term” or “Term” - The term of the Lease Agreement set forth in Section 3.02.

“Leased Premises” – The land, facilities and related improvements covered by this Lease Agreement and defined in Section 3.01 hereof.

“Lessee” or “HMD” – HMD Jonesboro, LLC, a Tennessee limited liability company, and any assignee that assumes the obligations of the Lessee pursuant to the provisions of this Lease Agreement.

“Lessor” -- City of Jonesboro, Arkansas.

“Loan” – The loan from the Lessor to the Lessee which permits Lessee to use Bond proceeds to finance Project Costs.

“Loan Fund” - The fund created by Section 5.08 of the Trust Indenture into which the portion of the proceeds of the sale of the Bonds specified in Section 6.02 of the Indenture is to be deposited and out of which disbursements are to be made for Project Costs in the manner and for the purposes specified in Article VI of the Trust Indenture and Section 2.01 hereof.

“Option Agreement” – The Option Agreement attached hereto as Exhibit C.

“Permitted Encumbrances” - At any particular time (i) this Lease Agreement and Indenture, (ii) the encumbrances which affect the Leased Premises as set forth in a title commitment, (iii) utility, access and other easements and rights of way, restrictions, reversions and exceptions that the Lessee certifies will not interfere with or impair the operations being conducted in the Project, (iv) such minor defects, irregularities, encumbrances, easements, rights of way, and clouds on title as normally exist with respect to properties similar in character to the Project, and as do not materially impair the property affected thereby for the purpose for which it was acquired or held by the Lessor, (v) security interests, liens and mortgages in favor of creditors of Lessee as described in Section 6.05 hereof, and (vi) the Existing Lease or Future Subleases, if any, as described in Section 6.05 hereof.

“Project” - The facilities and related improvements more specifically identified in the Recitals hereto and financed out of proceeds of the Bonds and leased under this Lease Agreement.

“Project Costs” - The costs of acquiring, developing, constructing and equipping the Project described in Section 2.02 of this Lease Agreement.

“Purchaser” - The original purchaser of the Bonds.

“Rent” or “Rents” - The Basic Rent (provided for in Section 3.03A(1) hereof) and the Additional Rent (provided for in Section 3.03B hereof), unless the context clearly indicates both are not intended.

“Series 2016 HMD Bonds” - The \$12,000,000 City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (HMD Jonesboro, LLC Project), Series 2016.

“State” - The State of Arkansas.

“Trust Indenture” or “Indenture” - The Trust Indenture to be executed between the City and the Trustee securing the Series 2016 HMD Bonds and the Series 2016 FMH Bonds.

“Trustee” - The Trustee for the time being, whether original or successor, with the original Trustee being [To be determined], _____ banking corporation organized and operating under the laws of _____ and authorized to exercise corporate trust powers in the State of Arkansas, and being duly qualified to accept and administer the trusts created by the Indenture, and having a corporate trust office located in _____, Arkansas.

Section 1.02. Use of Words. Words of the masculine gender shall be deemed and construed to include the correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words shall include the plural, as well as the singular, number.

ARTICLE II ACQUISITION OF PROJECT

Section 2.01. Acquiring of Project. The Lessee has undertaken and will complete the acquiring of a portion of the Project and has executed, or will execute all necessary contracts therefor. The Lessee shall be reimbursed out of the Loan Fund for all qualifying expenditures made by it in connection with acquiring, developing, constructing and equipping its portion of the Project in the manner set forth in Section 6.03 of the Indenture. Title to the machinery, equipment and facilities paid for with the proceeds of the Loan shall be transferred to the Lessor and become part of the Leased Premises described in Section 3.01. The same shall be subject to such liens or encumbrances as may be placed thereon by Lessee prior to such transfer.

Lessee, with the cooperation of Lessor when necessary, shall obtain all necessary approvals from any and all governmental agencies requisite to the acquisition, development, construction and equipping of its portion of the Project, and its portion of the Project shall be acquired, developed and constructed in compliance with all State and local laws, ordinances and regulations applicable thereto. All requests, approvals and agreements required on the part of Lessor and on the part of Lessee shall be in writing, signed by the authorized representative of the party making such request, granting such approval, or entering into such agreement. The Lessor and Lessee shall, concurrently with the delivery of this Lease Agreement, notify each other of the Authorized Lessor Representative and the Authorized Lessee Representative,

respectively. It is agreed that each party may have more than one representative and may change the representative or representatives from time to time, with each such change to be in writing forwarded to the other party. The representative of each party so designated shall be authorized to enter into and execute any contracts or agreements or to grant any approvals or to take any action for and on behalf of the party hereto represented by such person and the other party to this Lease Agreement shall be entitled to rely upon the representative as having full authority to bind the party hereto represented by such person.

Section 2.02. Itemization of Project Costs. Costs incurred by Lessor and Lessee under Section 2.01 hereof and in other sections of this Article II shall be referred to as “Project Costs” and it is agreed that if Project Costs exceed the available proceeds received from the sale of the Bonds, the Lessee shall pay the entire amount of any such excess. Project Costs, as that term is used in this Lease Agreement, include the costs incurred by Lessor, Lessee or others in acquiring, developing, constructing and equipping Lessee’s portion of the Project and the costs of making the Loan and the issuance of the Bonds.

It is covenanted and agreed by Lessee that the proceeds of the Loan will be used for Project Costs.

Proceeds derived from the sale of the Bonds shall be deposited in the funds, handled, invested and disbursed in accordance with the provisions of the Trust Indenture. It is agreed that the Trust Indenture will be delivered and become effective after the delivery and effectiveness of this Lease Agreement and it is covenanted and agreed that so long as the Lessee is not in default under this Lease Agreement beyond any applicable notice and cure period, the Trust Indenture shall not be amended or supplemented without the approval of the Lessee of the amendment or supplement being made.

Section 2.03. Certificate of Completion Date. Promptly after the Completion Date, the Lessee shall submit to the Issuer and the Trustee a certificate, executed by an Authorized Lessee Representative, which shall specify the Completion Date and shall state that acquisition, construction and equipping of its portion of the Project has been completed and the Project Costs have been paid or set aside for payment, except for any Project Costs which have been incurred but are not then due and payable, or the liability for the payment of which is being contested or disputed by the Lessee. Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights against third parties which exist at the date thereof or which may subsequently come into being.

ARTICLE III DEMISING CLAUSES, DURATION OF LEASE TERM AND RENTAL PROVISIONS

Section 3.01. Demise of Leased Premises. Lessor, for and in consideration of the rents, covenants and agreements herein reserved, mentioned and contained, on the part of Lessee to be paid, kept and performed, agrees to and does hereby lease to Lessee, and Lessee agrees to, and does hereby lease, take and hire from Lessor, subject to the terms, conditions and provisions of this Lease Agreement expressed, the following:

The improvements described in **Exhibit A**, or elsewhere, which are located on the land described on **Exhibit B**, including, without limitation, all replacements and substitutions which become the property of the Lessor, pursuant to the provisions of this Lease Agreement. All such machinery, equipment and other personal property shall be described in a ledger maintained by Lessee on the Leased Premises and shall be marked by an appropriate tag or other device as being the property of the Lessor; provided, however, the failure to so tag or mark shall not prevent any item of Project machinery and equipment from becoming part of the Project machinery and equipment if such machinery and equipment and other personal property is listed on the above described ledger in a manner sufficient to distinguish such machinery and equipment from Lessee's other property. Lessee shall not alter or remove such tags, nor shall Lessee permit or suffer any person to alter or remove such tags during the term of this Lease.

The properties described in this Section 3.01 are herein collectively referred to as the "Leased Premises."

TO HAVE AND TO HOLD the Leased Premises unto the Lessee for the term of this Lease Agreement as hereinafter set forth.

Section 3.02. Term of Lease Agreement. The initial term of this Lease Agreement shall commence as of _____, 2016, and shall continue until _____, 20__ and as long thereafter as the Lessee has failed to make all required payments of Basic Rent or Additional Rent.

Section 3.03. Basic Rent; Additional Rent; Absolute and Unconditional Obligation to pay Basic Rent and Additional Rent.

A. Basic Rent.

(1) Lessee covenants to pay to Lessor, in the manner hereinafter provided in Section 3.04, Basic Rent annually in the amounts necessary to pay interest and principal of all outstanding Bonds as the same become due under the provisions of the Indenture. Basic Rent shall be payable annually on _____ commencing on _____, 2017 through _____, 20__, or until the principal of and interest on the Bonds shall have been fully paid, or the required provision made for the payment thereof in accordance with the provisions of the Trust Indenture. In the event a Basic Rent payment date falls on a non-business day, the Basic Rent payment involved shall not be due and payable until the time of opening of business on the next succeeding day thereafter that is a business day.

(2) If, during any year while any of the Bonds shall be outstanding, the Basic Rent shall be insufficient to pay the principal of, premium, if any, and interest on the Bonds as the same become due, the amount of the insufficiency shall be paid by the Lessee as additional Basic Rent. If at any time the amount in the Bond Fund, hereinabove referred to and hereafter described in Section 3.04, is

sufficient to pay in full the principal of, premium, if any, interest on, and, if redemption is involved, redemption expenses in connection with, all of the outstanding Bonds, then no further Basic Rent shall be payable hereunder. If any moneys remain in the Bond Fund after payment or the making of provision for payment in accordance with the provisions of Article V of the Trust Indenture, of the principal of, premium, if any, interest on, and, if redemption is involved, redemption expenses in connection with, all outstanding Bonds, such remaining moneys shall be refunded to Lessee as excess Basic Rent.

B. Additional Rent. During the term hereof, Lessee shall pay as Additional Rent payable to the Lessor, any expenses which are required to be incurred by Lessor pursuant to the provisions of this Lease Agreement or the Trust Indenture the payment of which is not otherwise provided for by applicable provisions of this Lease Agreement or the Trust Indenture, and all impositions (as defined in Section 4.01), expenses, liabilities, obligations and other payments of whatever nature which Lessee has agreed to pay or assume under the provisions of this Lease Agreement. If at any time any amounts paid by Lessee as Additional Rent hereunder are or become in excess of the amounts required for the purposes for which they were paid, such excess amounts shall be refunded to the Lessee.

C. Payment. Until the principal of, premium, if any, and interest on the Bonds shall have been paid or provision for such payment shall have been made in accordance with the provisions of Article V of the Trust Indenture, Lessee's obligation to pay Basic Rent and Additional Rent shall be absolute and unconditional and the Basic Rent and the Additional Rent shall be payable on the dates or at the times specified, and without abatement or set-off, and regardless of any contingencies whatsoever, and notwithstanding any circumstances or occurrences that may now exist or that may hereafter arise or take place, including, but without limiting the generality of the foregoing:

- (1) The unavailability of the Leased Premises, or any part thereof, for use by the Lessee at any time by reason of the failure to complete the Project by any particular time or at all or by reason of any other contingency, occurrence or circumstances whatsoever;
- (2) Damage to or destruction of the Leased Premises, or any part thereof;
- (3) Legal curtailment of Lessee's use of the Leased Premises, or any part thereof;
- (4) Change in Lessor's legal organization or status;
- (5) Any assignment under the provisions of Article XVI including, without limitation, an assignment as part of a transaction involving merger, consolidation or sale of all or substantially all of Lessee's assets, as provided in Section 16.01; subject, however, to the provisions of Section 16.01 that

performance by an assignee or sublessee shall be considered as performance pro tanto by Lessee;

(6) Any termination of this Lease Agreement for any reason whatsoever, including, without limitation, termination under Article XIX;

(7) Failure of consideration or commercial frustration of purposes;

(8) Any default of the Lessor under this Lease Agreement, or any other fault or failure of the Lessor whatsoever.

Lessee covenants that it will not enter into any contract, indenture or agreement of any nature whatsoever which shall in any way limit, restrict or prevent Lessee from performing any of its obligations under this Lease Agreement.

Section 3.04. Method of Payment of Basic Rent and Additional Rent. Payments of Basic Rent shall be made to Lessor by Lessee remitting the same directly to the Trustee, for the account of Lessor, and shall be deposited by the Trustee in the HMD Bond Fund provided for in the Trust Indenture, to be used by the Trustee as provided in the Trust Indenture. Additional Rent specified in Section 3.03B shall be paid by Lessee remitting the same directly to the Lessor, in the case of the Lessor's expenses and charges, and either making direct payment in the case of impositions and other costs, expenses, liabilities and payments assumed and agreed to be paid by Lessee under this Lease Agreement, or reimbursing Lessor, if, pursuant to the provisions of this Lease Agreement, Trustee shall make payment thereof.

Section 3.05. Home Office Payment Agreement. Notwithstanding any provision of this Lease Agreement to the contrary, the Lessor, the Lessee, the Purchaser, the Trustee and any of their successors or assigns may enter into or accept the terms of a home office payment agreement providing for the making of all payments due under this Lease Agreement at a place and in a manner other than as provided in this Lease Agreement upon such conditions as shall be satisfactory to the parties thereto. Contemporaneous with the delivery of the Bonds and this Lease Agreement, the appropriate parties will enter into the Home Office Payment Agreement.

Section 3.06. Day for Payment. Whenever any payment to be made hereunder shall be stated to be due on a Saturday, Sunday or a day banks are closed under the laws of the State or the United States of America, such payment shall be made on the next business day.

ARTICLE IV TAXES AND ASSESSMENTS (IMPOSITIONS)

Section 4.01. Taxes and Assessments. Subject to the provisions of Section 4.02, Lessee shall pay all taxes and assessments, general and specific, if any, levied and assessed on the Leased Premises during the term, and all water and sewer charges, assessments, and other governmental charges and impositions whatsoever, foreseen and unforeseen, which if not paid when due, would impair the lien of the Trust Indenture on the Leased Premises or the security of the Bonds, encumber Lessor's title, or impair the right of the Lessor to receive the rent hereunder or in any manner whatsoever diminish the amounts thereof, all of which are herein called "impositions;" provided, however, that any impositions relating to a fiscal period of the

taxing authority, part of which extends beyond the term, shall be apportioned as of the expiration of the term. Lessor shall promptly forward to Lessee any notice, bill or other statement received by Lessor concerning any impositions. Lessee may pay any imposition in installments if so payable by law, whether or not interest accrues on the unpaid balance. Lessee may contest any imposition or the consent thereby by proper legal proceedings diligently conducted. It is anticipated that the only ad valorem taxes and assessments that may be paid by the Lessee relating to the Leased Premises will be controlled by the Payment in Lieu of Taxes Agreement dated _____, 2016 (the "PILOT Agreement").

Section 4.02. Leased Premises Exempt From Ad Valorem Taxes; Contest of Attempted Levy Authorized. The Lessor covenants that it will not part with title to the Leased Premises or any part thereof during the term or take any other affirmative action which may reasonably be construed as tending to cause or induce the levy or assessment of ad valorem taxes on the Leased Premises; provided, however, that Lessor shall not contest the exercise of the Purchase Option provided in Article XX pursuant to the terms thereof.

Lessor has represented to Lessee and the Lessor and the Lessee acknowledge that under their and other interpretations of present law, no part of the Leased Premises will be subject to ad valorem taxation by the State or by any political or taxing subdivision thereof, and these factors, among others, materially induced the Lessee to enter into this Lease Agreement. However, the Lessee will pay all impositions, if any, in connection with the Leased Premises, which may be lawfully levied or assessed upon the Leased Premises, when the same shall become due; provided, however, that Lessee may contest any such impositions and need not pay during the pendency of such contest, except that the Lessee shall in all events pay to prevent the Leased Premises from becoming subject to loss or forfeiture. The Lessor hereby agrees that it will cooperate with the Lessee in resisting any such impositions if and to whatever extent the Lessee may request. Lessee's compliance with the PILOT Agreement will constitute compliance with the terms of this Section 4.02 with regard to any ad valorem taxation affecting the Leased Premises.

ARTICLE V INSURANCE

Section 5.01. Insurance Required.

A. Lessee shall, at Lessee's sole cost and expense, keep the Leased Premises insured in a commercially reasonable manner and in commercially reasonable amounts.

B. At all times during the term, Lessee shall, at no cost or expense to Lessor, maintain or cause to be maintained:

- (i) Commercial General Liability insurance against claims for bodily injury or death occurring upon, in or about the Leased Premises, with such insurance to afford protection to the limits of not less than \$500,000 in respect of bodily injury or death to any one person and to the limit of not less than \$1,000,000 in respect of any one accident; and

- (ii) Property damage insurance against claims for damage to property occurring upon, in or about the Leased Premises with such insurance to afford protection to the limit of not less than \$100,000 in respect of damages to the property of any one owner.

C. Copies or certificates of the insurance provided for by this Article or elsewhere in this Lease Agreement shall be delivered by Lessee to the Lessor upon the request of Lessor. And, in the case of expiring policies throughout the term, copies or certificates of any new or renewal policies shall be delivered by Lessee to Lessor upon the request of Lessor.

D. Reserved.

E. All insurance required by this Section 5.01 shall be effected with insurance companies qualified to do business in the State selected by the Lessee. The Lessee shall have the sole right and responsibility to adjust any loss with the insurer involved and to conduct any negotiations in connection therewith.

ARTICLE VI REPAIRS AND MAINTENANCE OF LEASED PREMISES AND ALTERATIONS

Section 6.01. Lessee Obligated to Maintain Buildings and Improvements. Lessee shall throughout the term, at no cost and expense to Lessor, maintain, or cause to be maintained the improvements now or at any time erected on the lands included in the Leased Premises.

Section 6.02. Lessee Has Right to Make Additions, Alterations and Changes. Lessee shall have the right from time to time to make additions, alterations and changes in or to the improvements constituting part of the Leased Premises and shall have the right to construct new improvements. Lessee shall maintain detailed records of the nature and cost of such additions, alterations and changes, which shall be available for inspection by Lessor's representatives and agents on reasonable notice. It is understood and agreed that in the event the Lessee makes any additions, alterations and changes in or to the improvements constituting part of the Leased Premises as authorized by this Section 6.02, the Lessee shall be under no obligation at the expiration of the term to restore the Leased Premises to their original condition prior to such additions, alterations or changes.

Section 6.03. Structural Improvements and Alterations Become Property of Lessor; Machinery, Equipment and Other Property Installed at Lessee's Expense Remain Its Property With Right of Removal. All structural improvements and alterations made on the Leased Premises by or on behalf of Lessee shall immediately upon completion thereof be and become the property of the Lessor without payment therefor by Lessor but subject to this Lease Agreement. Any machinery and equipment, trade fixtures, movable partitions, furniture and furnishings and other property installed at the expense of Lessee, without reimbursement from Bond proceeds, shall remain the property of the Lessee with the right of removal, whether or not affixed and/or attached to the real estate, and the Lessee shall, so long as it is not in default hereunder, be entitled but shall not be obligated to remove the same, or any part thereof,

during the term, or within a reasonable time thereafter, but Lessee shall at its own cost and expense repair any and all damages to the Leased Premises resulting from or caused by their removal therefrom.

Section 6.04. Property on Leased Premises at Sole Risk of Lessee. All property of any kind which may be on the Leased Premises (whether belonging to the Lessor, Lessee or to any third person) shall be at the sole risk of Lessee and those claiming by, through or under Lessee and Lessor shall not be liable to Lessee or to those claiming by, through or under Lessee or to said third persons for any injury, loss or damage to any person or property on the Leased Premises.

Section 6.05. Permitted Encumbrances. Lessor acknowledges that the Leased Premises will be subject to prior liens at the time title is transferred to the Lessor. Regardless of whether or not Lessor is permitted by Arkansas law to place a lien on the Leased Premises, the Lessor agrees that it is contractually prohibited from placing any lien or attempting to place any lien on the Leased Premises without the express written consent of Lessee which consent may be withheld in the sole discretion of Lessee, and any attempt by Lessor to impose a lien that is not consistent with this Section 6.05 or Arkansas law is void.

Lessor acknowledges that prior to the date of this Lease Agreement, Lessee, as landlord, entered into a lease of the Leased Premises with FMH Conveyors LLC (the "Existing Lease") which is identified on Exhibit D attached hereto. Lessor and Lessee agree that the Existing Lease shall be recognized and treated as a sublease during the Term. Lessor further acknowledges that Lessee may sublease additional tracts within the Leased Premises pursuant to Section 16.01 of this Lease Agreement (each, a "Future Sublease") Lessor agrees for the benefit of the lessee under the Existing Lease and each sublessee under Future Subleases that if this Lease Agreement is terminated, or Lessor comes into possession of the Leased Premises without termination, then in either such event Lessor shall recognize the Future Subleases and the rights of the lessee under the Existing Lease and sublessees thereunder provided that such lessee and sublessees attorn to Lessor. Notwithstanding the foregoing, Lessor will not be (i) liable for any act or omission of Lessee, (ii) subject to any offsets or counterclaims that any such lessee or sublessee may have against Lessee, (iii) bound by any notices given to Lessee of which Lessor did not also receive notice, or (iv) obligated to commence or complete any construction or installation of any improvements or to make any contribution towards any construction or installation of any improvements relating to the Existing Lease or any Future Sublease. The liability of Lessor under the Existing Lease or any Future Sublease will continue only so long as Lessor is the owner of the property subject to any Future Sublease and such liability will not continue or survive with respect to claims accruing after further transfer of such interest.

ARTICLE VII USE OF LEASED PREMISES - COMPLIANCE WITH ORDERS, ETC.

Section 7.01. Permitted Use of Leased Premises and Compliance with Laws, Etc. Subject to the following provisions of this Section 7.01, Lessor and Lessee agree that Lessee shall use the Leased Premises as a manufacturing facility and for any activities and purposes

incidental thereto or in furtherance thereof or for any lawful purpose approved by Lessor. Lessor agrees and confirms that Lessee's intended use of the Leased Premises for the manufacture, fabrication or processing of custom-engineered conveyors and for any activities and purposes incidental thereto or in furtherance thereof is a permitted use. Lessee shall during the term promptly comply with all valid statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or government authorities, now or hereafter applicable to the Leased Premises. Lessee shall, however, have the right to contest any of the foregoing, and if compliance therewith may legally be held in abeyance during such contest without incidence of any liens on the Leased Premises, Lessee may postpone compliance until final determination of such contest, provided such contest shall be prosecuted with due diligence; and even though a lien against the Leased Premises may be incurred by reason of such non-compliance, Lessee may nevertheless delay compliance therewith during contests thereof, provided Lessee, if required, furnishes Lessor reasonably satisfactory security against any loss by reason of such lien and effectively prevents foreclosure thereof. Lessee shall during the term comply with the mandatory requirement, rules and regulations of all insurers under the policies required to be carried under the provisions of this Lease Agreement.

Section 7.02. Lessor's Covenant Not to Impose Burdensome Laws, Etc. Lessor covenants that, to the full extent permitted by law, it will not attempt to impose upon the use or occupancy of the Leased Premises by the Lessee any laws, ordinances, rules or regulations more burdensome or restrictive than those in effect upon the date of execution of this Lease Agreement.

Section 7.03. Lessor's Covenant Not to Condemn. The Lessor covenants that during the Lease Term it will not take or condemn any part of the Leased Premises or attempt to do so.

ARTICLE VIII WORK PERFORMED BY LESSEE

Section 8.01. Obligations of Parties Concerning Work on Leased Premises and Obtaining Necessary Permits. Lessee shall not do or permit others under its control to do any work on the Leased Premises related to any repair, rebuilding, alteration of or addition to the improvements constituting part of the Leased Premises unless Lessee shall have first procured and paid for all requisite municipal and other governmental permits and authorizations. Lessor shall join in the application for any such permit or authorization whenever required, but Lessee shall indemnify and hold Lessor harmless against and from all costs and expenses which may be thereby incurred by Lessor. All such work shall be done in a good and workmanlike manner and in compliance with all applicable building, zoning and other laws, ordinances, governmental regulations and requirements and in accordance with the reasonable requirements, rules and regulations of all insurers under the policies required to be carried by the provisions of this Lease Agreement.

**ARTICLE IX
MECHANICS' LIENS**

Section 9.01. Lessee to Keep Leased Premises Free of Construction Liens. If any lien shall be filed against the interest of Lessor or Lessee in the Leased Premises or asserted against any rents payable hereunder, by reason of work, labor, services or materials supplied or claimed to have been supplied on or to the Leased Premises at the request or with the permission of Lessee, or anyone claiming under Lessee, Lessee shall, within thirty (30) days after receipt of notice of the filing thereof or the assertion thereof against such rents, cause the same to be discharged of record, or effectively prevent the enforcement or foreclosure thereof against the Leased Premises or such rents, by contest, payment, deposit, bond, insurance, order of Court or otherwise, the actual method being within Lessee's discretion. Nothing contained in this Lease Agreement shall be construed as constituting the express or implied consent to or permission of Lessor for the performance of any labor or services or the furnishing of any materials that would give rise to any such lien against Lessor's interest in the Leased Premises.

**ARTICLE X
INDEMNIFICATION OF LESSOR**

Section 10.01. Indemnification of Lessor. Commencing with the completion of the Project or when the Lessee takes possession if prior to the completion, Lessee shall and agrees to indemnify and save Lessor and the Trustee and to hold them harmless against and from all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on, the Leased Premises during the term, and against and from all claims arising during the term from (a) any condition of the Leased Premises, (b) any breach or default on the part of Lessee in the performance of any of its obligations under this Lease Agreement, (c) any act or negligence of Lessee or of any of its agents, contractors, servants, employees or licensees, or (d) any act or negligence of any assignee or sublessee of Lessee, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of Lessee. Lessee shall indemnify and save Lessor and the Trustee harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid, or in connection with any action or proceeding brought thereon, and upon notice from any of them, Lessee shall defend them or either of them in any such action or proceeding. Provided, however, Lessee has no obligation related to and shall not indemnify or hold harmless the Lessor or Trustee for any claims resulting from the negligence or willful misconduct of either the Lessor or Trustee.

**ARTICLE XI
LESSOR MAY PERFORM LESSEE'S OBLIGATIONS**

Section 11.01. Lessor May Perform Lessee's Obligations; Lessee to Reimburse Lessor for Costs and Expenses Incurred in Doing So. If Lessee shall fail to keep or perform any of its obligations as provided in this Lease Agreement in respect of (a) maintenance of insurance; (b) payment of impositions; (c) repairs and maintenance of the Leased Premises; (d) compliance with legal or insurance requirements; (e) keeping the Leased Premises lien free; (f) completion of construction and equipping of the Leased Premises; or (g) making of any other payment or performance of any other obligations, then Lessor may (but shall not be obligated to

do so), upon the continuance of such failure on Lessee's part for thirty (30) days after written notice to Lessee, or such longer period following notice as may be reasonably required to cure such failure, provided that corrective action is commenced within thirty (30) days thereafter and diligently pursued, and without waiving or releasing Lessee from any obligation, and as an additional but not exclusive remedy, make any such payment or perform any such obligation (not under circumstances where such payment or performance would defeat any rights, herein specifically given to Lessee, to withhold such performance or to contest such obligation to the extent herein provided), and all sums so paid by Lessor and all necessary incidental costs and expenses incurred by any of them in making such payment or performing such obligation shall be deemed Additional Rent and shall be paid to Lessor on demand, or at Lessor's option may be added to any installment of Basic Rent thereafter falling due, and if not so paid by Lessee, Lessor shall have the same rights and remedies as in the case of default by Lessee in the payment of the Basic Rent.

ARTICLE XII PUBLIC UTILITIES AND CHARGES

Section 12.01. Lessee to Pay Public Utility Charges. Lessee agrees to pay or cause to be paid all charges for water, gas, sewer, electricity, light, heat or power, telephone or other service used, rendered or supplied to or for the Lessee upon or in connection with the Leased Premises throughout the term of this Lease Agreement, and to indemnify Lessor and save it harmless against any liability or damage on such account.

ARTICLE XIII INSPECTION OF LEASED PREMISES BY LESSOR

Section 13.01. Lessor to have Right of Inspection and Right to Perform Work Subject to Certain Restrictions. Lessee shall permit Lessor, by its authorized representative, to enter the Leased Premises at all reasonable times and on reasonable prior written notice during usual business hours for the purpose of inspection, and for the performance of any work therein made necessary by reason of Lessee's default under any of the provisions of this Lease Agreement. Provided, however, Lessor's ability to perform work shall be limited to repair of an unsafe condition that has not been remedied by Lessee after receipt of written notice by Lessee from Lessor and expiration of any cure period. Lessor may, during the progress of any such work, keep and store on the Leased Premises all necessary materials, supplies and equipment and shall not be liable for reasonable inconvenience, annoyance, disturbance, loss of business or other damage to Lessee suffered by reason of the performance of any such work or the storage of materials, supplies and equipment. Such inspection and repair shall be conducted in a manner consistent with the prior and on-going practices and procedures of the Lessee and Lessor in the conduct of their normal affairs.

**ARTICLE XIV
DAMAGE AND DESTRUCTION**

Section 14.01. Lessee to Restore in Event of Damage or Destruction; Application of Insurance Moneys.

A. Lessee covenants and agrees that in the event of damage to or destruction of the Leased Premises, or any part thereof, by fire or other casualty, the Lessee shall immediately notify the Lessor and shall promptly proceed, at no cost and expense to Lessor, to restore, repair, rebuild or replace the Leased Premises as nearly as possible to the condition they were in immediately prior to such damage or destruction, subject to such alterations as Lessee may elect to make in conformity with the provisions of Article VI hereof. Any item of machinery and equipment acquired as a replacement hereunder, or any item acquired, in whole or in part, out of insurance proceeds under this Article XIV, whether or not a replacement of or substitute for any item of damaged or destroyed machinery and equipment, if the insurance proceeds with which such item of machinery and equipment was purchased, in whole or in part, were derived from insurance on property which was part of the Project machinery and equipment, owned by Lessor, shall be and become the property of Lessor and shall be part of the Project machinery and equipment and subject to this Lease Agreement. Such restoration, repairs, replacements or rebuilding shall be commenced promptly and prosecuted with reasonable diligence.

B. The Lessor shall have no responsibility as to the application by the Lessee of any insurance proceeds.

If the insurance money shall be insufficient to pay all costs of the restoration, the Lessee shall pay the deficiency and shall nevertheless proceed to complete the restoration and pay the cost thereof. Any balance of the insurance proceeds remaining over and above the cost of the restoration shall be retained by the Lessee.

Section 14.02. No Diminution in Lessee's Obligation to Pay Basic Rent and Perform Other Covenants. Lessee's obligation to make payment of the Basic Rent and all other covenants on the part of Lessee to be performed shall not be affected by any such destruction or damage, and Lessee hereby waives the provisions of any statute or law now or hereafter in effect contrary to such obligation of Lessee as herein set forth, or which releases Lessee therefrom.

Section 14.03. Lessee Not Obligated to Restore if Purchase Option Exercised or All Outstanding Bonds Paid. Notwithstanding the provisions of the foregoing sections of this Article XIV, Lessee shall not be required to repair, restore, replace or rebuild the Leased Premises, or any part thereof, (a) if Lessee, pursuant to the provisions of Article XX, shall elect to purchase the Leased Premises and shall proceed to pay the specified purchase price or (b) if the full amount necessary under the provisions of the Trust Indenture to pay or redeem all outstanding Bonds shall have been paid and Lessee has not elected to purchase the Leased Premises or (c) if the value of the Project without restoration is at least equal to the outstanding principal amount of the Bonds. If Lessee shall so elect to purchase, the proceeds of all insurance may be used as part of the purchase price and upon the request of Lessee shall be so applied. If there be any excess insurance proceeds over and above the amount necessary to pay

the purchase price, such excess shall be paid to and shall belong to the Lessee. If Lessee shall have paid the full amount necessary to pay or redeem all outstanding Bonds, any insurance proceeds shall be paid to and shall belong to Lessee.

ARTICLE XV CONDEMNATION

Section 15.01. Rights of Parties in Event of Condemnation; Bonds Protected in Any Event.

A. If during the term of this Lease Agreement title to all or substantially all of the Leased Premises shall be taken or condemned by a competent authority for any public use or purpose, the net amount awarded as damages or paid as a result of such taking (being the gross award less attorneys' fees and other expenses and costs incurred in the condemnation proceedings, hereinafter referred to as the "net award") shall be used on the next redemption date to pay in accordance with the provisions of the Trust Indenture, the entire principal, premium, if any, and interest on all Bonds outstanding under the Trust Indenture. If the net award together with the amount then in the Bond Fund, shall be insufficient to pay in full, on the next redemption date, the amount necessary to pay all principal, premium, if any, interest, and all other costs of redemption, on all Bonds outstanding under the Trust Indenture (all of which, for purposes of this Section, shall be called "total bond redemption expense"), Lessee agrees to pay, promptly upon payment of the net award, as Additional Rent hereunder, the amount by which the total bond redemption expense shall exceed the net award plus the amount then on deposit in the Bond Fund and available for payment and redemption of the Bonds outstanding under the Trust Indenture. For purposes of this Article and of Article XX, "title to all or substantially all of the Leased Premises shall be taken or condemned" shall be deemed to mean a taking of all of the Leased Premises or a taking of such substantial portion of the Leased Premises that the Lessee, as determined by the Lessee in its sole discretion, cannot reasonably operate the remainder in substantially the same manner as before. In the event the net award, together with any available amount in the Bond Fund, shall be in excess of the amount necessary to pay the total bond redemption expense, such excess shall belong to and be paid to the Lessee.

B. If less than substantially all of the Leased Premises shall be taken or condemned by a competent authority for any public use or purpose, neither the term nor any of the obligations of either party under this Lease Agreement shall be affected or reduced in any way, and

- (i) Lessee shall proceed to repair, rebuild and replace the remaining part of the Leased Premises as nearly as possible to the condition existing prior to such taking, to the extent that the same may be feasible, subject to the right on the part of the Lessee to make alterations which, in the reasonable judgment of Lessee (and in accordance with Article VI hereof), will improve the efficiency of the Leased Premises for the purposes of their intended use under this Lease Agreement; and

- (ii) The net award shall be paid to the Lessor and by it to the Lessee, and the Lessor hereby assigns the same to the Lessee for the use of the Lessee in repairing, rebuilding and replacing as provided in (i) above. The net award shall be transferred to the Lessee in the same manner as is provided in Section 14.01 with respect to insurance proceeds, provided that the words “insurance proceeds” there referred to shall for purposes of this subparagraph (ii) refer to “net award.” If the net award is in excess of the amount necessary to repair, rebuild and replace as specified in (i) above, such excess shall be deposited in the Bond Fund or if there are no Bonds outstanding under the Trust Indenture the excess shall belong to and shall be paid to the Lessee. If the net award is less than the amount necessary for the Lessee to repair, rebuild and replace as set forth in (i) above, the Lessee shall nevertheless complete the repair, rebuilding and replacement work and pay the cost thereof to the extent not covered by the net award.

C. In the event of a taking under either A or B above, the Lessee shall have the right to participate in and to submit proof in the condemnation proceedings and to receive any award (by way of negotiation, settlement or judgment) which may be made for damages sustained by Lessee by reason of the condemnation; provided, however, nothing in this subsection C shall be construed to diminish or impair in any way Lessee’s obligation under subsection A of this Section 15.01 to pay as Additional Rent the amount of any insufficiency of the net award and the funds in the Bond Fund to pay the total bond redemption expense as therein defined.

D. If the temporary use of the whole or any part of the Leased Premises shall be taken by right of eminent domain, this Lease Agreement shall not be thereby terminated and the parties shall continue to be obligated under all of its terms and provisions and Lessee shall be entitled to receive the entire amount of the award made for such taking, whether by way of damages, rent or otherwise.

Section 15.02. Lessee Obligated to Continue Basic and Additional Rental Payments Until Condemnation Award Available. In the event of a taking of all or substantially all of the Leased Premises as provided in Section 15.01A, the Lessee agrees to continue to make payment of the Basic Rent and the Additional Rent until the condemnation award shall be actually received by the Lessor.

Section 15.03. Lessee’s Right to Exercise Purchase Option Continues in Force Notwithstanding Condemnation Proceedings. Notwithstanding the fact that all or any part of the Leased Premises shall be taken by right of eminent domain, Lessee shall have the right to exercise the Purchase Option granted to it by the provisions of Article XX hereof and the foregoing provisions of this Article shall be construed in the light of the effect of the Purchase Option so exercised by Lessee. In the event of the exercise of the Purchase Option under Article XX and payment of the required purchase price, whether before or after such taking, the net award shall belong to Lessee.

Section 15.04. Right of Lessee to Participate in Condemnation Proceedings. Lessee shall have the sole right, proceeding in the name of the Lessor, to handle the defense of any condemnation proceeding pertaining to or affecting the Leased Premises or to handle the prosecution of any proceeding in connection with a condemnation, pertaining to or affecting the Leased Premises, and shall have the sole right, proceeding in the name of the Lessor, to negotiate any settlement or compensation for a taking pertaining to or affecting the Leased Premises and the Lessor agrees that it will cooperate with the Lessee in such manner as the Lessee requests with the end in view of obtaining the maximum possible amount justifiable as damages for the taking. The Lessee shall have the right, proceeding in its own name, to participate in the condemnation proceedings and to receive any award (by way of negotiation, settlement or judgment) which may be made for damages sustained by Lessee by reason of the condemnation.

ARTICLE XVI ASSIGNMENT

Section 16.01. Assignment and Subletting Permitted But Lessee Not Relieved of Obligations; Assignment to Trustee Permitted.

A. With the written consent of Lessor, which consent may not be unreasonably withheld, Lessee may assign this Lease Agreement or sublet the Leased Premises or parts thereof provided that no such assignment or subletting and no dealings or transactions between the Lessor and any sublessee or assignee shall relieve the Lessee of any of its obligations under this Lease Agreement and Lessee shall remain as fully bound as though no assignment or subletting had been made, and performance by any assignee or sublessee shall be considered as performance pro tanto by Lessee; provided, however, that Lessee may assign this Lease Agreement, and be thereby relieved of further obligation hereunder, in connection with a transaction involving merger, consolidation or sale as permitted under Section 23.07 provided the requirements thereof are met. Except for the sublease approved by Lessor prior to the execution of this Lease Agreement, the Lessee shall give sixty (60) days prior notice of such assignment or subletting to the Lessor. Lessee may sell or assign its interest in this Lease Agreement and be relieved of its obligations under this Lease in situations other than those described in Section 23.07, but only with the written consent of Lessor.

B. The Lessor shall not assign, encumber, sell or dispose of all or any part of its rights, title and interest in and to the Leased Premises and this Lease Agreement, except to the Lessee or a creditor of Lessee to which Lessee has granted a security interest in either the Leased Premises or the Lease Agreement in accordance with the provisions of this Lease Agreement, but subject to the provisions of Article XVII hereof, without the prior written consent of the Lessee. Lessor may assign its interests in the Lease Agreement to the Trustee.

C. Anything in this Section 16.01 to the contrary notwithstanding, Lessee may sublease without Lessor's consent up to fifty percent (50%) of the Leased Premises, with such percentage based on value, in one or more subleases, in each case following written notice to the Lessor or otherwise in compliance with Section 6.05 hereof.

**ARTICLE XVII
PRIORITY OF LEASE**

Section 17.01. Lease Agreement Superior and Prior. This Lease Agreement (and any amendment or supplement hereto executed in accordance with and pursuant to the provisions of this Lease Agreement) and the estate of Lessee hereunder are and shall continue to be superior and prior to the Trust Indenture (and all supplements thereto).

**ARTICLE XVIII
REMEDIES ARE CUMULATIVE - NO IMPLIED WAIVER**

Section 18.01. Specific Relief; Remedies are Cumulative, No Implied Waiver. Lessor and Lessee shall each be entitled to specific performance, and injunctive or other appropriate equitable relief for any breach or threatened breach of any of the provisions of this Lease Agreement, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity. The specific remedies provided for in this Lease Agreement are cumulative and are not exclusive of any other remedy. The failure of either party to insist in any one or more cases upon strict performance shall not be construed as a waiver or relinquishment for the future. No acceptance of rents with knowledge of any default shall be deemed a waiver of such default.

**ARTICLE XIX
DEFAULT PROVISIONS**

Section 19.01. Events of Default. (a) The following shall be “events of default” under this Lease Agreement and the terms “event of default” or “default” shall mean, whenever they are used in this Lease Agreement, any one or more of the following events:

A. Failure by the Lessee to pay the rents or any part thereof when due so as to prevent timely payment on the Bonds.

B. Failure by the Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subsection A of this Section, (i) for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, given to the Lessee by the Lessor unless the Lessor shall agree in writing to an extension of such time prior to its expiration or (ii) for such longer period as may be reasonably necessary to remedy such default provided that the Lessee is proceeding with reasonable diligence, to remedy the same.

C. The dissolution of the Lessee or the filing by the Lessee of a voluntary petition in bankruptcy, or failure by the Lessee promptly to lift any execution, garnishment or attachment of such consequence as will impair its ability to carry on its operations at the Leased Premises, or the commission by the Lessee of any act of bankruptcy, or adjudication of the Lessee as a bankrupt, or assignment by the Lessee for the benefit of its creditors, or the entry by the Lessee into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Lessee in any proceeding for its reorganization instituted under the provisions of the general bankruptcy act, as amended, or under similar act which may

hereafter be enacted. The term “dissolution or liquidation of the Lessee,” as used in this subsection, shall not be construed to include the cessation of the corporate or limited liability company existence of the Lessee resulting either from a merger or consolidation of the Lessee into or with another corporation or other entity or a dissolution or liquidation of the Lessee following a transfer of all or substantially all of its assets as an entirety, under the conditions permitting such actions contained in this Lease Agreement.

(b) In the event that Lessee has granted a leasehold mortgage to any third party, the leasehold mortgagee shall have the right to cure any of the above-referenced defaults. Lessor shall provide timely written notice of all defaults to all leasehold mortgagees at the addresses provided by such leasehold mortgagees to Lessor. Such notices shall state the term of the cure period which shall not be less than the greater of ten (10) business days or the cure period granted to Lessee hereunder or otherwise.

Section 19.02. Remedies. Whenever any event of default shall happen and then be continuing, the Lessor may take any of the following remedial steps:

A. The Lessor may, at its option, declare all installments of rent payable for the remainder of the term to be immediately due and payable, whereupon the same shall become immediately due.

B. The Lessor may re-enter and take possession of the Leased Premises without terminating this Lease Agreement, and sublease the Leased Premises on commercially reasonable terms for the account of the Lessee, holding the Lessee liable for the difference in the rent and other amounts payable by the Lessee hereunder.

C. The Lessor may terminate the term, exclude the Lessee from possession of the Leased Premises and use its best efforts to lease the Leased Premises to another for the account of the Lessee, holding the Lessee liable for all rent and other payments due up to the effective date of any such leasing.

D. The Lessor shall have access to inspect, examine and make copies of the books and records relating to the Leased Premises.

E. The Lessor may take whatever action at law or in equity may appear necessary or desirable to collect the rent and any other amounts payable by Lessee hereunder, then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Lessee under this Lease Agreement.

Any amounts collected pursuant to action taken under this Section shall be applied in accordance with the provisions of the Trust Indenture.

Notwithstanding the above, before exercising any remedy granted therein, Lessor shall by written notice, grant Lessee the option to cure any default for a period of thirty (30) days, and Lessor agrees that it shall contemporaneously provide a copy of any such notice and the opportunity to cure a default to all leasehold mortgagees.

Section 19.03. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Lessor is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof but any such right or power may be exercised from time to time as often as may be deemed expedient.

Section 19.04. Rental, Damages and Reletting Handled as Provided in Lease and Agreement and Indentures. The foregoing provisions of this Article relating to the receipt of moneys by Lessor as the result of an acceleration, upon a reletting or otherwise are each to be construed as providing that all such payments by Lessee or others shall be handled as provided in this Lease Agreement and in the Trust Indenture.

**ARTICLE XX
PURCHASE OPTION**

Section 20.01. Purchase Option. The Lessee shall have the right and option to purchase the Leased Premises at any time (the "Purchase Option"). Contemporaneous with the execution of this Lease Agreement, Lessee and Lessor shall execute the Option Agreement attached hereto and incorporated herein as Exhibit C. Lessee and Lessor agree and acknowledge that the consideration for the Purchase Option includes, not only the stated consideration within the Option Agreement, but also the mutual benefits and covenants of this Lease Agreement, the issuance, purchase and repayment of the Series 2016 HMD Bonds, and the accomplishment of the Lessee's portion of the Project, including, but not limited to, the Project's construction and operation by the Lessee.

**ARTICLE XXI
NOTICES**

Section 21.01. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, return receipt requested, postage prepaid addressed as set forth herein. The parties may, by notice given hereunder, designate any further or different address to which subsequent notices, certificates or other communications shall be sent.

If intended for Lessee: HMD Jonesboro, LLC

Attention: Member

With a copy to:

HMD Sub LLC
c/o HMD Jonesboro, LLC

Attention: Member

If intended for Issuer: City of Jonesboro, Arkansas
P.O. Box 1845
Jonesboro, Arkansas 72403
Attn: Mayor
With a copy to: Carol M. Duncan
Attorney at Law
410 W. Washington Ave.
Jonesboro, AR 72401

Any party may change the address and the name of addressee to which subsequent notices are to be sent by notice to the other parties given as aforesaid.

ARTICLE XXII RECORDING

Section 22.01. Recording. A Memorandum of this Lease Agreement and every assignment and modification thereof shall be recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Craighead County, Arkansas, upon the request of Lessee or Lessor.

ARTICLE XXIII GENERAL

Section 23.01. Arkansas Law Applicable. This Lease Agreement shall be construed and enforced in accordance with the laws of the State. Wherever in this Lease Agreement it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation. All factual representations set forth in the whereas clauses of this Lease Agreement shall be construed as express representations and covenants on the part of the party to which each such recital is applicable to the same extent as though set forth as an express representation and covenant by that party.

Section 23.02. Severability. If any provision of this Lease Agreement or the application thereof to any person or circumstance shall, to any extent, be determined to be invalid or unenforceable, the remainder of this Lease Agreement and the application of its provisions to persons or circumstances other than those as to which it has been determined to be invalid or unenforceable, shall not be affected thereby, and each provision of this Lease Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

Section 23.03. Captions for Reference Only. The Article captions in this Lease Agreement are for convenience and reference only and shall in no way define, limit or describe the scope or intent of this Lease Agreement or any part thereof, or in any wise affect this Lease Agreement and shall not be considered in any construction thereof.

Section 23.04. Provisions Binding on Successors. The provisions of this Lease Agreement shall bind and inure to the benefit of the parties hereto and their respective

successors, assigns and sub-lessees (it being understood that assignments and subleasing are governed by the provisions of Article XVI hereof).

Section 23.05. Consent Required for Modification. It is agreed that the Lessor and the Lessee shall not alter, modify or amend any of the terms of this Lease Agreement except by mutual written agreement with the consent of the Trustee as required by the Indenture.

Section 23.06. Reasonable Consent. In each instance in this Lease Agreement where the consent or approval of Lessor is required, such consent or approval shall not be unreasonably withheld, conditioned or delayed.

Section 23.07. Consolidation, Merger or Sale Permitted In Certain Circumstances. Notwithstanding any other provision of this Lease Agreement to the contrary, the Lessee will maintain its existence as a limited liability company and will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another corporation or other entity or permit one or more other corporations or other entities to consolidate with or merge into it; provided, however, the Lessee may consolidate with or merge into another domestic corporation or other entity (that is a corporation or other entity organized and existing under the laws of one of the states of the United States of America), or permit one or more other corporations or other entities to consolidate with or merge into it, or sell or otherwise transfer to another domestic corporation or other entity all or substantially all of its assets as an entirety and thereafter dissolve on the condition that such surviving, resulting or transferee corporation or other entity shall expressly assume in writing all of the obligations of the Lessee contained in this Lease Agreement and that the net tangible assets of the other corporation or other entity after the consolidation, merger or sale be at least equal to the net tangible assets of Lessee immediately prior to such consolidation, merger or sale and qualifies to do business in the State. In the event of such consolidation, merger or sale, as permitted by this Section, and the assumption by the surviving, resulting or transferee corporation or other entity of the obligations hereof, the Lessee shall be relieved of all further obligations hereunder. As used herein, "net tangible assets" means all assets of the corporation or other entity (except there shall not be included goodwill) less all liabilities. Sixty (60) days prior to any such consolidation, merger or sale, the Lessee shall give notice thereof to Lessor.

ARTICLE XXIV REMOVAL AND DISPOSAL OF PROPERTY

Section 24.01. Lessee's Rights and Obligations Concerning Removal and Disposal of Building Service Equipment. The Lessee may, provided Lessee is not in default in the payment of Basic Rent or Additional Rent as required by the provisions of this Lease Agreement and has not received notice of any other default on its part hereunder, remove, free of any right or claim of Lessor, any building service equipment or other improvements (hereinafter defined), subject however, in all cases to the following:

- A. Except as provided in Section 24.02, building service equipment or other improvements may be so removed upon the substitution thereof, then or theretofore, by Lessee of other building service equipment or other improvements of a utility or value at least equal to that, at the time of removal, of the building service equipment removed;

B. Lessee shall pay all the costs and expenses of any such removal.

The term “building service equipment” is intended to refer to such things as are affixed to or incorporated in a building for its operation, such as boilers, pumps, tanks, sprinklers, lighting equipment and wiring, heating, plumbing and ventilating equipment, elevators, escalators, refrigerating, air conditioning and air cooling equipment, and items similar in general to any of the foregoing.

Section 24.02. Lessee’s Rights and Obligations Concerning Removal and Disposal of Project Machinery and Equipment. The Lessor and the Lessee recognize that after the Project machinery and equipment is installed portions thereof may become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary in the operation of the Leased Premises. The Lessor shall not be under any obligation to renew, repair or replace any such inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary items of Project machinery and equipment. In any instance where the Lessee in its sound discretion determines that any items of Project machinery and equipment have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary in the operation of the Leased Premises,

A. The Lessee may remove such items of Project machinery and equipment from the Leased Premises, and (on behalf of the Lessor) sell, trade-in, exchange or otherwise dispose of them without any responsibility or accountability to the Lessor therefor, provided that the Lessee substitute (either by direct payment of the cost thereof or by advance to the Lessor of the funds necessary there for, as hereinafter provided) and install anywhere in the Leased Premises other machinery or equipment having equal or greater utility (but not necessarily the same function) in the operation of the Leased Premises and provided further that such removal and substitution shall not impair the operating unit of the Leased Premises, and all such substituted machinery or equipment shall be the sole property of the Lessor, shall be and become a part of the Project machinery and equipment subject to this Lease Agreement and shall be held by the Lessee on the same terms and conditions as items originally comprising Project machinery and equipment; or

B. The Lessee may remove such items of Project machinery and equipment from the Leased Premises and sell, trade-in or exchange them on behalf of the Lessor, either to itself or to another, or scrap them (in whole or in part), without being required to substitute and install in the Leased Premises other items of machinery or equipment in lieu thereof.

To the extent necessary to comply with the Trust Indenture and/or the PILOT Agreement, the Lessee will promptly report such removals, substitutions, sales and other dispositions of items of Project machinery and equipment to the Lessor and will execute and deliver to the Lessor such documents as may from time to time be requested to confirm the title of the Lessor (subject to this Lease Agreement) to any items of machinery and equipment that under the provisions of this section are to become a part of Project machinery and equipment. The Lessee will pay any costs (including counsel fees) incurred in subjecting to the lien of the Trust Indenture any items of machinery or equipment that under the provisions of this section are to become a part of Project machinery and equipment. The Lessee will not remove or permit the

removal of any of Project machinery and equipment from the Leased Premises except in accordance with the provisions of this Section.

**ARTICLE XXV
RESERVED**

**ARTICLE XXVI
REPRESENTATIONS AND WARRANTIES**

Section 26.01. Representations and Warranties of the Lessor. The Lessor represents and warrants as follows:

A. The Lessor is a body corporate and politic, and is authorized pursuant to the provisions of the Act to enter into the transactions contemplated by this Lease Agreement.

B. The Lessor has full power and authority to enter into the transactions contemplated by this Lease Agreement and the Trust Indenture and to carry out its obligations hereunder and thereunder.

C. The Lessor is not in default under any provisions of the laws of the State material to the performance of its obligations under this Lease Agreement.

D. The Lessor is authorized by the Act to execute and deliver this Lease Agreement and the Trust Indenture and by proper action has duly authorized the execution and delivery hereof and thereof and as to the Lessor, this Lease Agreement and the Indenture are valid and legally binding and enforceable in accordance with their terms, except to the extent that the enforceability thereof may be limited by (i) bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable, (ii) general principles of equity, and (iii) the exercise of judicial discretion in appropriate cases.

E. The loan of the proceeds of the Bonds for the financing or refinancing of the acquisition, construction, and equipping of the Project by the Lessee, as provided by this Lease Agreement, will further the purposes of the Act.

Section 26.02. General Representations and Warranties of the Lessee. The Lessee represents and warrants as follows:

A. The Lessee is duly organized and existing under the laws of the State of Arkansas and has full power to enter into this Lease Agreement.

B. The making and performance of this Lease Agreement has been duly authorized by all necessary actions and does not contravene any law, regulation or decree or any contractual restriction binding on the Lessee.

C. Except for any Future Leases and the Existing Lease permitted by Section 6.05 and the lease between the Issuer and FMH Conveyors LLC, the Lessee is or will be the only Lessee of the Project. Except for the Permitted Encumbrances, the Project is free and clear of all mortgages, liens, charges and encumbrances, which constitute a lien or charge against its property, real or personal, tangible or intangible (except for such liens, if any, as will be waived or discharged at the time of the execution of this Lease Agreement).

D. The making and performance of this Lease Agreement, and each and every other document required to be delivered, has received or will receive in due course all necessary governmental approvals, and does not contravene any law, regulation or decree or any contractual restriction (other than those which shall be waived or discharged at the time of the execution of this Lease Agreement) binding on or affecting the Lessee.

E. This Lease Agreement, any other security documents and each and every other document required to be delivered under Article II hereof, when duly executed and delivered for value, will be legal and binding obligations of the Lessee, enforceable in accordance with their respective terms.

F. Except as otherwise disclosed, there are no pending or threatened actions or proceedings before any court or administrative agency which may materially adversely affect the financial condition or operations of the Lessee.

G. The Lessee is not in default under any material provision of any lease or rental agreement.

H. The Lessee is not in default under the terms of any material instrument or undertaking with respect to its obligations to repay any borrowed money.

I. The Lessee is not aware of any claim, or purported claim, of any laborer, materialman, contractor or other person who might assert a lien against the Property by reason of the construction or other improvement, other than those shown on the title commitment of the approved title insurance company, which shall be fully paid and satisfied from the proceeds of the Loan.

J. Estimated project costs have been determined in accordance with sound engineering and accounting principles, and the Lessee estimates that all of the proceeds of the Bonds (exclusive of accrued interest, if any, paid by the original purchasers thereof) will be expended to pay or reimburse such Project costs.

K. All financial information, data, representations, exhibits, terms and conditions required or submitted to the Lessor, if any, are true, accurate and complete in all material respects on the date of delivery by the Lessee.

All of the above representations and warranties shall survive the execution of this Lease Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be signed in several counterparts, each of which may be considered an original without the presentation of the others, by their duly authorized officials and officers as of the day and year first hereinabove written.

CITY OF JONESBORO, ARKANSAS, Lessor

By: _____
Harold Perrin, Mayor

ATTEST:

By: _____
Donna Jackson, City Clerk

(S E A L)

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be signed in several counterparts, each of which may be considered an original without the presentation of the others, by their duly authorized officials and officers as of the day and year first hereinabove written.

HMD JONESBORO, LLC, Lessee
a Tennessee limited liability company

By: _____
Name: _____
Title: _____

STATE OF ARKANSAS)
) ss:
COUNTY OF CRAIGHEAD)

ACKNOWLEDGMENT

On this day, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named **Harold Perrin** and **Donna Jackson** to me personally well known, who stated that they are the Mayor and City Clerk, respectively, of the **CITY OF JONESBORO, ARKANSAS**, a city of the first class, and were duly authorized in those capacities to execute the foregoing instrument for and in the name and behalf of said City, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2016.

Notary Public

My commission expires:

(S E A L)

EXHIBIT A

All machinery, equipment and furnishings located on the Leased Premises and financed with the proceeds of the Series 2016 HMD Bonds.

EXHIBIT B

Legal Description

The Leased Premises is located in Craighead County, Arkansas and described as follows:

[To be inserted]

EXHIBIT C
Option Agreement
(See Attached)

OPTION AGREEMENT

This OPTION AGREEMENT (the "Option Agreement") is entered into and effective on the _____ day of _____, 2016, by and between the **CITY OF JONESBORO, ARKANSAS** ("Grantor") and **HMD JONESBORO, LLC**, a limited liability company organized under and existing by virtue of the laws of the State of Tennessee ("Grantee").

WHEREAS, Grantor, as Lessor, and Grantee, as Lessee, have entered into a Lease Agreement (the "Lease Agreement") dated as of _____, 2016 relating to the Leased Premises (as defined in the Lease Agreement), and

WHEREAS, pursuant to the Lease Agreement, Grantor has given Grantee the right and option to purchase the Leased Premises at any time.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Grantor and Grantee, and in consideration of the mutual benefits and covenants herein contained, Grantor and Grantee agree as follows:

1. Definitions. In addition to the words and terms otherwise defined in this Option Agreement, capitalized words and terms shall have the definition given to them in the Lease Agreement.

2. Grantee Option. (a) The Grantee shall have the right and option to purchase the Leased Premises at any time if:

- (i) The Leased Premises shall sustain major damage or destruction; or
- (ii) Title to all or substantially all of the Leased Premises shall be condemned, by any competent authority other than the Grantor, as provided in Article XV of the Lease Agreement; or
- (iii) As a result of changes in the Constitution of the United States or of the State, or of legislative action, or by the final decree, judgment or order of any court or administrative body entered after Grantee's contest thereof in good faith, or change in Grantor's legal organization or status, the Lease Agreement becomes void or unenforceable or impossible of performance in accordance with the intent and purposes of the parties as expressed in the Lease Agreement, or unreasonable burdens or excessive liabilities are imposed upon either party to it; or
- (iv) There is legal curtailment of Grantee's use and occupancy of all or substantially all of the Leased Premises for any reason other than condemnation referred to in subsection (ii); or
- (v) Grantee determines to do so in its sole and absolute discretion; or

- (vi) Grantee is directed or requested to do so by any lienholder to which the Leased Premises was pledged as security prior to the commencement of the Lease Agreement.

If the Lease is terminated as a result of a default pursuant to Article XIX therein or otherwise, Grantee shall have the right and option to purchase the Leased Premises at any time during the period ending ninety (90) days after the effective date of such termination, in which event the Purchase Price payable shall include all expenses and reasonable attorney's fees of Grantor in connection with such termination, in addition to the amounts described Section 4.

The term "major damage or destruction" as used in subsection (i) is defined to mean any damage or injury to or destruction of the Leased Premises or any part thereof (whether or not resulting from an insured peril) such that the Leased Premises cannot reasonably be restored to its condition immediately preceding such damage, injury or destruction within a period of six (6) months, or which would prevent Grantee from carrying on its manufacturing operations therein for a period of at least six (6) months or the restoration cost of which would exceed the total amount of insurance carried on the Leased Premises in accordance with the provisions of Article V of the Lease Agreement, or such that it would not be economically feasible for the Grantee to repair the Leased Premises, as determined by the Grantee in its discretion.

(b) **Exercise of Purchase Option.** The Purchase Option may be exercised by Grantee giving written notice to Escrow Agent (hereinafter defined), with a copy to Grantor, of the exercise thereof specifying the time and place of closing. At the closing, Escrow Agent shall deliver the Conveyance Documents (hereinafter defined) to or upon the direction of Grantee or any leasehold mortgagee succeeding to the rights of Grantee. Grantor and Grantee agree and acknowledge that the Conveyance Documents shall transfer title to the Leased Premises free and clear of all liens and encumbrances except those identified as Permitted Encumbrances under the Lease Agreement or resulting from any failure of Grantee to perform any of its obligations under the Lease Agreement; provided, however, that if the Purchase Option is exercised under the provisions of Section 2(a)(ii) above, such title may be subject to the rights, titles and interests of any party having taken or who is attempting to take title to or use of all or substantially all or part of the Leased Premises by eminent domain.

3. Obligation to Purchase. At any time following or contemporaneous with the redemption of the Bonds, if the purchase option under the provisions of Section 2 has not been exercised, Grantee shall have the further unconditional right and obligation to purchase the Leased Premises for the Purchase Price (defined below).

4. Purchase Price. If the Grantee exercises Grantee's option to purchase the Leased Premises under the provisions of the Option Agreement:

- (i) if no Bonds shall be outstanding under the Trust Indenture at the time of purchase, the purchase price of the Leased Premises (the "Purchase Price") shall be One Hundred Dollars (\$100.00); and
- (ii) if Bonds are outstanding under the Trust Indenture at the time of the purchase, the purchase price of the Leased Premises shall be One Hundred Dollars (\$100.00), and in addition, either (x) contemporaneous with or prior to the date determined in Section 2(b), the full amount necessary under the provisions of the Trust Indenture to pay or redeem (on the first date thereafter on which all outstanding Bonds may be paid and redeemed after giving the necessary notice) all Bonds outstanding under the Trust Indenture (including, without limitation, principal, interest, and expenses of redemption), but after deduction of any amount then in the Bond Fund and available for such payment and redemption shall have been paid or otherwise satisfied pursuant to the terms of the Trust Indenture or (y) the Grantee shall assume all obligations with respect to repayment of the Bonds.

5. Prepayment of Purchase Price; Consideration. Contemporaneous with the execution of this Option Agreement, Grantee has paid One Hundred Dollars (\$100) to Grantor, and Grantor acknowledges receipt of such amount contemporaneous with the execution of the Option Agreement. Grantee and Grantor agree and acknowledge that the consideration for the Purchase Option and the Purchase Price for the Leased Premises includes the mutual benefits and covenants of the Lease Agreement, the issuance, purchase and repayment of the Series 2016 HMD Bonds, and the accomplishment of the Project, including, but not limited to, the Project's construction and operation by the Grantee.

6. Reserved.

7. Escrow of Transfer Documents. Contemporaneous with the execution of this Option Agreement, Grantor shall deliver into escrow a quitclaim deed, bills of sale and other appropriate conveyance instruments transferring title to the Leased Premises in a form consistent with Section 2(b) (collectively, the "Conveyance Documents"). The "Escrow Agent" shall be the Trustee for the Bonds or any successor trustee appointed pursuant to the Trust Indenture. The Escrow Agent shall hold the Conveyance Documents in escrow until the Purchase Option is exercised by the Grantee. Upon receipt of the notice specified in Section 2(b), the Escrow Agent is authorized to release the Conveyance Documents to or upon the direction of Grantee or any leasehold mortgagee succeeding to the rights of Grantee. Notwithstanding the escrow of the Conveyance Documents, upon exercise of the Purchase Option, Grantor shall execute and deliver new Conveyance Documents to Grantee at Grantee's request. It is agreed by Grantee and Grantor that the Escrow Agent shall be liable as a depository only and shall be and is hereby discharged from any and all liability for any act or omission done in good faith. The Escrow Agent may rely upon any paper, document or other writing reasonably believed to be authentic. The Escrow Agent shall not be required to construe this Option Agreement or any other instrument deposited herewith.

8. Notices. All notices, requests, demands or other communications required or permitted to be given or made hereunder shall be in writing and delivered personally or sent by prepaid, first-class, certified or express mail, return receipt requested, postage prepaid, to the addresses specified in the Lease Agreement or the Trust Indenture, as applicable.

9. No Recordation. This Option Agreement shall not be recorded. Grantor and Grantee shall sign and record a Memorandum of Lease and Option Agreement as well as every assignment and modification of either the Lease Agreement or the Option Agreement in the office of the Circuit Clerk and Ex-Officio Recorder of Craighead County, Arkansas.

10. General. Time is of the essence with respect to this Option Agreement. This option to purchase shall be governed by and construed under Arkansas law and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Option Agreement to be signed in several counterparts, each of which may be considered an original without the presentation of the others, by their duly authorized officials and officers as of the day and year first hereinabove written.

CITY OF JONESBORO, ARKANSAS, Lessor

By: _____
Harold Perrin, Mayor

ATTEST:

By: _____
Donna Jackson, City Clerk

(S E A L)

HMD JONESBORO, LLC, Lessee
a Tennessee limited liability company

By: _____
Name: _____
Title: _____

Acknowledged by Escrow Agent:

[TO BE DETERMINED]

By: _____
Name: _____
Title: _____

STATE OF ARKANSAS)
) ss: **ACKNOWLEDGMENT**
COUNTY OF CRAIGHEAD)

On this day, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named **Harold Perrin** and **Donna Jackson** to me personally well known, who stated that they are the Mayor and City Clerk, respectively, of the **CITY OF JONESBORO, ARKANSAS**, a city of the first class, and were duly authorized in those capacities to execute the foregoing instrument for and in the name and behalf of said City, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2016.

Notary Public

My commission expires:

(S E A L)

STATE OF _____)
) ss:
COUNTY OF _____)

ACKNOWLEDGMENT

On this day, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named _____, to me personally well known, who stated that he was the _____ of **HMD JONESBORO, LLC**, a Tennessee limited liability company, and was duly authorized in that capacity to execute the foregoing instruments 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 foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2016.

Notary Public

My commission expires:

(S E A L)

EXHIBIT D

Existing Lease

Lease Agreement dated _____, 2016 between FMH Conveyors LLC, a Delaware limited liability company, as tenant, and HMD Developers, LLC, a Tennessee limited liability company, as landlord



Legislation Details (With Text)

File #:	ORD-16:065	Version:	1	Name:	Abandonment at 2217 Masters Drive
Type:	Ordinance	Status:		Status:	First Reading
File created:	9/8/2016	In control:		In control:	City Council
On agenda:		Final action:		Final action:	
Title:	AN ORDINANCE ABANDONING 10' OF 15' UTILITY EASEMENT ALONG REAR PROPERTY LINE FOR 25 LINEAL FEET LOCATED AT 2217 MASTERS DRIVE AS REQUESTED BY CHARLES & MELINDA PORTER				
Sponsors:					
Indexes:	Abandonment				
Code sections:					
Attachments:	Extra documentation Petition Plats Utility Letters Engineering & Planning Letter				

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

AN ORDINANCE ABANDONING 10' OF 15' UTILITY EASEMENT ALONG REAR PROPERTY LINE FOR 25 LINEAL FEET LOCATED IN:

2217 MASTERS DRIVE, LOT 15 IN BLOCK "R" OF RIDGEPPOINT, PHASE VI, JONESBORO, AR, AS RECORDED IN PLAT CABINET "B", AT PAGE 151, RECORDED APRIL 20, 2015
WHEREAS, the City Council at its regular meeting on September 20, 2016, pursuant to Ark. Stats. Section 14-301-302 through 14-301-304 heard the request of Charles Porter, to abandon utility easement; and

WHEREAS, the City Council held a public hearing and heard all persons desiring to be heard in connections with this matter; and

WHEREAS, the respective utilities have consented to said abandonment; and

WHEREAS, the abandonment of said 10' of 15' utility easement will not adversely affect the City of Jonesboro, and would be in the best interest of all concerned.

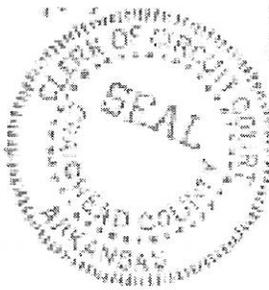
NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Jonesboro, Arkansas, that:

SECTION 1. The City of Jonesboro, Arkansas hereby abandons all of its rights together with the right of the public generally, in and to the rights-of-way of a portion of:

2217 MASTERS DRIVE, LOT 15 IN BLOCK "R" OF RIDGEPONTE, PHASE VI, JONESBORO, AR, AS RECORDED IN PLAT CABINET "B", AT PAGE 151, RECORDED APRIL 20, 2015

SECTION 2. A copy of this Ordinance duly certified by the City Clerk shall be filed in the office of the Recorder of Craighead County at Jonesboro, Arkansas, and recorded in the Deed Records of Craighead County, Arkansas.

SECTION 3. The closing, vacating and abandonment by the City of its rights and the rights of the public generally in the above described rights-of-way are in the public interest and will promote the public peace and welfare.



4JB2015K-005567 34
JE2015K-005567
DANADCE EDWARDS
CRAGHEAD COUNTY
RECORDED ON:
04/20/2015 09:43AM
BY D. J. R. R. R.

THIS INSTRUMENT PREPARED BY: J. ROBIN NIX, II, ATTORNEY

Warranty Deed

(WITH REINQUISHMENT OF DOWER & CURTESY)

KNOW ALL MEN BY THESE PRESENTS:

THAT WE, Guy Kochel and Sue Kochel, husband and wife, for and in consideration of the sum of \$365,090.00, and other good and valuable considerations to us in hand paid by the Grantees herein, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell, and convey unto Charles Porter and Melinda Porter, husband and wife, as tenants by the entirety, and unto their heirs and assigns forever, the following lands lying in the County of Craighead and State of Arkansas, to wit:

Lot 13 in Block "B" of Ridgepoint, Phase VI, Jonesboro, Arkansas, as shown by Plat recorded in Plat Cabinet "B" page 151, subject to Bill of Assurance in Deed Record 493 page 123 in Jonesboro, Arkansas, and to easements as shown on recorded plat. Subject to assessments, building lines, easements, mineral reservations and/or conveyances, restrictions, and any other matters of record or fact.

To have and to hold the same unto the said Grantees and unto their heirs and assigns forever with all appurtenances hereunto belonging

And we hereby covenant with said Grantees that we will forever warrant and defend the title to the said lands against all claims whatever.

And we, Guy Kochel and Sue Kochel, husband and wife, for and in consideration of the said sum of money, do hereby release and relinquish unto the said Grantees our rights of dower, curtesy, and possibility of Homestead in and to said lands.

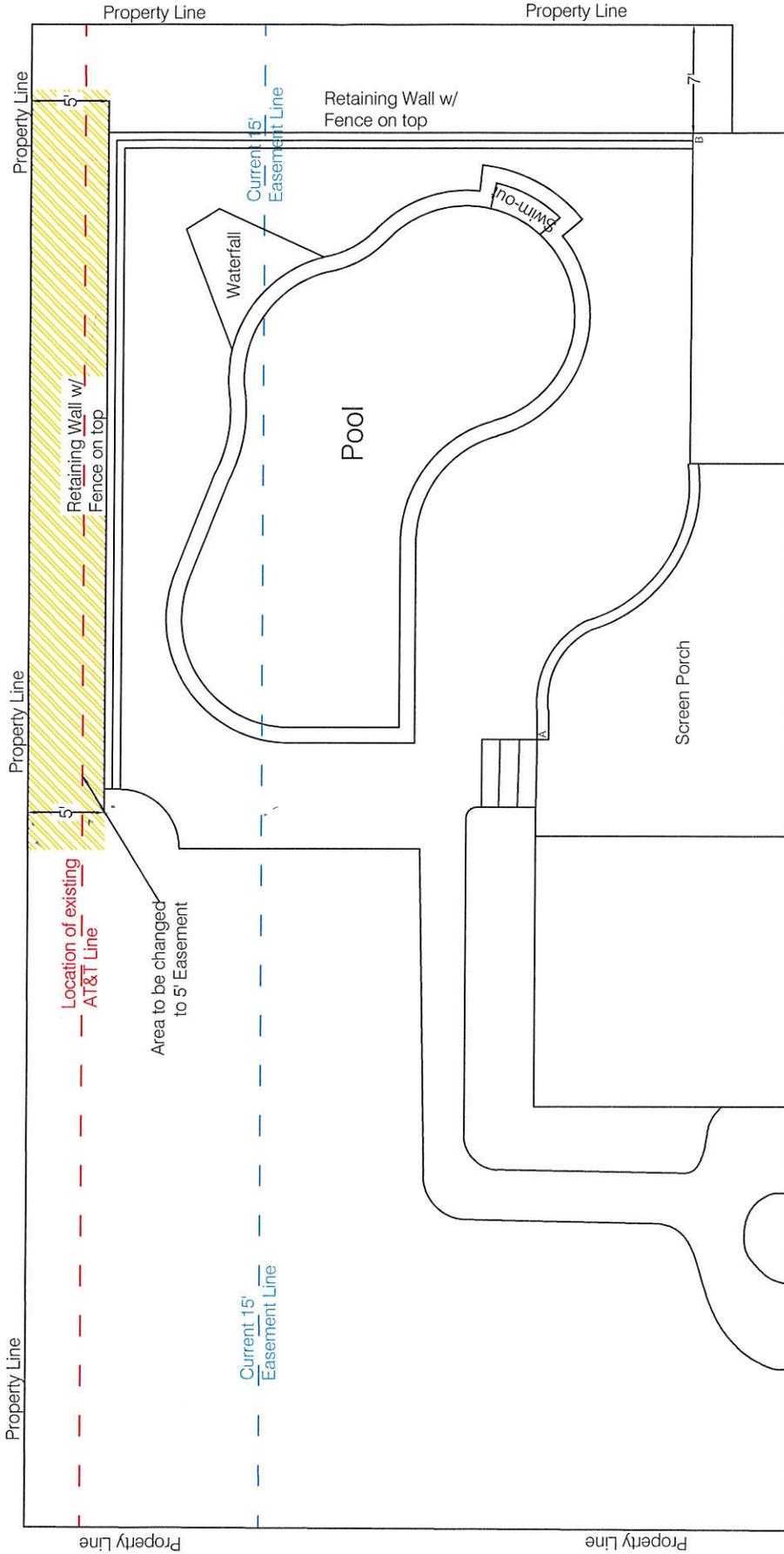
WITNESS our hands and seals on this 16th day of April, 2015.


Guy Kochel


Sue Kochel

Charles & Melinda Porter

2217 Masters Dr
Jonesboro, AR 72404
Lot 15
Block R
Ridgepointe Country Club
Phase VI



Brewer's Pool & Landscaping Co. Inc.
6620 Summer Ave
Memphis, TN 38134
(901)-377-3059

Scale: $\frac{3}{32}$ " = 1'0"
Date: 8-11-2016



Anthony Martinez
Manager-Lead OSP Planning
& Engineering Design

AT&T - Arkansas
723 S. Church, Rm. B27
Jonesboro, AR 72401
870.972.7596 Phone
870.972.7558 Fax

August 17, 2016

Anthony Martinez
AT&T - Arkansas
723 S. Church, Rm. B27
Jonesboro, AR 72401

Dear Mr. Brewer,

Please see page 2 of this document for approval of abandonment of 10' of the existing 15' utility easement in question at the rear of 2217 Masters Dr., Re: Request to Abandon 10' of the existing 15' utility easement shown on Lot 15 in Block "R" of Ridgepointe, Phase VI, Jonesboro, Arkansas as shown by Plat recorded in Plat Cabinet "B" page 151, subject to Bill of Assurance in Deed Record 493 page 123 at Jonesboro, Arkansas, and to easements as shown on recorded plat. Please be aware that this approval will not take effect until a hard copy has been delivered to the City of Jonesboro city clerk (Donna Jackson). The delivery of the hard copy must to be completed by Brewer Pool & Landscaping Co. Inc. or an associate of theirs.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony Martinez", with a stylized flourish extending to the right.

Anthony Martinez
Manager-Lead OSP Planning
& Engineering Design



Anthony Martinez
Manager-Lead OSP Planning
& Engineering Design

AT&T - Arkansas
723 S. Church, Rm. B27
Jonesboro, AR 72401
870.972.7596 Phone
870.972.7558 Fax

UTILITY RELEASE FORM

TELECOMMUNICATIONS EASEMENT ABANDONMENT REQUEST

I have been notified of the petition to vacate the following described as follows:

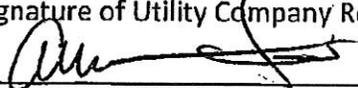
Re: Request to Abandon 10' of the existing 15' utility easement shown on Lot 15 in Block "R" of Ridgepointe, Phase VI, Jonesboro, Arkansas as shown by Plat recorded in Plat Cabinet "B" page 151, subject to Bill of Assurance in Deed Record 493 page 123 at Jonesboro, Arkansas, and to easements as shown on recorded plat.

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above; provided the following described easements are retained.
- Objections to the vacation(s) described above, reason described below:

Anthony Martinez
Manager-Lead OSP Planning
& Engineering Design

Signature of Utility Company Representative:



Date: August 17, 2016

Ritter Communications Inc
2400 Ritter Dr
Jonesboro, AR 72401

UTILITY RELEASE FORM

Telecommunications Easement Abandonment Request

I have been notified of the petition to vacate the following described as follows:

10' of the existing 15' utility easement shown on Lot 15 in Block R of Ridgepointe, Phase VI, Jonesboro, AR as shown by the plat recorded in Plat Cabinet B page 151, subject to Bill of Assurance in Deed Record 493 page 123 at Jonesboro, AR and the easements as shown on recorded plat.

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided the following described easements are retained.
- Objects to the vacation(s) described above, reason described below:

Alice Martin
OSP Engineering Supv

Alice Martin
Signature of Utility Company Representative



CenterPoint Energy
401 W. Capitol, Suite 600
Little Rock, AR 72201
CenterPointEnergy.com

UTILITY RELEASE FORM

General Utility Easement, Public Access Easement, Alley, Street, R.O.W.

Utility Company: CenterPoint Energy Date: 8/23/16

Requested Abandonment: Request to Abandon 10' of the existing 15' utility easement shown on Lot 15 in Block "R" of Ridgepointe, Phase VI, Jonesboro.

Legal Description:

To Abandon 10' of the existing 15' utility easement shown on Lot 15 in Block "R" of Ridgepointe, Phase VI, Jonesboro, Arkansas as shown by Plat recorded in Plat Cabinet "B" page 151, subject to Bill of Assurance in Deed Record 493 page 123 at Jonesboro, Arkansas, and to easements as shown on recorded plat.

UTILITY COMPANY COMMENTS:

- No objections to the abandonment(s) described above.
- No objections to the abandonment (s) described above, provided the following easements are retained (Exhibit A).
- Objects to the abandonment(s) described above, reason described below.

Described reasons for objection or easements to be retained.

[Empty box for describing reasons for objection or easements to be retained]

Signature of Utility Company Representative

8-23-16
Title



UTILITY RELEASE FORM

General Utility Easement, Public Access Easement, Alley, Street, R.O.W.

Utility Company: Suddenlink Date: 8/26/16

Requested Abandonment: Request to abandon 10' of the existing 15' utility easement shown on Lot 15 in Block "R" of Ridgepointe, Phase VI, Jonesboro.

Legal Description:

To Abandon 10' of the existing 15' utility easement shown on Lot 15 in Block "R" of Ridgepointe, Phase VI, Jonesboro, Arkansas as shown by Plat Recorded in Plat Cabinet "B" page 151, subject to Bill of Assurance in Deed Record 493 page 123 at Jonesboro, Arkansas, and to easements as shown on recorded plat.

UTILITY COMPANY COMMENTS:

- No objections to the abandonment(s) described above.
- No objections to the abandonment(s) described above, provided the following easements are retained (Exhibit A).
- Objects to the abandonment(s) described above, reason described below.

Described reasons for objection or easements to be retained.

[Empty box for describing reasons for objection or easements to be retained]

Jay Row Plumber 8-26-16
Signature of Utility Company Representative Title Date



Owned by the Citizens of Jonesboro

August 22, 2016

City of Jonesboro
P.O. Box 1845
Jonesboro, AR 72403
Attn: Donna Jackson

Re: Southwest Bell & TCI Easement Abandonment
Lot 15 Block "R"
Ridgepointe, Ph VI (Plat Cabinet B Page 151)
City of Jonesboro
Craighead County, Arkansas

Dear Donna:

City Water and Light has no objection with the abandonment of the fifteen (15) foot Southwest Bell & TCI easement lying on the Western portion of Lot 15 of Ridgepointe Phase VI (2217 Masters Drive), as shown on this attached sketch.

Please call if more information is needed.

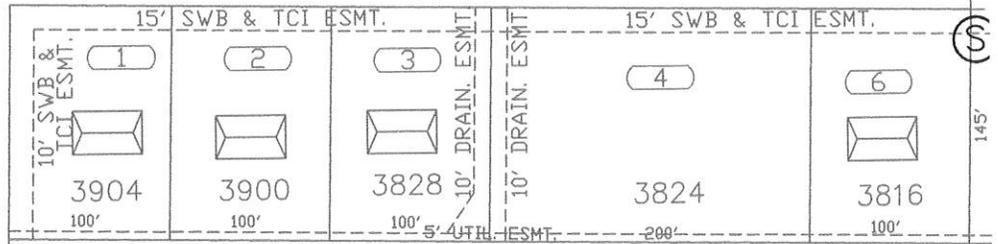
Sincerely,

A handwritten signature in blue ink, appearing to read "Jake Rice, III". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jake Rice, III, P.E.
Manager, City Water & Light

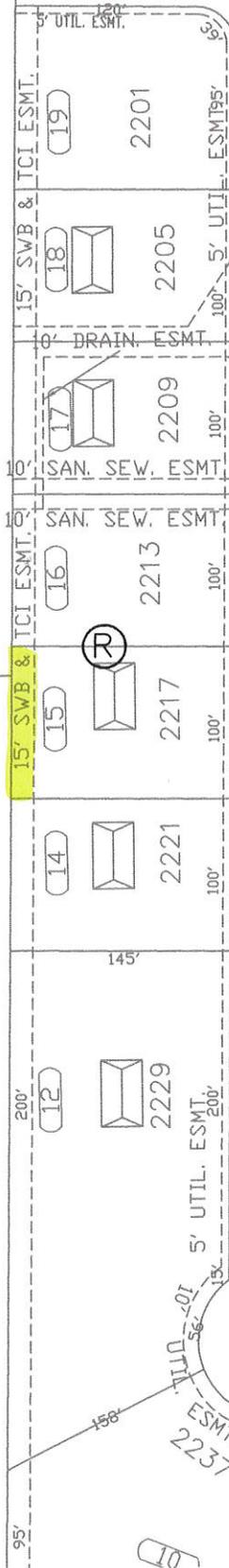
Enclosure

Cc: Helen Oare

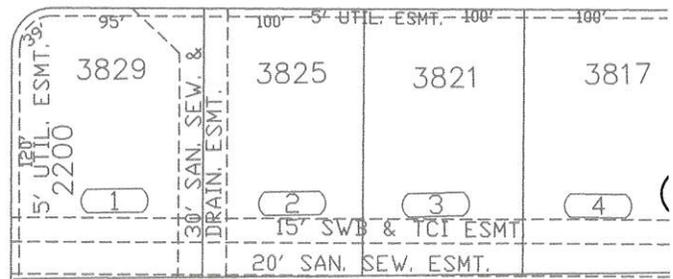


RIVIERA DR.

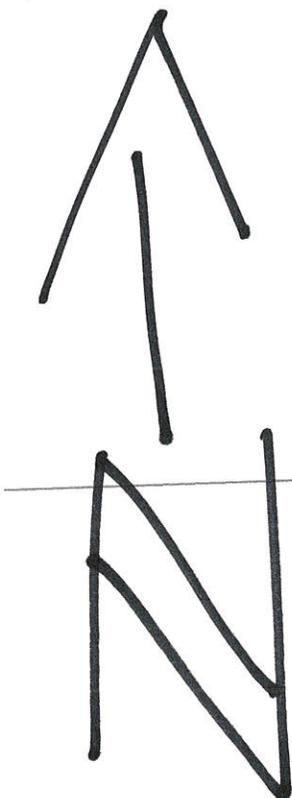
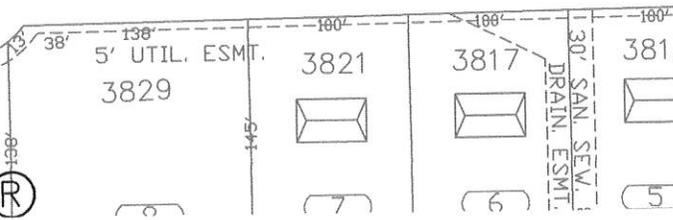
RIVIERA



MASTERS DR.



PEBBLE BEACH DR.





August 22, 2016

Brian Brewer
Brewer's Pool & Landscaping Co, Inc.
6620 Summer Avenue
Memphis, TN 38134

Re: Utility Easement Abandonment

Dear Mr. Brewer:

The City of Jonesboro Engineering and Planning Departments concur with the abandonment of 10' of the existing 15' utility easement shown on Lot 15 in block "R" of Ridgpointe, Phase VI, Jonesboro, Arkansas as shown by plat recorded in Plat Cabinet "B" page 151, subject to Bill of Assurance in Deed Record 493 page 123 at Jonesboro, Arkansas and to easements as shown on recorded plat.

Please call if more information is needed.

Sincerely,

Michael Morris, PE
Civil Engineer

Derrel Smith
City Planner



Legislation Details (With Text)

File #: ORD-16:066 **Version:** 1 **Name:** Rezoning 3710 E. Johnson
Type: Ordinance **Status:** First Reading
File created: 9/15/2016 **In control:** City Council
On agenda: **Final action:**

Title: AN ORDINANCE TO AMEND CHAPTER 117, KNOWN AS THE ZONING ORDINANCE PROVIDING FOR CHANGES IN ZONING BOUNDARIES FOR PROPERTY LOCATED AT 3710 E. JOHNSON AS REQUESTED BY STONEBRIDGE CONSTRUCTION

Sponsors:

Indexes:

Code sections:

Attachments: [rezoning plat.pdf](#)
[Staff Summary RZ 16-21 3710 East Johnson Ave - City Council.pdf](#)
[3701 E Johnson Consent Order.pdf](#)
[3701 East Johnson Bldg 1-Permit Set.pdf](#)
[Aerial View of Location.pdf](#)
[Appeal Letter filed 05-29-12.pdf](#)
[Application.pdf](#)
[Legislation Details \(With Text\).pdf](#)
[MAPC Record of Proceedings.pdf](#)
[Plat of Survey.pdf](#)
[Photographs from July 17, 2012, meeting.pdf](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

AN ORDINANCE TO AMEND CHAPTER 117, KNOWN AS THE ZONING ORDINANCE PROVIDING FOR CHANGES IN ZONING BOUNDARIES;
BE IT ORDAINED BY THE CITY COUNCIL OF JONESBORO, ARKANSAS:

SECTION 1: CHAPTER 117, KNOWN AS THE ZONING ORDINANCE OF THE CITY OF JONESBORO, ARKANSAS BE AMENDED AS RECOMMENDED BY THE METROPOLITAN AREA PLANNING COMMISSION BY THE CHANGES IN ZONING CLASSIFICATION AS FOLLOWS:

FROM: Commercial, C-3, L.U.O.
TO: Commercial, C-3, L.U.O. (modify list of permitted uses)

THE FOLLOWING DESCRIBED PROPERTY:

LEGAL DESCRIPTION:

Lot B of P & H Investments, LLC Replat of P & H Investments, LLC Minor Plat of part of the Southeast Quarter of the Northwest Quarter of Section 10, Township 14 North, Range 4 East, Jonesboro, AR.

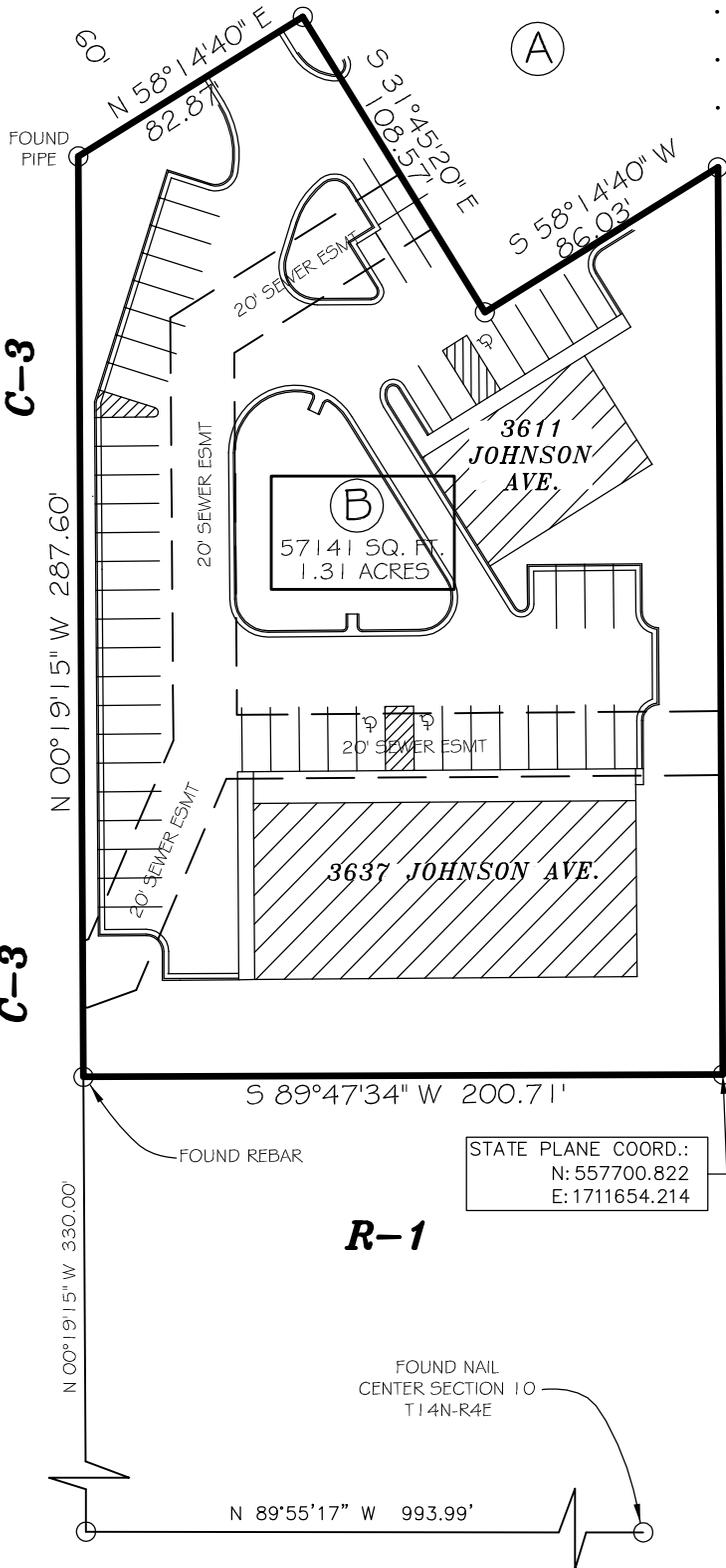
SECTION 2: THE REZONING OF THIS PROPERTY SHALL ADHERE TO THE FOLLOWING STIPULATIONS:

- 1) That the proposed site shall satisfy all requirements of the City Engineer, all requirements of the current Stormwater Drainage Design Manual and Flood Plain Regulations.
- 2) A final site plan subject to all ordinance requirements shall be submitted, reviewed and approved by the MAPC, prior to any redevelopment of the property.
- 3) Any change of use shall be subject to Planning Commission approval in the future.
- 4) A final site plan illustrating compliance with site requirements for parking, signage, landscaping, fencing, buffering, etc. shall be submitted to the MAPC prior to any redevelopment. New screening, outdoor storage and dumpster enclosure requirements shall be implemented.
- 5) The L.U.O shall permit the following uses: Automated Teller Machine, Bank or Financial Institution, Church (conditional use), Day Care, General, Government Service, Medical Service/Office, Office, General, Utility, Minor; and Retail / Service.

STATE PLANE COORD.:
N: 558111.516
E: 1711651.945

C-3

C/L JOHNSON AVE.



C-3 L.U.O.

S 00°18'59" E 283.45'

R-1

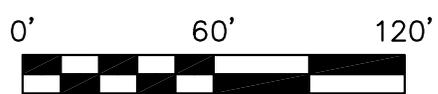
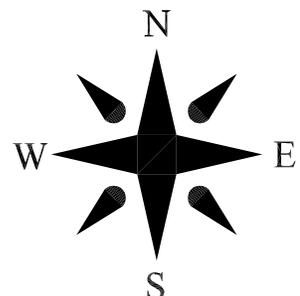
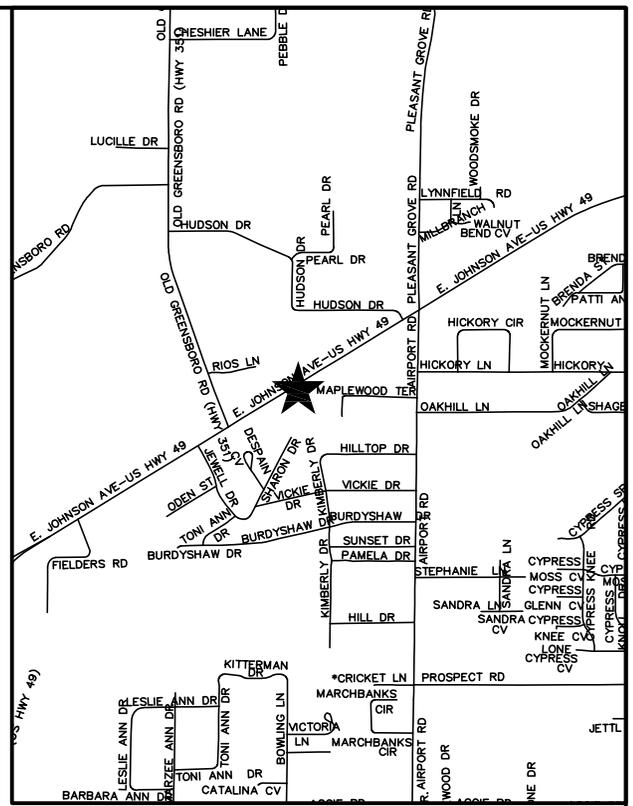
STATE PLANE COORD.:
N: 557700.822
E: 1711654.214

R-1

FOUND NAIL
CENTER SECTION 10
T14N-R4E

NOTES:

- THIS SURVEY AND PLAT ARE THE PROPERTY OF THE SURVEYOR AND ARE INTENDED FOR THE SOLE USE AND BENEFIT OF THE SURVEYOR & CLIENT.
- BEARINGS BASED ON GPS OBSERVATION.
- THE CLOSURE PRECISION OF THE PLAT IS IN EXCESS OF 1' IN 450,000'.
- THE RESEARCH COMPLETED FOR THIS SURVEY INCLUDES LEGAL DESCRIPTION PROVIDED.
- ALL PINS SET ARE 1/2" REBAR, UNLESS NOTED OTHERWISE.
- FLOOD PLAIN: THIS TRACT DOES NOT LIE WITHIN THE 100-YR FLOOD PLAIN PER FLOOD INSURANCE RATE MAP OF CRAIGHEAD CO., ARK. AND INCORPORATED AREAS, COMMUNITY PANEL NO. 05031C0044 C, DATED 09/27/91. THIS TRACT DOES LIE WITHIN A ZONE "X" FLOOD PLAIN, PER THE MAP REFERENCED ABOVE.
- C-3 L.U.O. ZONING SETBACKS: 25' FRONT; 20' REAR; AND 10' SIDE.



LEGAL DESCRIPTION:

Lot B of P & H Investments, LLC replat of P & H Investments, LLC Minor Plat of part of the SE 1/4, of the NW 1/4, Section 10, Township 14 North, Range 4 East, Jonesboro, Craighead County, Arkansas.

**EXISTING
C-3 L.U.O. ZONING**

**REQUESTED
C-3 L.U.O. ZONING**

(REVISIONS TO LIST OF PERMITTED USES)

ENGINEERS		PLANNERS		SURVEYORS	
Civilogic					
203 Southwest Dr., Jonesboro, AR - (870)932-7880 - www.civilogic.net					
REZONING PLAT FOR P & H INVESTMENTS, LLC JONESBORO, ARKANSAS					
Date	Scale	Job No.	Sheet		
08/24/16	1"=60'	112121	No.		
Section	Township	Range	County		
10	14N	4E	CRAIGHEAD	1 of 1	
ONLY COPIES WITH VIOLET COLORED SIGNATURE ARE ORIGINAL CIVILOGIC COPIES					
© 2016, Civilogic		Drawn By: DB		Checked by: GH	

City of Jonesboro City Council
Staff Report – RZ 16-21: 3710 E. Johnson
 Municipal Center - 300 S. Church St.
For Consideration by the City Council on September 20th, 2016

REQUEST: To consider a rezoning of one tract of land containing 1.31 acres more or less.

PURPOSE: A request to consider recommendation by the MAPC a rezoning of 1.31 acres of land located at 3710 East Johnson from C-3 LUO to C-3 LUO.

**APPLICANTS/
OWNER:** P&H Investments P.O. Box 17316 2400 Highland Drive, Jonesboro, AR 72403

LOCATION: 3710 East Johnson, Jonesboro, AR 72404

**SITE
DESCRIPTION:** **Tract Size:** Approx. 1.31 Acres

**STREET
FRONTAGE:** **82.87 feet along East Johnson Ave.**
Topography: Flat
Existing Development: Developed

SURROUNDING CONDITIONS:

ZONE	LAND USE
North	C-3 General Commercial District
South	C-3 LUO General Commercial District
East	C-3 General Commercial District
West	C-3 LUO General Commercial District

HISTORY: This land has been developed.

ZONING ANALYSIS

City Planning Staff has reviewed the proposed Zone Change and offers the following findings:

COMPREHENSIVE PLAN LAND USE MAP

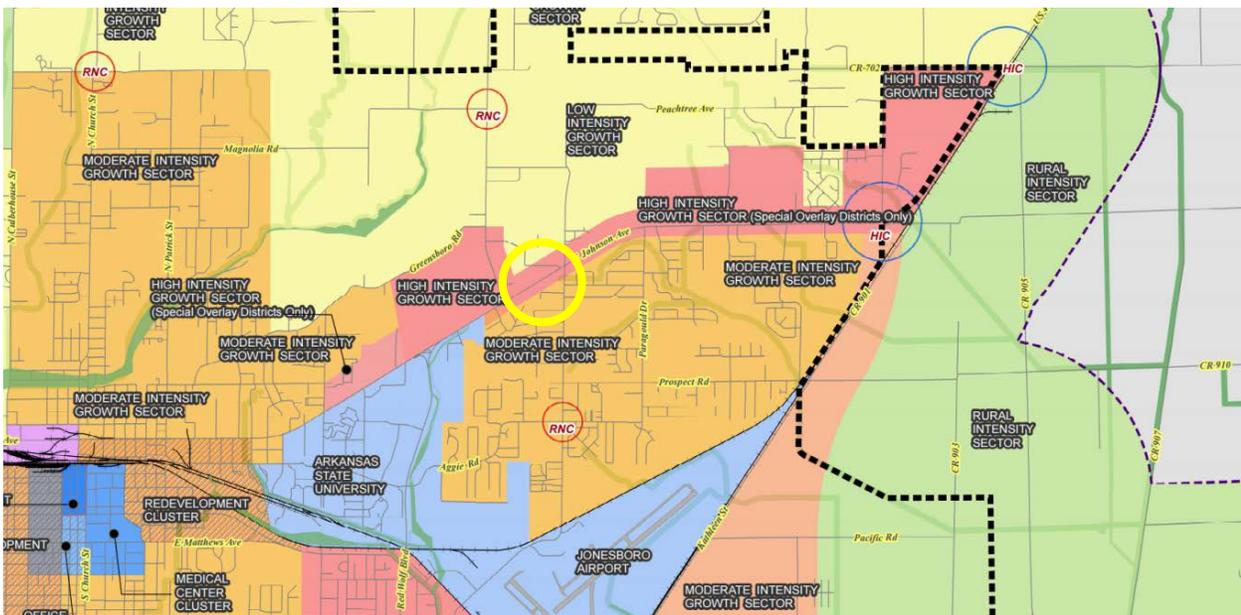
The Current/Future Land Use Map recommends this location as a High Intensity Growth Sector. A wide range of uses is appropriate in the high intensity zones, from multi-family to fast food to Class A office space to outdoor display/highway oriented businesses like automotive dealerships, because they will be located in area where sewer service is readily available and transportation facilities are equipped to handle the traffic.

High Intensity Growth Sector Recommended Use Types Include:

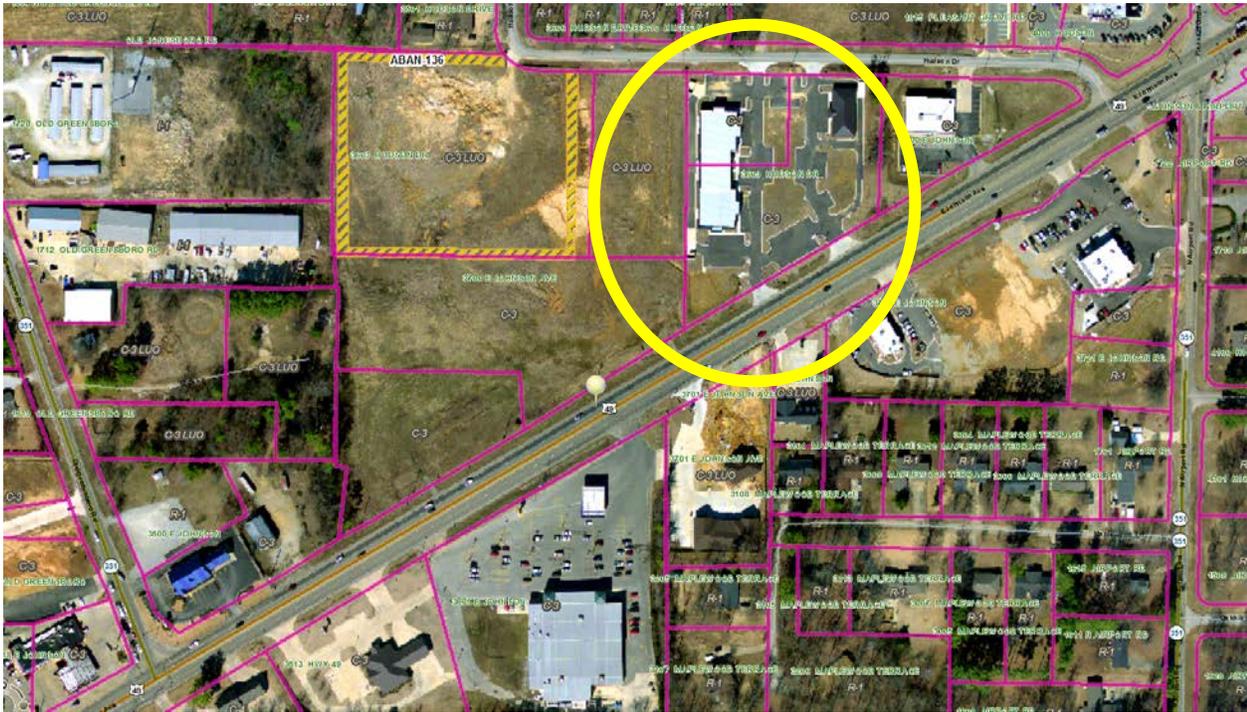
- Regional Shopping Centers
- Automotive Dealerships
- Outdoor Display Retail
- Fast Food Restaurants
- Multi-Family
- Service Stations
- Commercial and Office
- Call Centers
- Research and Development
- Medical
- Banks
- Big Box Commercial
- Hotel

Master Street Plan/Transportation

The subject site is served by East Johnson Ave., which on the Master Street Plan is defined as a Principal Arterial; the street right-of-ways must adhere to the Master Street Plan.



Adopted Land Use Map



Aerial/Zoning Map



Aerial View

Approval Criteria- Chapter 117 - Amendments:

The criteria for approval of a rezoning are set out below. Not all of the criteria must be given equal consideration by the MAPC or City Council in reaching a decision. The criteria to be considered shall include, but not be limited to the following:

Criteria	Explanations and Findings	Comply Y/N
(a) Consistency of the proposal with the Comprehensive Plan/Land Use Map.	The proposed C-3 LUO rezoning is consistent with the Future Land Use Plan, which was categorized as a High Intensity Growth Sector.	
(b) Consistency of the proposal with the purpose of Chapter 117-Zoning.	The proposal will achieve consistency with the purpose of Chapter 117.	
(c) Compatibility of the proposal with the zoning, uses and character of the surrounding area.	Compatibility is achieved. This area already has several commercial developments in the area.	
(d) Suitability of the subject property for the uses to which it has been restricted without the proposed zoning map amendment.	Property is suitable for commercial development.	
(e) Extent to which approval of the proposed rezoning will detrimentally affect nearby property including, but not limited to, any impact on property value, traffic, drainage, visual, odor, noise, light, vibration, hours of use/operation and any restriction to the normal and customary use of the affected property.	This site and use should not be a detriment to the area if controls are implemented to screen and buffer any environmentally sensitive surrounding uses.	
(f) Length of time the subject property has remained vacant as zoned, as well as its zoning at the time of purchase by the applicant.	The property was recently cleared off.	
(g) Impact of the proposed development on community facilities and services, including those related to utilities, streets, drainage, parks, open space, fire, police, and emergency medical services.	Minimal impact if rezoned due to the fact that business currently exist with only minor upgrades.	

Staff Findings:

Applicant’s Purpose:

This site has already been fully developed. The applicant wants to modify the permitted uses for the property. They feel the revised permitted uses will have no detrimental impact on the surrounding area. The following table shows a list the current permitted uses as well as the proposed list of permitted uses:

Current List	Proposed List
Animal Care, Limited	Automated Teller Machine
Automated Teller Machine	Bank or Financial Institution
Bank or Financial Institution	Church
Church	Day Care, General
Day Care, Limited	Government Service
Government Service	Medical Service/Office
Library	Office, General
Medical Service/Office	Utility, Minor
Office, General	Retail/Service
Utility, Minor	

Chapter 117 of the City Code of Ordinances/Zoning defines Commercial District as follows:

C-3, General Commercial District. The purpose of this district is to provide appropriate locations for commercial and retail uses which are convenient and serve the needs of the traveling public. The district also provides locations for limited amounts of merchandise, equipment and material being offered for retail sale that are more suitable for storage and display outside the confines of an enclosed structure. Appropriate locations for this district are along heavily traveled arterial streets. Development of groups of facilities shall be encouraged, as opposed to less desirable strip commercial.

Departmental/Agency Reviews:

The following departments and agencies were contacted for review and comments. Note that this table will be updated at the hearing due to reporting information that will be updated in the coming days:

Department/Agency	Reports/ Comments	Status
Engineering	No objections to this rezoning to date.	
Streets/Sanitation	No objections to this rezoning to date.	
Police	No objections to this rezoning to date.	
Fire Department	No objections to this rezoning to date.	
MPO	No objections to this rezoning to date.	
Jets	No objections to this rezoning to date.	
Utility Companies	No objections to this rezoning to date.	

Zoning Code Allowable Uses:

Below is the Table of Permitted Uses regarding the requested C-3, L.U.O. Neighborhood Commercial District. Certain commercial uses are permitted as of right - “P”, while others require a Conditional Use - “C” approval by the MAPC, or not permitted where blank:

List of Commercial Uses	C-3 General Commercial	List of Commercial Uses	C-3 General Commercial
<i>Civic and commercial uses</i>		<i>Civic and commercial uses</i>	
Animal care, general	Permitted	Nursing home	Permitted
Animal care, limited	Permitted	Office, general	Permitted
Auditorium or stadium	Conditional	Parking lot, commercial	Permitted
Automated teller machine	Permitted	Parks and recreation	Permitted
Bank or financial institution	Permitted	Pawn shops	Permitted
Bed and breakfast	Permitted	Post office	Permitted
Carwash	Permitted	Recreation/entertainment, indoor	Permitted
Cemetery	Permitted	Recreation/entertainment, outdoor	Permitted
Church	Permitted	Recreational vehicle park	Permitted
College or university	Permitted	Restaurant, fast-food	Permitted
Communication tower	Conditional	Restaurant, general	Permitted
Warehouse, residential (mini) storage	Conditional	Retail/service	Permitted
Convenience store	Permitted	Safety services	Permitted
Day care, limited (family home)	Permitted	School, elementary, middle and high	Permitted
Day care, general	Permitted	Service station	Permitted
Entertainment, adult	Conditional	Sign, off-premises*	Permitted
Funeral home	Permitted	Utility, major	Conditional
Golf course	Permitted	Utility, minor	Permitted
Government service	Permitted	Vehicle and equipment sales	Permitted
Hospital	Permitted	Vehicle repair, general	Permitted
Hotel or motel	Permitted	Vehicle repair, limited	Permitted
Library	Permitted	Vocational school	Permitted
Medical service/office	Permitted		
Museum	Permitted	<i>Industrial, manufacturing and extractive uses</i>	
<i>Agricultural uses</i>		Freight terminal	Conditional
Agriculture, animal	Conditional	Research services	Conditional
Agriculture, farmers market	Permitted		

MAPC RECORD OF PROCEEDINGS: MAPC MEETING HELD ON SEPTEMBER 14, 2016

RZ 16-21 3710 EAST JOHNSON AVENUE

APPLICANT: Mr. Rob Hester requested MAPC approval of a Rezoning from C-3 General Commercial District Limited Use Overlay to C-3 General Commercial District Limited Use Overlay for the property located at 3710 East Johnson Ave. The applicant explained the request is just to change the uses allowed on the property. The main changes they wanted to make was to change the Daycare limited to a Daycare general as well as to add the use of retail and service in their buildings. He explained to the Committee that their business has had to turn potential renters away because their business did not fit into the allowed uses for the property. As a result, the building has been sitting empty for around 3 years.

COMMISSION: Mr. Reece asked if the MAPC had issues with this development before. Several members of the Committee responded yes.

STAFF: Mr. Smith presented the staff comments on behalf of the Planning Department. He explained the Planning Department recommended this rezoning be approved with several conditions attached to it.

No one in the audience showed up in opposition to this request.

COMMISSION: Mr. Ron Kelton wanted to make sure the Committee would not be in contempt of court by approving this request.

CITY ATTORNEY: Ms. Carol Duncan responded by saying the Committee would not be in contempt of court by approving the request.

COMMISSION: Mr. Reece wanted to make sure the applicant agreed to screen their dumpster. The applicant agreed to do so.

A motion was made by Jim Scurlock, seconded by Rick Stripling, that this matter be Recommended to Council. The motion PASSED with the following vote:

The vote was 6 - 0. Ayes: Mr. Jim Scurlock; Mr. Ron Kelton; Dr. Rick Stripling; Mr. Jerry Reece; Mr. Jimmy Cooper; and Mr. Paul Hoelscher.

Absent: Mr. Kevin Bailey and Mr. Brant Perkins

Conclusion:

The Planning Department Staff finds that the requested Zoning Change submitted for subject parcel, should be approved based on the above observations and criteria of Case RZ 16-21, a request to rezone property from “C-3” L.U.O. General Commercial District to “C-3” L.U.O General Commercial District, subject to final site plan approval by the MAPC.

1. That the proposed site shall satisfy all requirements of the City Engineer, all requirements of the current Stormwater Drainage Design Manual and Flood Plain Regulations regarding any new construction.
2. A final site plan subject to all ordinance requirements shall be submitted, reviewed, and approved by the MAPC, prior to any redevelopment of the property.
3. Any change of use shall be subject to Planning Commission approval in the future.
4. A final site plan illustrating compliance with site requirements for parking, signage, landscaping, fencing, buffering etc. shall be submitted to the MAPC prior to any redevelopment. New screening outdoor storage and dumpster enclosure requirements shall be implemented if stipulated by the MAPC.

Respectfully Submitted for Planning Commission Consideration,
The Planning Department





View looking North



View looking South



View looking East



View looking West

LYONS & CONE, P.L.C.
Attorneys at Law
407 S. Main
P. O. Box 7044
Jonesboro, AR 72403

Phone 870/972-5440--Fax 870/972-1270

FACSIMILE TRANSMITTAL COVER SHEET

TO: City of Jonesboro Planning & Zoning
FROM: Jim Lyons
RE: W. L. Gillespie vs. City of Jonesboro
DATE: July 28, 2009

TOTAL NUMBER OF PAGES INCLUDING COVER SHEET: 5

Please find attached the Consent Judgment regarding the above referenced matter. If you have any questions or problems, please do not hesitate to contact me. Thank you for your cooperation.

NOTICE

The information contained in this telecopy is intended only for the use of the addressee and may contain information that is confidential, privileged, and/or otherwise exempt from disclosure under applicable law. If you are not the intended recipient or the employee or agent responsible for delivering this transmittal to the intended recipient, you are not authorized to read this transmittal and are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. This transmission is not intended to waive any attorney-client privilege, or other confidential or privileged relationship. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address.

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT
CIVIL DIVISION

FILED

06 NOV 16 PM 4:27

ANN JOHNSON
CIRCUIT AND CHANCERY
COURT CLERK

W.L. GILLESPIE and
MRS. W. L. (MYRNA) GILLESPIE

Plaintiffs

Vs.

No. CV-2006-88(JF)

CITY OF JONESBORO, ARKANSAS; ALEC
FARMER, Alderman; CECIL PROVINCE, JR.,
Alderman; JIM HARGIS, Alderman; CHRIS
MOORE, Alderman; ANN WILLIAMS,
Alderman; HAROLD PERRIN, Alderman; JOHN
STREET, Alderman; MITCH JOHNSON,
Alderman; DARREL DOVER, Alderman;
JUDY FURR, Alderman; TIM MCCALL,
Alderman; JIMMY ASHLEY, Alderman, in their
official capacities as the JONESBORO CITY
COUNCIL; DOUG FORMON, in his official
capacity as MAYOR OF CITY OF JONESBORO

Defendants

CONSENT JUDGMENT

On this 13 day of November, 2006, is presented to the Court, the Complaint of the Plaintiffs, W.L. Gillespie and Myrna Gillespie, his wife, by and through their attorneys, Lyons, Emerson & Cone, P.L.C., with the Defendants appearing by and through their attorneys, Bachelor and Newell. Based upon the agreement of the parties, the Court doth find as follows:

1. That Plaintiffs are residents and citizens of Jonesboro, Craighead County, Arkansas and are the owners of the property in question which property is described below.
2. That Defendant, City of Jonesboro, Arkansas (the "City"), is a municipal corporation duly organized and existing under the laws of the State of Arkansas and located in the County of Craighead.

3. That Defendants; Alec Farmer, Cecil Province, Jr.; Jim Hargis, Chris Moore, Ann Williams, Harold Perrin, John Street, Mitch Johnson, Darrel Dover, Judy Furr, Tim McCall and Jimmy Ashley make up and comprise the duly authorized and acting City Council of the City of Jonesboro, Arkansas. These individuals are defendants in this action only in their official capacities as the Jonesboro City Council (the "Council").

4. That Defendant, Doug Formon, is the duly authorized and acting Mayor of the City of Jonesboro, Arkansas and is a defendant in this action only in his official capacity of mayor.

5. That this lawsuit involves the following described real property located in Jonesboro, Craighead County, Arkansas, to-wit:

That part of the Southeast Quarter of the Northwest Quarter of Section 10, Township 14 North, Range 4 East, Craighead County Arkansas more particularly described as follows:

Begin at the Southeast Corner of said Southwest Quarter of the Northwest Quarter; thence West 996.1 feet to a point; thence North 330.1 feet to the point of beginning proper; thence East 200 feet; thence North 410.6 feet; thence South 57°57' West 233.8 feet; thence South 287.5 feet to the point of beginning.

Also, known as: 3701 E. Johnson Avenue, Jonesboro, Arkansas (hereinafter referred to as the "Property").

6. That this Court has jurisdiction over this cause of action and the parties thereto and venue is proper herein.

7. That the above described property is hereby rezoned C-3 LUO from its existing R-1 zoning. The specific land uses permitted on the Property based upon this rezoning are:

- a. Animal Care, Limited
- b. Automated Teller Machine

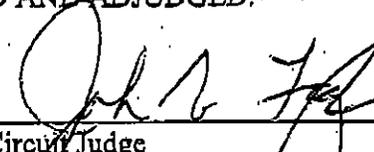
- c. Bank or Financial Institutions
- d. Church (with conditional use permit)
- e. Day Care, Limited
- f. Government Service
- g. Library
- h. Medical Service/Office
- i. Office, general
- j. Utility, minor

Further, at the time that the use of the Property is changed from its present R-1 to C-3 LUO status, the following improvements shall be made prior to obtaining Certification of Occupancy: (i) A solid fence, 8 feet in height shall be installed along the property lines adjacent to the property zoned R-1 on the South boundary as well as that portion of the East boundary zoned, R-1; (ii) That there be a buffer zone of forty feet (40') between any structure or parking and any R-1 zoned property except as reduced in subsection (v) below; (iii) Trees a minimum of eight feet (8') in height shall be planted along the fence to provide an additional layer of screening and buffering between the Property and properties zoned R-1 adjacent to the Property; (iv) There shall be no vehicular access from this Property to Maplewood Terrace or vice versa; and (v) The width of the buffer zone will be limited and reduced to the distance of the existing structure from the east boundary of the Property where the existing structure is located. However, if there are any exterior structural improvements that alter the size of the existing structure, then the forty foot (40') buffer zone shall apply.

8. That no other action to rezone said Property shall be necessary. However, if the City is desirous of enacting an Ordinance for this rezoning, it may do so. In the event that the

City believes, claims or desires that any additional action be taken for such rezoning to be effective, the City is hereby ordered to do so.

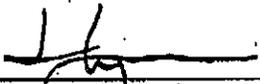
IT IS SO HEREBY ORDERED AND ADJUDGED.



Circuit Judge
DDV 8

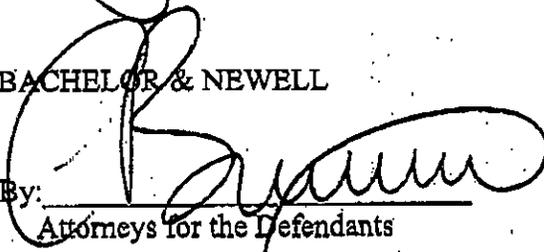
APPROVED:

LYONS, EMERSON & CONE, P.L.C.

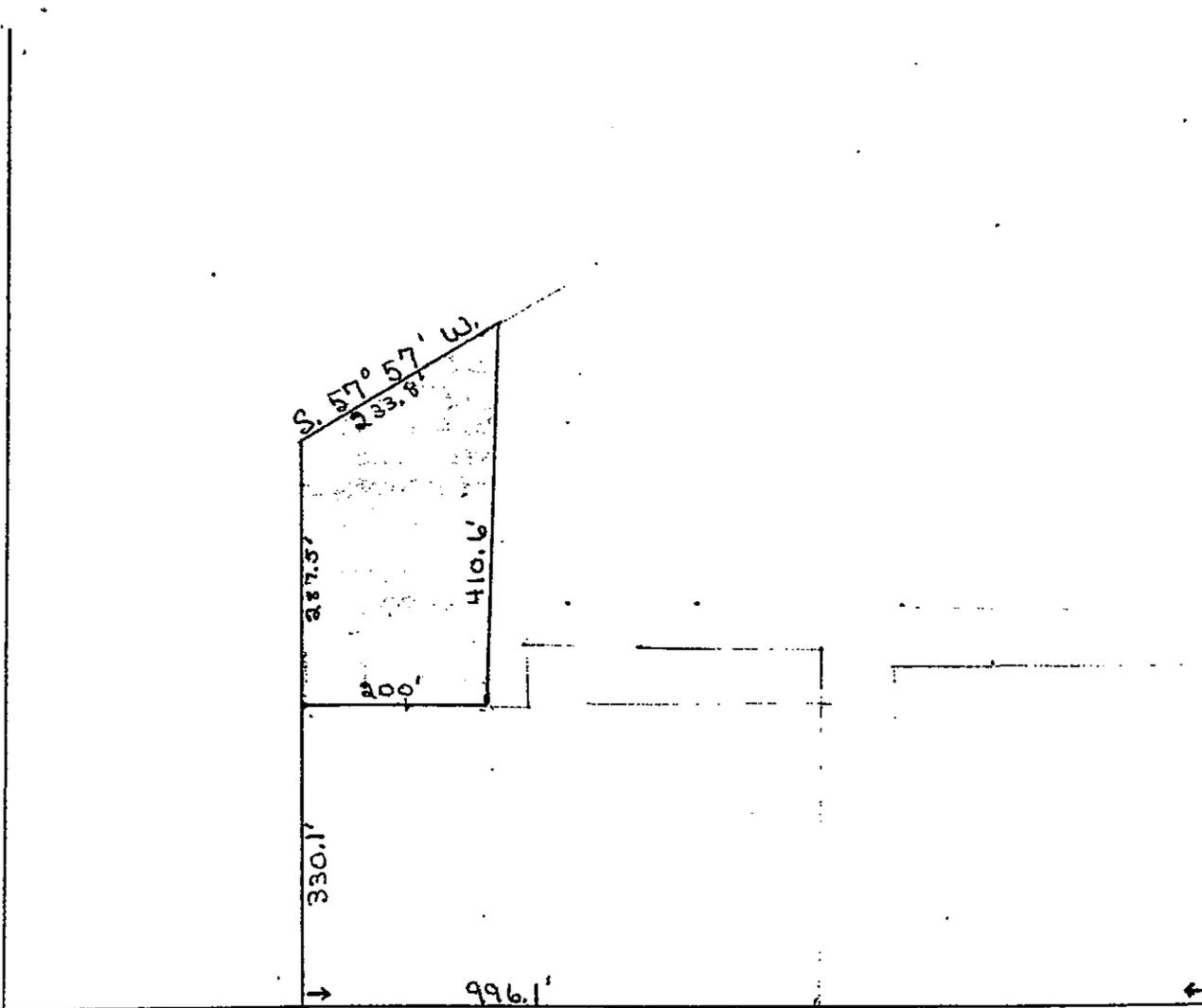
By: 

Attorneys for the Plaintiff

BACHELOR & NEWELL

By: 

Attorneys for the Defendants



PLAT OF

The Southeast Quarter of the Northwest Quarter of Section 10,
 Township 14 North, Range 4 East, Craighead County, Arkansas.

SINCE 1895

Marble Abstract Company

ABSTRACTERS OF TITLE

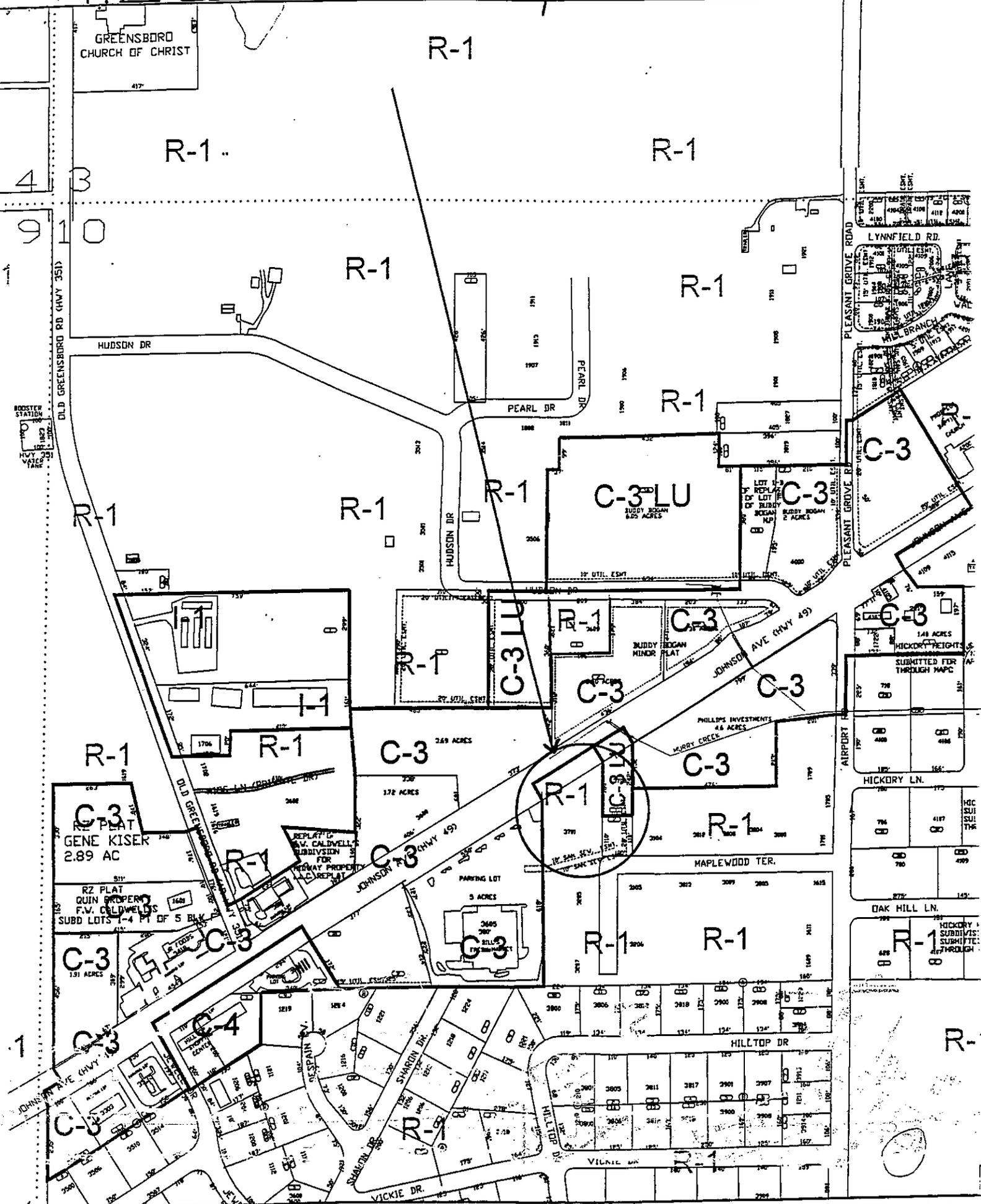
JONESBORO - LAKE CITY, ARKANSAS

MEMBER:
 ARKANSAS TITLE ASSOCIATION
 AMERICAN TITLE ASSOCIATION

INSURED WITH LLOYD OF LONDON

RZ 05-33 LOCATION MAP

T14N-R04E-HALF SECTION 03 SOUTH





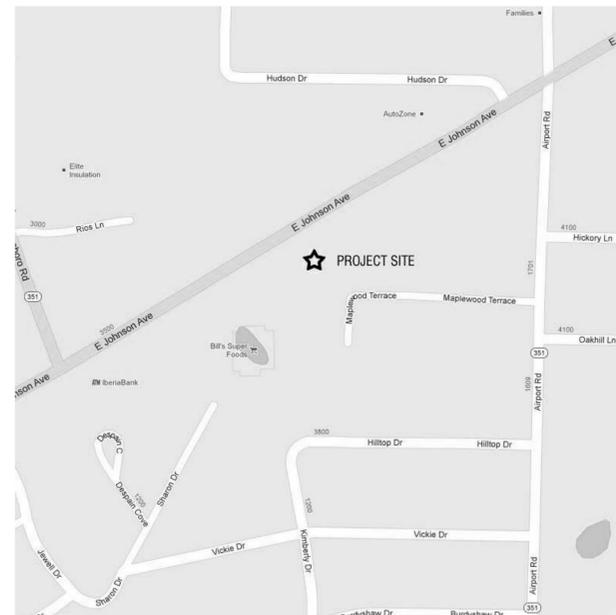
StoneBridge CONSTRUCTION

PERMITS & APPLICABLE CODES

All construction and methods will meet standard acceptable practice and comply to all applicable ordinances and restrictions adopted by the City of Jonesboro, Arkansas, and the Arkansas State Fire Prevention Code.

GENERAL NOTES

- Contractor shall verify all dimensions and conditions prior at the job site prior to commencing construction. Discrepancies shall be brought to the attention of the architect before proceeding with the work.
- Contractor shall obtain the latest set of drawings, including any revisions, before stating construction.
- No changes or substitutions shall be made without prior written approval of the architect.
- All construction shall meet the requirements of local ordinances, the International Building Code & the International Residential Code, current editions.
- All dimensions must be verified in the field. Any major discrepancies or discrepancies precipitating a material change of the intended design must be brought to the attention of the architect immediately.
- Written dimensions take precedence over scaled dimensions. Do not scale reproductions as it may not accurately reflect the published scale of the drawings.
- This project has been drawn using Autodesk Revit 2012. Precise measurements, not included in the published set, may be obtained by contacting the architect.
- The architect, on behalf of the owner, reserves the right to reject any work that is defective or of poor workmanship or work that deviates from the specifications of these documents.
- Drawings are to be issued to subcontractors in complete sets so that all architectural details affecting their work is included.
- The architect reserves the right to check and approve all shop drawings and does not accept any responsibility for the interpretation of these plans by others.
- Shop drawings of all specialty items including, but not limited to, cabinetry, steelwork, etc. shall be submitted to the architect for approval prior to fabricating these items.
- All sections and details shall be considered typical and apply for the same and similar situations throughout the building, unless otherwise noted.
- Should the contractor or subcontractor require details not provided in these documents, the architect should be contacted immediately. The architect will provide clarification in written or graphic form as necessary.



"I HEREBY CERTIFY THAT THESE PLANS AND SPECIFICATIONS HAVE BEEN PREPARED BY ME, OR UNDER MY SUPERVISION. I FURTHER CERTIFY THAT TO THE BEST OF MY KNOWLEDGE THESE PLANS AND SPECIFICATIONS ARE AS REQUIRED BY LAW AND IN COMPLIANCE WITH THE ARKANSAS FIRE PREVENTION CODE FOR THE STATE OF ARKANSAS 2007 EDITION."

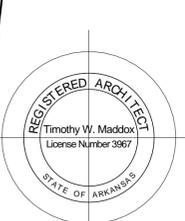
TIM MADDOX

CODE INFORMATION		CITY OF JONESBORO, ARKANSAS
CODES:		
2007 ARKANSAS FIRE PREVENTION CODE		
2008 ARKANSAS STATE PLUMBING CODE		
2008 ARKANSAS STATE GAS & FUEL CODE		
2008 NATIONAL ELECTRIC CODE		
OCCUPANCY CLASSIFICATION: B, BUSINESS		
TYPE OF CONSTRUCTION: TYPE V-B		
ALLOWABLE HEIGHT & BUILDING AREA (TABLE 503):		
ALLOWABLE HEIGHT	2 STORY, 40'-0"	
ACTUAL HEIGHT	1 STORY, 27'-0"	
ALLOWABLE AREA	9,000 SF	
ACTUAL AREA	2,392 SF	
FIRE RESISTANCE RATING FOR BUILDING ELEMENTS (TABLE 601):		
	REQUIRED	
STRUCTURAL FRAME	0	
BEARING WALLS (EXTERIOR)	0	
BEARING WALLS (INTERIOR)	0	
NON-BEARING WALLS	0	
FLOOR CONSTRUCTION	0	
ROOF CONSTRUCTION	0	
MEANS OF EGRESS:		
MAXIMUM TRAVEL DISTANCE TO EXIT	200 FEET (TABLE 1016.1)	
MAXIMUM DEAD END CORRIDOR LENGTH	20 FEET (SECTION 1017.3)	
MINIMUM CORRIDOR WIDTH	44 INCHES (SECTION 1017.2)	
MINIMUM CLEAR OPENING OF EXIT DOORS	32 INCHES (SECTION 1008.1.1)	
OCCUPANT LOAD:		
BUSINESS AREAS	2392 SF/ 100 GROSS = 24 (23.92)	
TOTAL OCCUPANT LOAD		24
EXIT WIDTH (TABLE 1005.1):		
REQUIRED		PROVIDED
0.2 INCHES x 24 OCCUPANTS = 4.8 INCHES		108 INCHES
PLUMBING REQUIREMENTS:		
-WATER CLOSETS REQUIRED	TOTAL 1	
-LAVATORIES REQUIRED	TOTAL 1	
-SERVICE SINK REQUIRED	TOTAL 1	
-DRINKING FOUNTAINS REQUIRED	TOTAL 1	

SHEET INDEX	
1.0	COVER SHEET
a1.1	FLOOR PLAN
a1.2	ROOF PLAN
a2.1	EXTERIOR ELEVATIONS
a3.1	BUILDING & WALL SECTIONS
s1.1	FOUNDATION PLAN
s2.1	ROOF FRAMING PLAN

MATERIAL LEGEND	
	FACEBRICK
	MASONRY BLOCK
	PLYWOOD
	WOOD (FINISH OR STUD WALL)
	WOOD (BLOCKING)
	INSULATION (BATT)
	INSULATION (RIGID)
	GYP. BOARD OR PLASTER
	METAL
	METAL STUDS
	CONCRETE

SYMBOL LEGEND	
	SECTION SHEET
	WALL ELEVATION
	DOOR TAG
	WINDOW TAG
	GENERAL NOTE
	FIXTURE
	LEVEL CHANGE
	NORTH ARROW

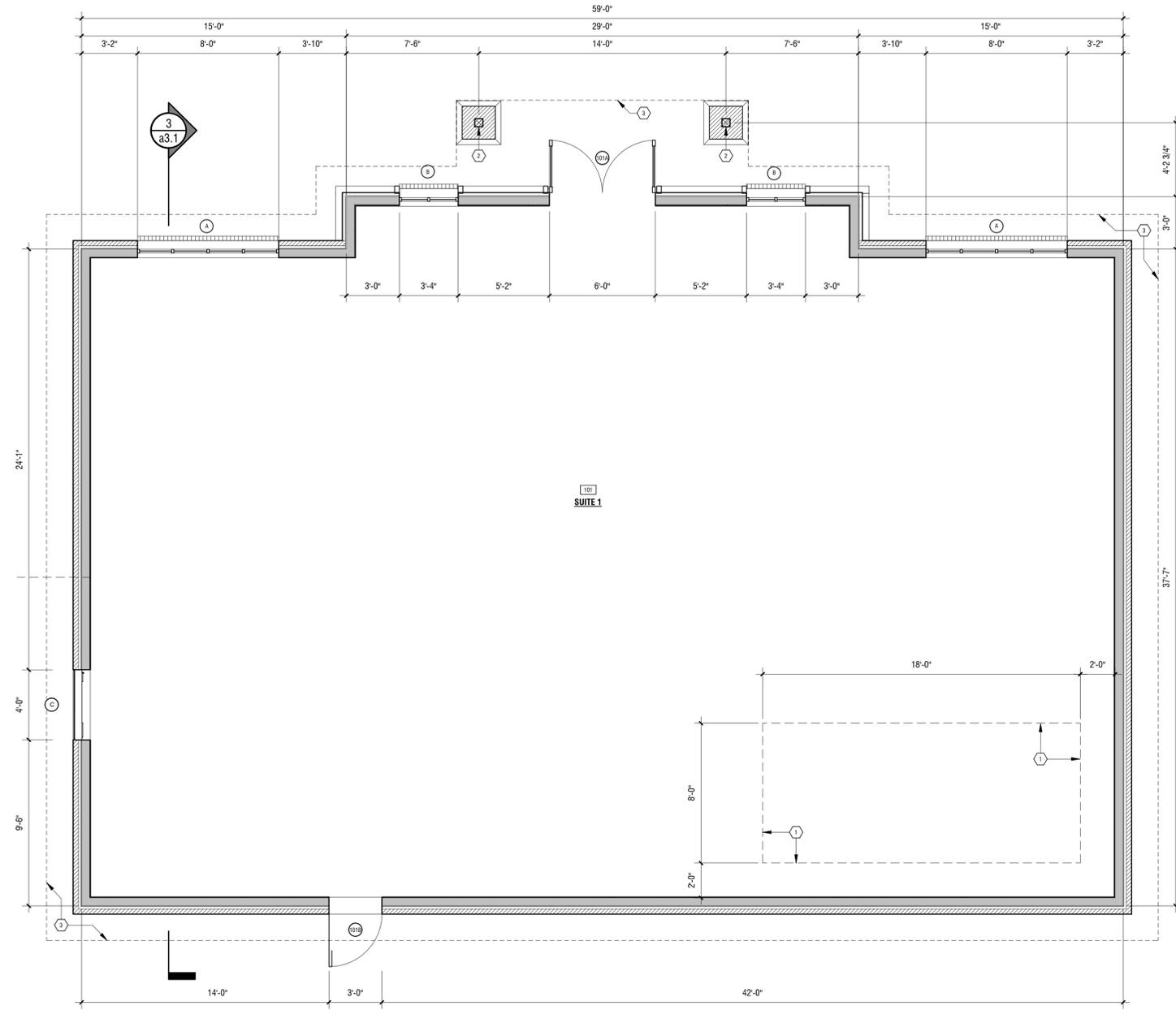


deMx architecture, p.a. 479.966-4871 p
479.966-4872 f
1 East Center Street Suite 230 Fayetteville, Arkansas 72701

BUILDING SHELL FOR BUILDING #1 AT:
3701 EAST JOHNSON
JONESBORO, AR 72401



deMx architecture, p.a. 479.966.4871 p
1 East Center Street Suite 230 Fayetteville, Arkansas 72701 479.966.4872 f



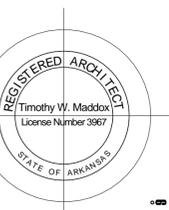
FLOOR PLAN
1/4" = 1'-0"



GENERAL NOTES: FLOOR PLAN	
MARK	DESCRIPTION
1	LEAVE OUT IN THE CONCRETE SLAB FOR PLUMBING & ELECTRICAL STUB UPS.
2	Ø16 POST, SEE STRUCTURAL DRAWINGS, W/ STONE BASE
3	LINE OF ROOF OVERHANG

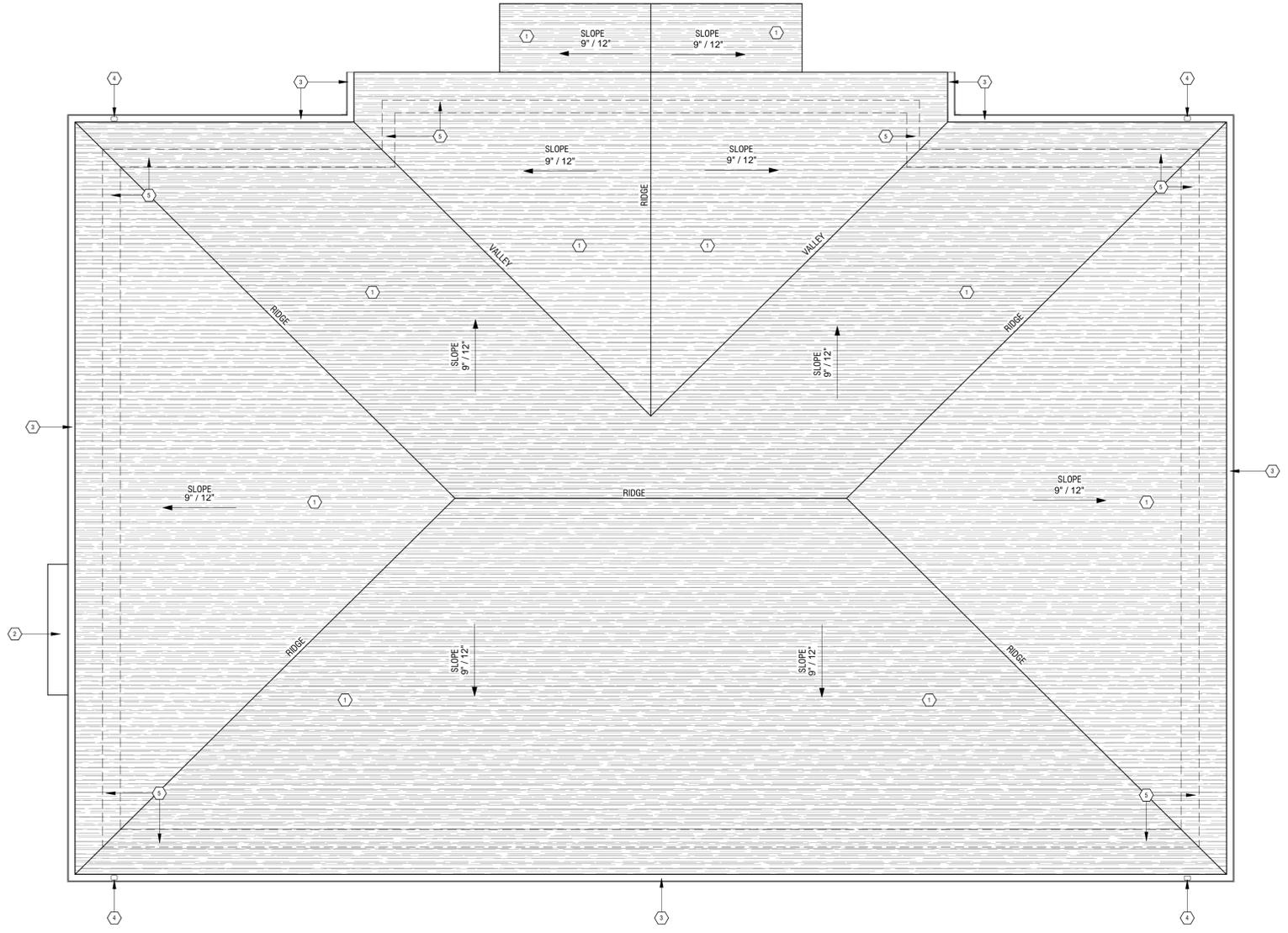
BUILDING SHELL FOR BUILDING #1 AT: 3701 EAST JOHNSON JONESBORO, AR 72401





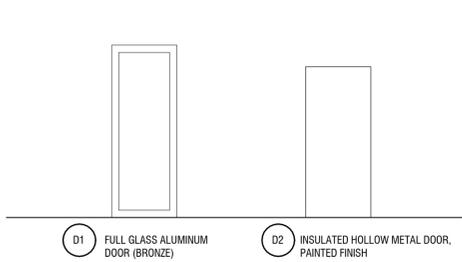
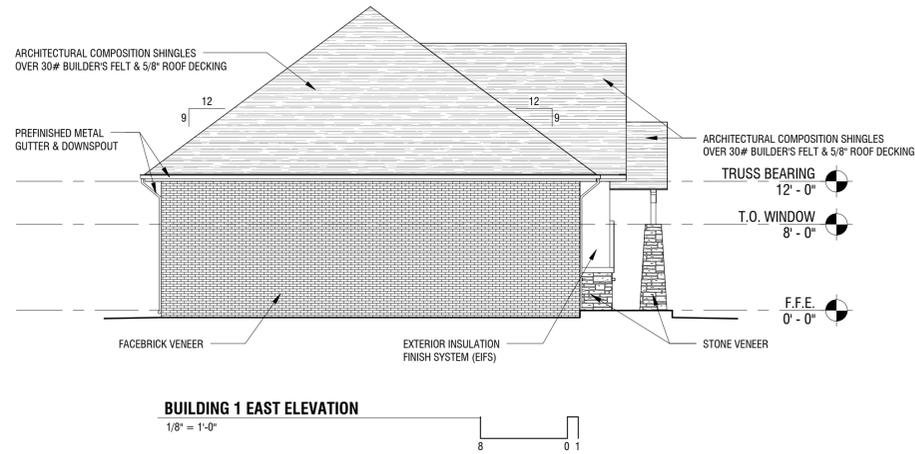
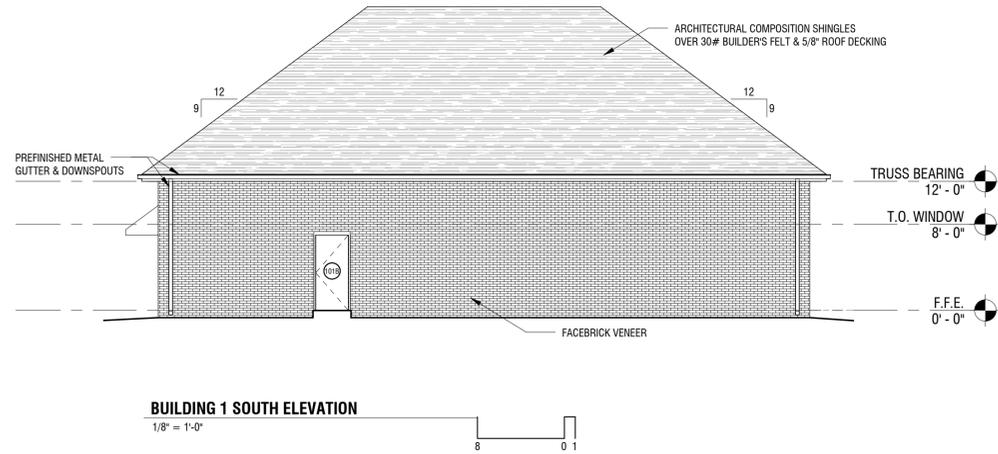
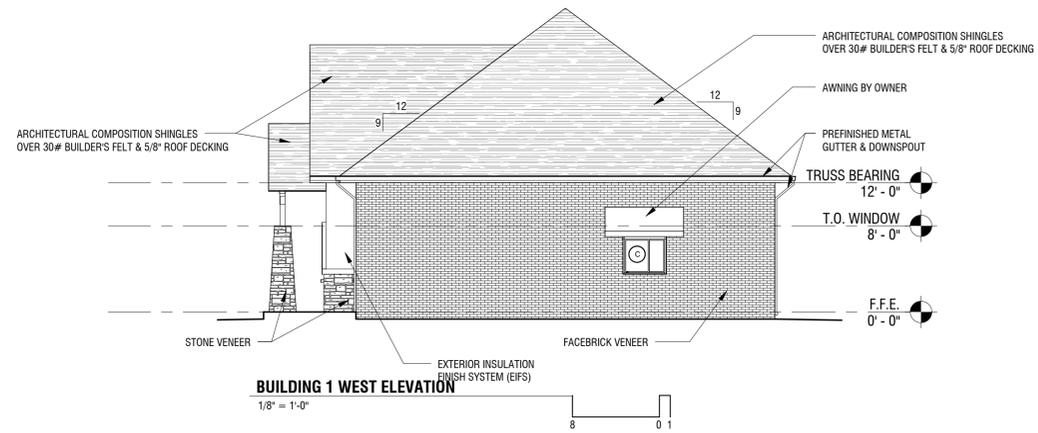
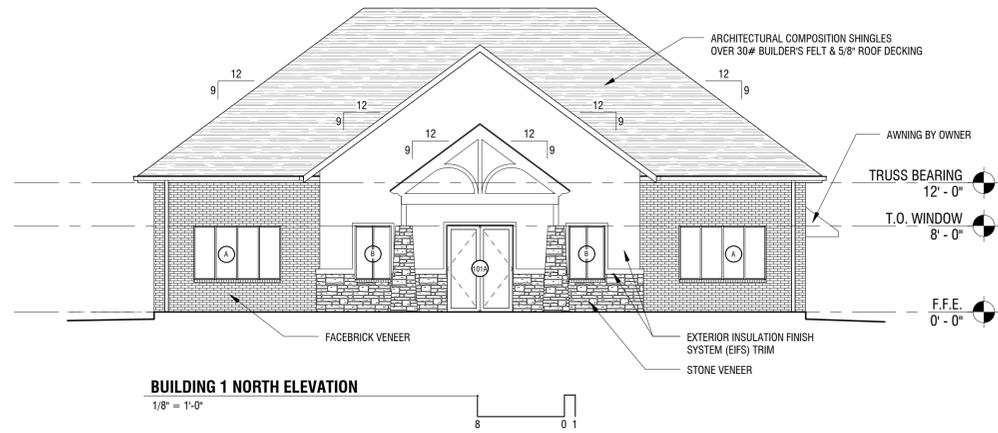
deMx architecture, p.a.
 1 East Center Street Suite 290 Fayetteville, Arkansas 72701
 479.966-4871 p
 479.966-4872 f

**BUILDING SHELL FOR BUILDING #1 AT:
 3701 EAST JOHNSON
 JONESBORO, AR 72401**

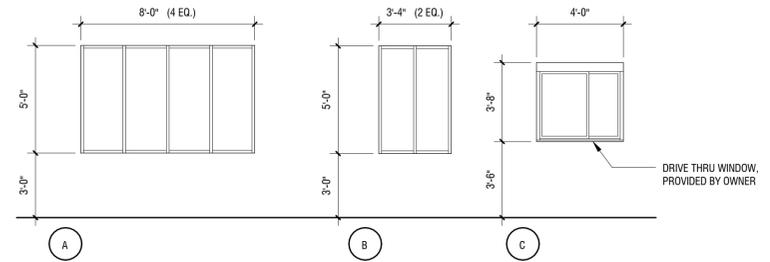


ROOF PLAN
 1/4" = 1'-0"

GENERAL NOTES: ROOF PLAN	
MARK	DESCRIPTION
1	ARCHITECTURAL COMPOSITION SHINGLES OVER 30# BUILDER'S FELT & 5/8" ROOF DECKING
2	AWNING BY OWNER
3	PREFINISHED METAL GUTTER
4	PREFINISHED METAL DOWNSPOUT
5	EXTERIOR STUD WALL BELOW



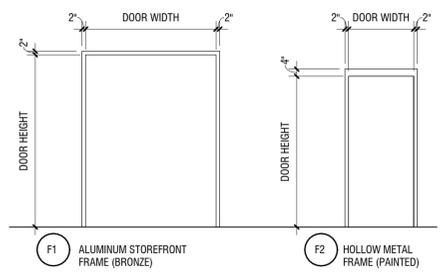
DOOR & FRAME ELEVATIONS
1/4" = 1'-0"



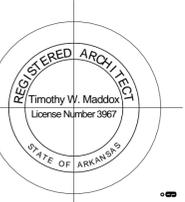
WINDOW ELEVATIONS
1/4" = 1'-0"

NOTE: ALL WINDOWS TO BE ALUMINUM STOREFRONT (BRONZE) W/ INSULATED GLASS UNLESS OTHERWISE NOTED

DOOR SCHEDULE					
MARK	DOORS				
	W	H	T	TYPE	FRAME TYPE
101A	PR 3'-0"	8'-0"	0'-2"	D1	F1
101B	3'-0"	7'-0"	0'-1 3/4"	D2	F2



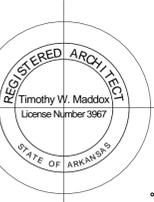
FRAME ELEVATIONS
1/4" = 1'-0"



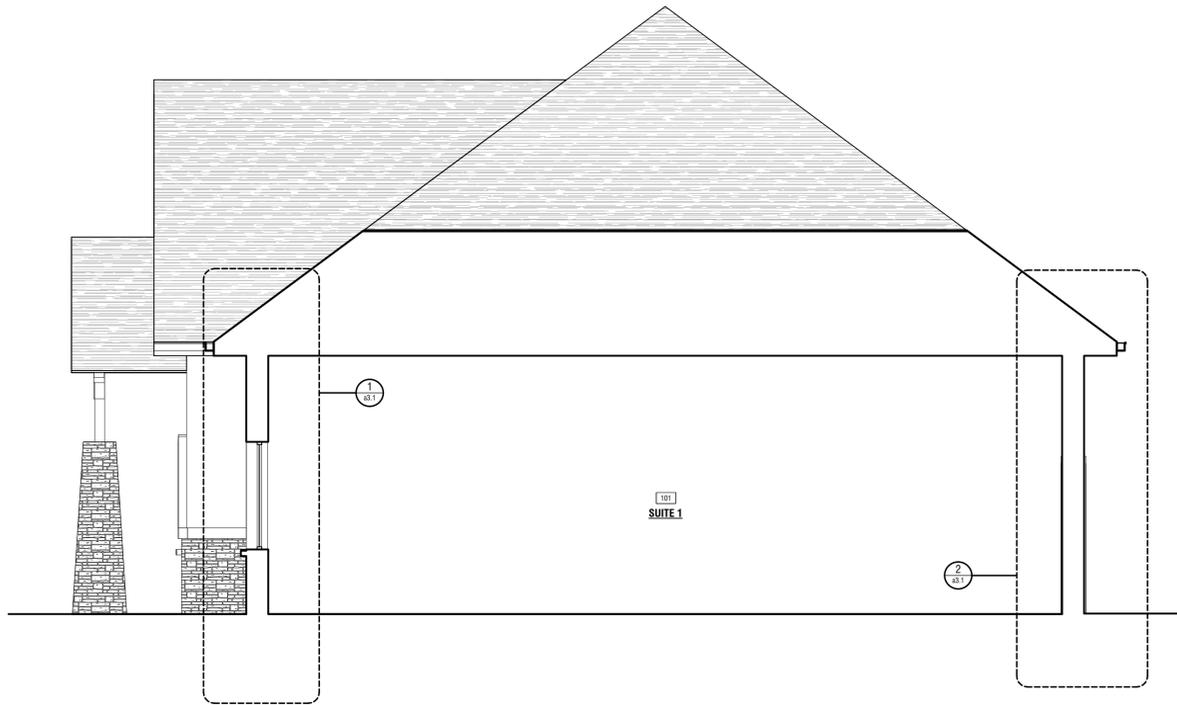
deMx architecture, p.a. 479.966.4871 p
479.966.4872 f
1 East Center Street Suite 290 Fayetteville, Arkansas 72701

BUILDING SHELL FOR BUILDING #1 AT:
3701 EAST JOHNSON
JONESBORO, AR 72401

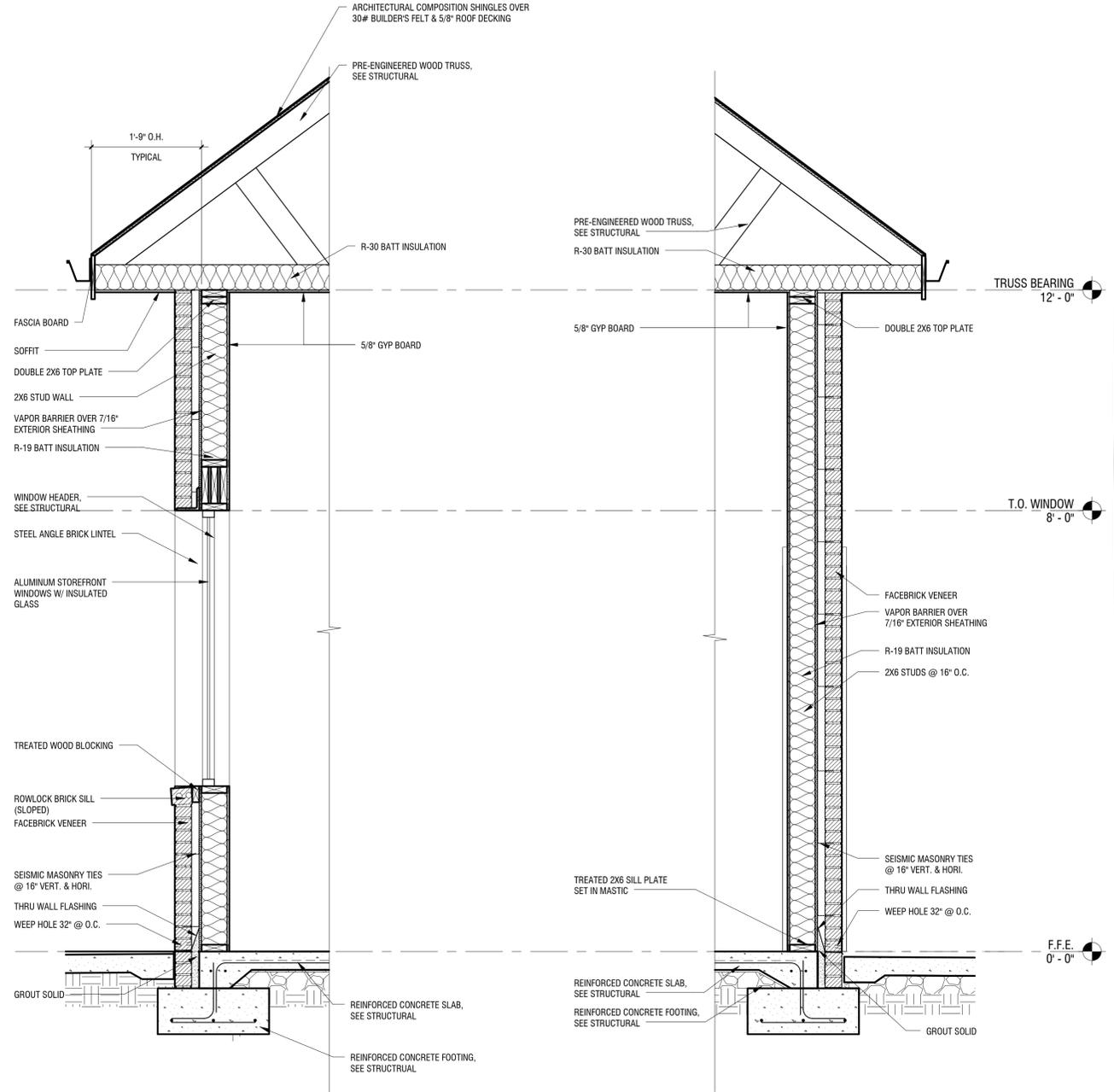




deMx architecture, p.a. 479.966-4871 p
1 East Center Street Suite 290 Fayetteville, Arkansas 72701 479.966-4872 f



3 BUILDING SECTION
3/32 1/4" = 1'-0"



1 TYPICAL WALL SECTION
3/32 3/4" = 1'-0"

2 TYPICAL WALL SECTION
3/32 3/4" = 1'-0"

BUILDING SHELL FOR BUILDING #1 AT:
3701 EAST JOHNSON
JONESBORO, AR 72401





Site Location

3705 E JOHNSON AVE

3701 E JOHNSON AVE

3705 E JOHNSON AVE

3104 MAPLEWOOD TERRACE

3008 MAPLEWOOD TERRACE

3611 E JOHNSON AVE

3108 MAPLEWOOD TER

3104 MAPLEWOOD TER

3012 MAPLEWOOD TER

3008 MAPLEWOOD TER

3701 E JOHNSON AVE

3108 MAPLEWOOD TERRACE

3012 MAPLEWOOD TERRACE

3637-A E JOHNSON AVE

3637 E JOHNSON AVE

3637-B E JOHNSON AVE

3700 E JOHNSON AVE

3513 HWY 49

3605 E JOHNSON

3605 E JOHNSON AVE

3205 MAPLEWOOD TERRACE

3205 MAPLEWOOD TER

3105 MAPLEWOOD TER

3105 MAPLEWOOD TERRACE

3013 MAPLEWOOD TERRACE

3013 MAPLEWOOD TER

3007 MAPLEWOOD TER

3007 MAPLEWOOD TERRACE

3207 MAPLEWOOD TERRACE

3206 MAPLEWOOD TERRACE

JIM LYONS
jlyons@leclaw.com

ZAC BAKER
zbaker@leclaw.com

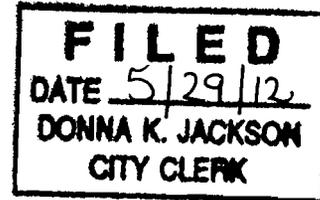
Lyons & Cone, P.L.L.C.

ATTORNEYS AT LAW
407 SOUTH MAIN
PO BOX 7044
JONESBORO, ARKANSAS 72403-7044
870-972-5440 • FAX: 870-972-1270

MIKE CONE
mikecone@leclaw.com

DAVID TYLER
dtyler@leclaw.com

May 29, 2012



Ms. Donna Jackson, City Clerk
515 W. Washington Ave.
Jonesboro, AR 72401

Re: Grayson Investments Rezoning
Denial; Appeal to City Council

Dear Ms. Jackson:

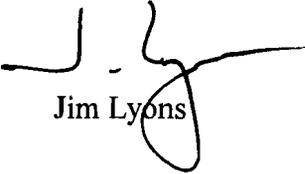
Please let this serve as notice of appeal to the Jonesboro City Council in respect to the MAPC's decision on May 8, 2012 to deny rezoning of the Grayson Investments property located at 3701 E. Johnson Avenue. Pursuant to Jonesboro City Code 2-89, "appeals to the city council of decisions of commissions and boards shall be in writing signed by the party appealing, dated and filed with the clerk within 30 days following the decision of the board and/or commission." As such, we ask that you consider this our timely filing of notice of appeal of the MAPC's decision.

We are appealing this decision for several reasons. First, the MAPC promoted commercialization of the area surrounding the Grayson Investments property by approving the rezoning of the location where the new fairgrounds campus is being constructed. In fact, the rezoning of the new fairgrounds campus was sponsored by a current MAPC voting member, Mr. Jerry Reece, who abstained from voting on the Grayson Investments matter during the May 8, 2012 MAPC meeting. It is important to note that Mr. Reece was familiar enough with the property to be aware of a sewer easement potentially running across the Grayson Investments property.

Second, but more importantly, the approval of the development of the new NEA Baptist Memorial Hospital campus has prompted numerous property owners with frontage to Johnson Avenue to place their properties up for sale as commercial property in hopes of attracting buyers interested in using their land for similar commercial development. The area is in need of properties with many different commercial uses, including ones we have attached to our appeal. We feel that this information warrants an appeal to the City Council for further consideration regarding the additional uses being requested for the Grayson Investments property.

We have attached a copy of the record, as well as a prepared ordinance, and proper fee for lodging this appeal. We are requesting our appeal be heard during the June 19, 2012 City Council meeting. Please let us know if you have any questions, or if there is anything else we can provide to make the appeal complete. Thank you.

Sincerely,



Jim Lyons

JL/sc

Enclosures

F:\WP60\JL\May 29.Grayson.Appeal.wpd

Application
for a
Zoning Ordinance Map Amendment

METROPOLITAN AREA
PLANNING COMMISSION
Jonesboro, Arkansas

Date Received:

8/24/16

Case Number:

RZ16-21

=====

LOCATION:

Site Address: 3710 East Johnson Avenue

Side of Street: South Side of East Johnson Avenue

Quarter: Northwest **Section:** 10, **Township:** 14 North, **Range:** 4 East

Attach a survey plat and legal description of the property proposed for rezoning. A registered Land Surveyor must prepare this plat.

SITE INFORMATION:

Existing Zoning: C-3 L.U.O. **Proposed Zoning:** C-3 - L.U.O.
(Requesting revisions to permitted uses)

Total Size of site (square feet and acres): 57,140 S.F.; 1.31 Acres
Street Frontage (feet): 82.87 feet along East Johnson Avenue

Existing Use of the Site: C-3 - L.U.O., in compliance with current zoning

Character and adequacy of adjoining streets: This is an existing development.
The applicant desires only to make certain revisions to the permitted uses.

Does public water serve the site? YES

If not, how would water service be provided? N/A

Does public sanitary sewer serve the site? YES

If not, how would sewer service be provided? N/A

Use of adjoining properties:

North:	East Johnson Avenue- Commercial on the North side of the road
South:	R-1
East:	C-3 -L.U.O. and R-1
West:	C-3 (Bill's Fresh Market)

Physical Characteristics of the site:

This site is fully developed. This request is to modify the permitted uses.

Characteristics of the neighborhood:

This site is fully developed. This request is to modify the permitted uses.

Applications will not be considered complete until all items have been supplied. Incomplete applications will not be placed on the Metropolitan Areas Planning Commission agenda and will be returned to the applicant. The deadline for submittal of an application is the 17th of each month. The Planning staff must determine that the application is complete and adequate before it will be placed on the MAPC agenda.

REZONING INFORMATION:

The applicant is responsible for explaining and justifying the proposed rezoning. *Please prepare an attachment to the application answering each of the following questions in detail:*

- (1) **How was the property zoned when the current owner purchased it?**
The property was zoned C-3, L.U.O. at the time of acquisition.
- (2) **What is the purpose of the proposed rezoning? Why is the rezoning necessary?**
This site is fully developed. This request is to modify the permitted uses.
- (3) **If rezoned, how would the property be developed and used?**
This site is fully developed. This request is to modify the permitted uses.
- (4) **What would be the density of development (e.g. number of residential units; square footage of commercial, institutional, or industrial buildings)?**
This site is fully developed. This request is to modify the permitted uses.
- (5) **Is the proposed rezoning consistent with the *Jonesboro Comprehensive Plan* and the *Future Land Use Plan*?**
This site is fully developed. This request is to modify the permitted uses.

- (6) **How would the proposed rezoning be in the public interest and benefit the community?**

This site is fully developed. This request is to modify the permitted uses.

- (7) **How would the proposed rezoning be compatible with the zoning, uses, and character of the surrounding area?**

This site is fully developed. This request is to modify the permitted uses.

- (8) **Are there substantial reasons why the property cannot be used in accordance with the existing zoning?**

This site is fully developed. This request is to modify the permitted uses.

- (9) **How would the proposed rezoning affect nearby property including impact on property value, traffic, drainage, visual appearance, odor, noise, light, vibration, hours of use or operation and any restriction to the normal and customary use of the affected property.**

This site is fully developed. This request is to modify the permitted uses.

The revision in the permitted uses should have no detrimental impact on any of the following aspects of the immediate area.

A) Property Values

B) Traffic

C) Drainage

D) Visual Appearance

E) Odor

F) Noise

G) Light

H) Vibration

J) Hours

K) Restrictions: The proposed use does not restrict any other existing surrounding uses.

(10) How long has the property remained vacant?

This site is fully developed. This request is to modify the permitted uses.

(11) What impact would the proposed rezoning and resulting development have on utilities, streets, drainage, parks, open space, fire, police, and emergency medical services?

This site is fully developed. This request is to modify the permitted uses.

A newly developed site should have no detrimental impact on any of the following aspects.

- A) Utilities
- B) Streets
- C) Drainage
- D) Parks
- E) Open Space
- F) Fire
- G) Police
- H) Emergency Medical Services

(12) If the rezoning is approved, when would development or redevelopment begin?

This site is fully developed. This request is to modify the permitted uses.

(13) How do neighbors feel about the proposed rezoning? Please attach minutes of the neighborhood meeting held to discuss the proposed rezoning or notes from individual discussions. *If the proposed rezoning has not been discussed with neighbors, please attach a statement explaining the reason. Failure to consult with the neighbors may result in delay in hearing the application.*

No meeting has been held with the adjacent owners.

(14) If this application is for a Limited Use Overlay (LUO), the applicant must specify all uses desired to be permitted.

This requested rezoning is intended to be a revised Limited Use Overlay (LUO).

Current list of permitted uses:

- 1) Animal Care, Limited
- 2) Automated Teller Machine;
- 3) Bank or Financial Institution;
- 4) Church (conditional use);
- 5) Day Care, Limited;
- 6) Government Service;
- 7) Library;
- 8) Medical Service/Office;
- 9) Office, General; and
- 10) Utility, Minor.

Proposed list of permitted uses:

- 1) Automated Teller Machine;
- 2) Bank or Financial Institution;
- 3) Church (conditional use);
- 4) Day Care, General;
- 5) Government Service;
- 6) Medical Service/Office;
- 7) Office, General;
- 8) Utility, Minor; and
- 9) Retail / Service.

OWNERSHIP INFORMATION:

All parties to this application understand that the burden of proof in justifying and demonstrating the need for the proposed rezoning rests with the applicant named below.

Owner of Record:

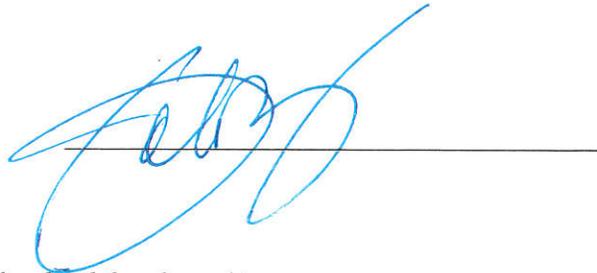
I certify that I am an owner of the property that is the subject of this rezoning application and that I represent all owners, including spouses, of the property to be rezoned. I further certify that all information in this application is true and correct to the best of my knowledge.

Applicant:

If you are not the Owner of Record, please describe your relationship to the rezoning proposal:

The owner of the property is:

P & H Investments, LLC
P.O. Box 17316
2400 Highland Drive – 4th Floor
Jonesboro, AR 72403



Deed: *Please attach a copy of the deed for the subject property.*

Applications will not be considered complete until all items have been supplied.

Incomplete applications will not be placed on the Metropolitan Areas Planning Commission agenda and will be returned to the applicant. The deadline for submittal of an application is the 17th of each month. The Planning staff must determine that the application is complete and adequate before it will be placed on the MAPC agenda.



Legislation Details (With Text)

File #: ORD-12:033 **Version:** 1 **Name:** Rezoning for Grayson Investments
Type: Ordinance **Status:** Denied
File created: 6/6/2012 **In control:** City Council
On agenda: **Final action:** 7/17/2012
Title: AN ORDINANCE TO AMEND TITLE 14, KNOWN AS THE ZONING ORDINANCE OF THE CITY OF JONESBORO, ARKANSAS, PROVIDING FOR CHANGES IN ZONING BOUNDARIES FOR PROPERTY LOCATED AT 3701 EAST JOHNSON AVENUE AS REQUESTED BY GRAYSON INVESTMENTS

Sponsors:

Indexes: Appeal hearing, Rezoning

Code sections:

Attachments: 1. Plat, 2. MAPC Report, 3. MAPC Record of Proceedings, 4. Appeal Letter, 5. Letter to City Council - Opposition, 6. Photographs from July 17, 2012, meeting

Date	Ver.	Action By	Action	Result
7/17/2012	1	City Council	Passed	Fail
7/2/2012	1	City Council	Held at second reading	
6/19/2012	1	City Council	Held at one reading	

AN ORDINANCE TO AMEND TITLE 14, KNOWN AS THE ZONING ORDINANCE OF THE CITY OF JONESBORO, ARKANSAS, PROVIDING FOR CHANGES IN ZONING BOUNDARIES (**NOTE: THIS ORDINANCE WAS DENIED ON JULY 17, 2012**)

WHEREAS, the following described lands located in Jonesboro, Craighead County, Arkansas, are currently zoned C-3 LUO, commercial use classification with limited use overlay (the "Property"):

The part of the southeast quarter of the northwest quarter of section 10, T14N-R4E, more particularly described as follows; commence at the center of section 10, T14N-R4E, thence west on the quarter section line 996.10 feet; thence north 330.10 feet to the point of beginning; thence east 200.00 feet; thence N 00_06'34" E 410.70 feet (record north 410.60') to the south right-of-way of Johnson Street (Hwy. 49); Thence S 58_27'51" W along said highway right-of-way 235.57 feet (record S 57_57' W 238'); thence south 287.60 feet to the point of beginning, containing 1.61 acres, more or less.

WHEREAS, all applicable laws, rules and regulations have been complied with in presenting this Ordinance to the City Council.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Jonesboro, Arkansas, that:

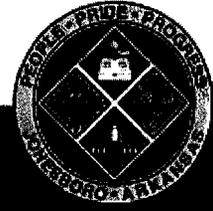
SECTION I: The Zoning Ordinance of the City of Jonesboro, Arkansas, codified as Title 14 of the Jonesboro Municipal Code, should be, and hereby is amended so that the Property described herein shall be zoned as C-3 LUO with the existing uses as well as those set forth in Section II.

SECTION II: The following uses are hereby allowed by approval of the City Council:

- a. Animal care, general
- b. Animal care, limited
- c. Auditorium or stadium
- d. Automated teller machine
- e. Bank or financial institution
- f. Church
- g. College or university
- h. Communication tower
- i. Construction sales and service
- j. Convenience store
- k. Day care, limited
- l. Day care, general
- m. Funeral home
- n. Government service
- o. Hospital
- p. Hotel or motel
- q. Indoor firing range
- r. Library
- s. Medical service/office
- t. Nursing home
- u. Office, general
- v. Parking lot, commercial
- w. Parks and recreation
- x. Post office
- y. Recreation/entertainment, indoor
- z. Recreation/entertainment outdoor
- aa. Recreational vehicle park
- bb. Restaurant, fast food
- cc. Restaurant, general
- dd. Retail/service
- ee. Safety services
- ff. Vehicle and equipment sales
- gg. Vehicle repair, general
- hh. Vehicle repair, limited
- ii. Warehouse, residential (mini) storage
- jj. Vehicular and equipment storage yard
- kk. All other previously approved uses

SECTION III: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION IV: The City Clerk is hereby directed to amend the official zoning district boundary map of the City of Jonesboro, Arkansas, insofar as it relates to the Property, so that the zoning classification of the Property shall be in accordance with the provisions of this Ordinance.



RECORD OF PROCEEDINGS: MAPC PUBLIC HEARING HELD MAY 8, 2012

RZ 12-06: Grayson Investments, 3701 E. Johnson Ave.

A request to consider a recommendation to Council for a rezoning/modification of a "C-3 L.U.O.", General Commercial list of permitted uses.

Applicant:

Mr. Jim Lyons: Attorney- Representing Grayson Investments. Mr. Lyons presented the case noting that the property is located next to Bill's Fresh Market on E. Johnson Ave. Since the last traffic count and the most recent 2010 traffic count, approximately 25,000 cars are reflected at the point which is exactly where our property. The City of Jonesboro has done two (2) things in the recent past that will increase the likelihood of this property being commercial by: 1. *approving the NEA Baptist Memorial Hospital*; and, 2. *approving the development of the fairgrounds towards Brookland*. That has increased the traffic in this area. There is a change in the character of the neighborhood. Mr. Lyons showed slides of the current uses of the properties in the vicinity, including the rear of the property along Maplewood Terrace and properties along Highway 49N, as well as the C-3/ C-3 L.U.O. Zoning abutting.

Mr. Lyons noted the eye care facility to the east and the property underdevelopment as C-3 showing the dirt work underway in the photo to the north across E. Johnson. It is our position that this land is clearly commercial. He noted that he drove from the Ace Hardware Store and it measured 1.1 miles to Bill's Market. All of the properties are either commercial, 11 were unused and others used as residential, but those properties were for sale. He added that there were 3 or 4 properties which are currently residential, but he could not tell if it looked like one home may have been used as commercial. The rest of the properties along E. Johnson are commercial. Mr. Lyons stated that he understands that residents are opposed to this request. He understands the reason for that. When a City makes a decision to allow the building of the hospital, and makes a decision to rezone property for the fairgrounds, the result is that as Brookland grows, as Paragould grows, and Jonesboro has a substantial increase in traffic. He added that he would dare say that if we took a traffic count today, it would be at least 10% higher as a result of the development of the hospital and the other area out there. Obviously, if you continue to go past

the hospital, virtually all of those properties are also for sale, because people are going to develop those as commercial properties. He added that eventually all of the property along Johnson is going to be commercial, and he thinks that it is proper for this to be rezoned or changed as a limited use overlay- applied for to be changed for those uses of which we have asked for today.

Staff:

Mr. Spriggs gave a summary and history of the case. The former Gillespie case was applied for in December of 2005. It was acted on by the MAPC and forwarded to City Council for approval; and, it was acted on by the Council in a series of 2 meetings, denied and was litigated in the Circuit Court of Craighead County. As a part of that, Mr. Spriggs noted that he was actually hired at the same time and attended those proceedings. The judge handed down the Court Order of which you were copied- with a Rezoning to C-3 L.U.O. having specific uses and conditions. This is what is in question tonight: The applicant is petitioning a revision to that Limited Use Overlay. City Council did not follow up and rezone the property to C-3 L.U.O. by ordinance; however the rezoning remains valid with those conditions and specific uses that were listed. The applicant has requested (36 plus 10 original uses) as noted in the report. Those are your typical C-3 allowable uses, and the applicant is proposing to allow those for marketing or other reasons. Also there are specific conditions added by the court which covers screening, buffering and setbacks in proximity to existing and proposed structures. All of those are to remain in force. With the expansion of the use list, MAPC is asked to modify that order. We are dealing with process tonight; the MAPC is making a recommendation to City Council and Council will make any official decision from that point. The City Attorney's office is here to answer any questions as well as Planning Staff.

Mr. Tomlinson asked for clarity of whether we are considering a rezoning? **Mr. Spriggs** stated that this is technically a rezoning/change to an existing C-3 L.U.O. District. Any current district would be petition in this same manner to be modified. It has to go through this same process for modifications. This constitutes the same process for rezoning. **Mr. Tomlinson:** I wonder why they don't just go to the court and ask them to make the decision. **Mr. Spriggs** noted that is an option.

Mr. Jim Lyons: Before you can file an action against the City, the City has to refuse this or say we will *a, b and c*, but we will not allow *d, e and f*. We can't just file suit against the City and just say- We don't know what the City will do. It is necessary to have a true action against something claiming that it was improper what the City did. So we have to come to you first, before we can go back and ask the Court to re-do this. The City has to refuse. And, the proper method to do that, is this process. We were not trying to avoid going to Court.

Mr. Tomlinson: This was done in 2005; so, has the intensity of the area development has gone up considerably? **Mr. Lyons:** Yes, substantially. **Mr. Tomlinson:** I wish that the applicant would had derived a list of things that they desired to be there, as opposed to taking the whole C-3 ordinance, and turning it over and saying we want it all. Some of the listed uses couldn't be done anyway due to the size of lots and setbacks. **Mr. Tomlinson** added that he does think those uses need to be increased. There is a C-3 L.U.O. next door. You probably do not have as many uses as we granted them. **Mr. Spriggs** stated he would have the list of the property next door- I would like to see that. The minimum should be to permit what was allowed next door to you. I don't like to take all the time to write uses in the meeting. If they had submitted a list of what they would have thought to be required, then that would have been a great help to me.

Public Input:

Mr. Allen Jones, 3207 Maplewood Terrace: Agreed Highway 49N will be and is becoming commercial. At this lot, is where the commercial and residential uses intersect. And, I think the City Council recognized this in 2006 and denied the C-3 request that went to Circuit Court, who also recognized this and agreed, and allowed only the 10 restrictions. I think they got it right; I do not like the animal care use being next to residential.

Mr. Jones: I don't think that City Council can change what circuit court said; but I am not an attorney. I think that City Council should reject this, and they go back to Circuit Court to let them say you can change these accepted uses. I don't know the property owner's intent- Are they wanting to add these 27 acceptable uses to make it more attractive to a land purchaser, or is their actual intent hidden somewhere in those 27 additional or acceptable uses. I hope it is not for a communication tower or an arena. I request City Council to deny this and let Circuit Court make that decision again.

Mr. Jim Carter: 3013 Maplewood Terrace (40 Years). Stated that has a great neighborhood. Your Staff Report will show that in 2006, our neighborhood settled in Circuit Court that the property in question will be a C-3 L.U.O., with specific stipulations. At this point, there has not been anything to warrant a change in that settlement. We may talk about traffic counts, but the property in question has not been changed. The neighbors are there and it abuts a residential neighborhood that will be heard. We believe the court settlement was fair to our neighborhood, and we still feel the same way in 2012. We ask that you recommend to the City Council that the property stays as settled in Court in 2006; and, you not start peeling away one restriction at a time, so they end up with a regular C-3 out there. **Mr. Carter** added that he doesn't know the Grayson

Corporation, and they should have known that there were restrictions on the property when they purchased it. It is also a fact that will probably be given to you this evening that they really do not care how our neighborhood looks, by the way they have taken care of the property, since they have owned it.

Mr. Jerry Reece: Asked for clarification of the property- was it a part of the Maplewood Subdivision? **Mr. Carter:** Stated that he believe it was and they sold it off, lot by lot.

Mr. Lyons: Stated that if it were a part of the subdivision, then a bill of assurance would have existed. And there was no bill of assurance applied to the subject property.

Stacey Schratz, 3104 Maplewood Terrace: Referring to application Item 13: Ms. Schratz noted that the owner of Hilltop Eye Care (east of property), Doctor Megan Moll, stated that no one has discussed this with them and she objects; she could not be here.

Stacey Schratz: On the application, it says that the property purchased by the owner in 2008 was vacant and has since remained vacant. That is incorrect. She presented pictures to the MAPC. **Mr. Lyons:** Concurred that it is currently occupied. She added they are not good about keeping the property up. Other neighbors mow portions of the property, because they get tired of looking at it.

Ms. Schratz added that Mr. Osment or whoever owns this doesn't care about it. She has filed a complaint with code enforcement about having the property cleaned. She read the Rezoning Criteria for approval. She also spoke on nuisances on the property.

Wendy Jones, 3207 Maplewood Terrace read a letter from neighbors who are gone out of town- Dr. George and Phoebe Harp, **3206 Maplewood Terrace.** Spoke on increased pedestrian traffic on Maplewood Terrace. She is opposed to having access to this property from Maplewood Terrace. **Ms. Jones** made comments on the character of the neighborhood, and noted that a change of more uses is not desirable as a through-street.

Mr. Lyons: We are not asking for vehicular access to Maplewood Terrace, and there is no vehicular access from that point. On the property, we are required to build a fence where it touches residential property. There is a provision for no access to Maplewood Terrace in the request.

Mr. Reece: Isn't there a sewer easement that goes through that property and will it affect any new buildings? **Mr. Lyons** stated that it should not be an issue of interference of the sewer.

John Hatcher, 3105 Maplewood Terrace: The very issue raised about accessing through Maplewood Terrace lets us know that this affects Maplewood. Mr. Hatcher noted that he can look out his window and see the property due west of him. It is not a house that backs a residential neighborhood; it is in a residential neighborhood.

Ms. Schratz: Noted that the limitations next door is the same and is very limited.

Mr. Hoelscher: Asked what limitations were placed on the adjacent property. Mr. Spriggs continued to research the records to locate the files.

Ms. Nix: What would give us the right to rezone it legally?

City Attorney's Office, Ms. Carol Duncan reported that she did some research on that question, as well as consulted with Attorney Jim Lyons about case law he had found. Nothing was found to reflect either way. Either way we will end up, with this Commission's recommendation to City Council. **Ms. Duncan** stated that she does not feel the court wants to be in the business of rezoning our property forever. The gut instinct is that- if the City had rezoned the property by ordinance after the Court order and consistent with the Court order, there would be no question. We could have then made the decision and they could file against our decision in Circuit Court; but, we didn't do that- so the gray area exists. We will continue to research that issue upon review by Council, then the issue will be addressed; I am sure, at the Council level. There was just not any research available on that certain topic.

Mr. Kelton: It's my understanding from Mr. Lyon's presentation that he could not go back to Circuit Court, and ask for a change until a decision has been rendered by the Planning Commission and the City Council- Is that correct?

Ms. Duncan: Concurred that is what Mr. Lyons stated.

Mr. Kelton: So he is just following procedure? **Ms. Duncan** reiterated that there is no guidance in the law; this is the procedure that he and Mr. Spriggs worked out; *they are to go through the same steps as you would for any rezoning.* We are still researching the matter; I do not feel that the Court wants to be rezoning property for ever, just because litigation was filed.

Ms. Nix: Stated that she still would like a legal opinion about the process.

Ms. Duncan: You won't get a definitive answer, because there is no case law that does so; they are following the only procedure that we have available.

Mr. Lyons: If Mr. Spriggs would have said- *ya'll don't need to come here before the MAPC, then we would not be here.* You have to have a case of controversy, before you go to court. You can't just file suit for nothing. Then, there would be

a Rule 11 petition before me, because I am filing for nothing. Carol Duncan could issue sanctions against me; I've never had one filed against me. I am trying to do my job and get these additional uses on this property; and we believe that this is the proper way to do it. If a judge says that it is not, then it is not. We believe and Mr. Spriggs thought so- I still believe that we have to go through this process. The City Council must rule on that, before we will have a basis to file suit against the City. They might turn us down, but we don't know until we go and ask them by going through this process- which is coming to you, and a recommendation is made that then goes to City Council for action. We are not trying to do this for any purpose to cause any problems for the City. We are trying to make sure we follow the necessary steps, so those modifications could be acted on. I don't file suits that are not necessary.

Mr. Hoelscher: Is the issue at hand that the City was ordered to rezone the property? **Ms. Duncan:** The judge made the decision to rezone the property.

Mr. Hoelscher: So there wasn't an ordinance filed? **Ms. Duncan:** True, and had it been filed, it would have made it clearer.

Mr. Lyons: Read the order language which said.... *no other action was necessary; if the City so desires it may* (It was not required).

Mr. Kelton: Is it possible for you to pair this list down? **Mr. Lyons** stated, yes.

Mr. Spriggs: Stated that located the conditions from the 2002 case and read them:

ORD 02:0577, Rezoning by Phillip and Lonette Byrd, Adopted 08/05/2002, C-3 L.U.O., Specific Land Uses permitted under Ordinance 02:0577 include:

- (1) Animal Care, Limited
- (2) Automated Teller Machine
- (3) Bank of Financial Institution
- (4) Church (with conditional use permit)
- (5) Day Care, Limited
- (6) Day Care, general
- (7) Government Service
- (8) Library
- (9) Medical Service/Office
- (10) Office, General
- (11) Safety services
- (12) Utility, Minor

At the time this property changes uses from its present R-1 use to a C-3 L.U.O. use, the following improvements shall be made prior to obtaining a Certificate of Occupancy: A wooden screening fence, eight feet in height, shall be installed along the property lines abutting property zoned R-1. Trees, a minimum of

eight feet in height , shall be planted along the fence to provide an extra layer of screening and buffering between properties zoned R-1.

Prior to further development of the subject property, a Site Development Plan meeting the requirements of Section 14.36 of the Zoning Ordinance shall be prepared and submitted for review and approval by the City's Planning Department. This plan shall specifically show the relationship of the subject property to existing and proposed streets, driveways, utilities, and buildings within a 300 foot radius of the subject property.

Mr. Scurlock: Asked for clarification on the setbacks and fencing installation.

Mr. Spriggs: Stated that the adjacent property was never redeveloped and the current owners only went before the MAPC to have living quarters remain above the Optometrist's business.

Mr. Reece: Asked: *Will the action taken here tonight be passed on to City Council for an ultimate decision?*

Mr. Spriggs: *My recommendation is that you take some action tonight and recommend to Council based on the information provided to you. I honestly feel you have enough information to make a decision.*

Mr. Kelton: Stated that following along with the 2002 conditions, he noticed that they are almost identical, such as the 8- ft. fence and the trees which mirror the Judge's conditions. He noted difficulty in the Judge's stipulation of the 40 ft. setback from any structure, parking and any R-1 property. **Mr. Spriggs** clarified that it is the proposed structure in relationship to the adjacent R-1 zoned property- which is the property line.

Mr. Lyons presented the cut-down list: (These uses are to be allowed if approved).

- d. Automated teller machine
- e. Bank or financial institution
- f. Church
- g. College or university
- i. Construction Sales Service
- k. Day care, limited
- l. Day care, general
- s. Medical service/office
- u. Office, general
- w. Parks and recreation
- x. Post office
- bb. Restaurant, fast food
- cc. Restaurant, general

dd. Retail/service

ee. Safety services

kk. All other previously approved uses by the Court (Case CV-2006-88(JF)) is as follows:

- Animal Care, Limited,
- Automated Teller Machine
- Bank or Financial Institutions
- Church (with conditional use permit)
- Day Care, Limited
- Government Service
- Library
- Medical Service/Office
- Office, General
- Utility, Minor

Mr. Carter: Reiterated that this is *“free/ peeling away a little at time”* and revamping what we went through before with all this. We went to Council; they denied it, and they went to court; we settled; now we come back and they are peeling away. This is like our freedom. Send this to City Council with no approval, and let us get alone about our business. What we thought was fair was fair. It’s good enough for the Hilltop Optometrist and it should be good enough for the person that bought this property.

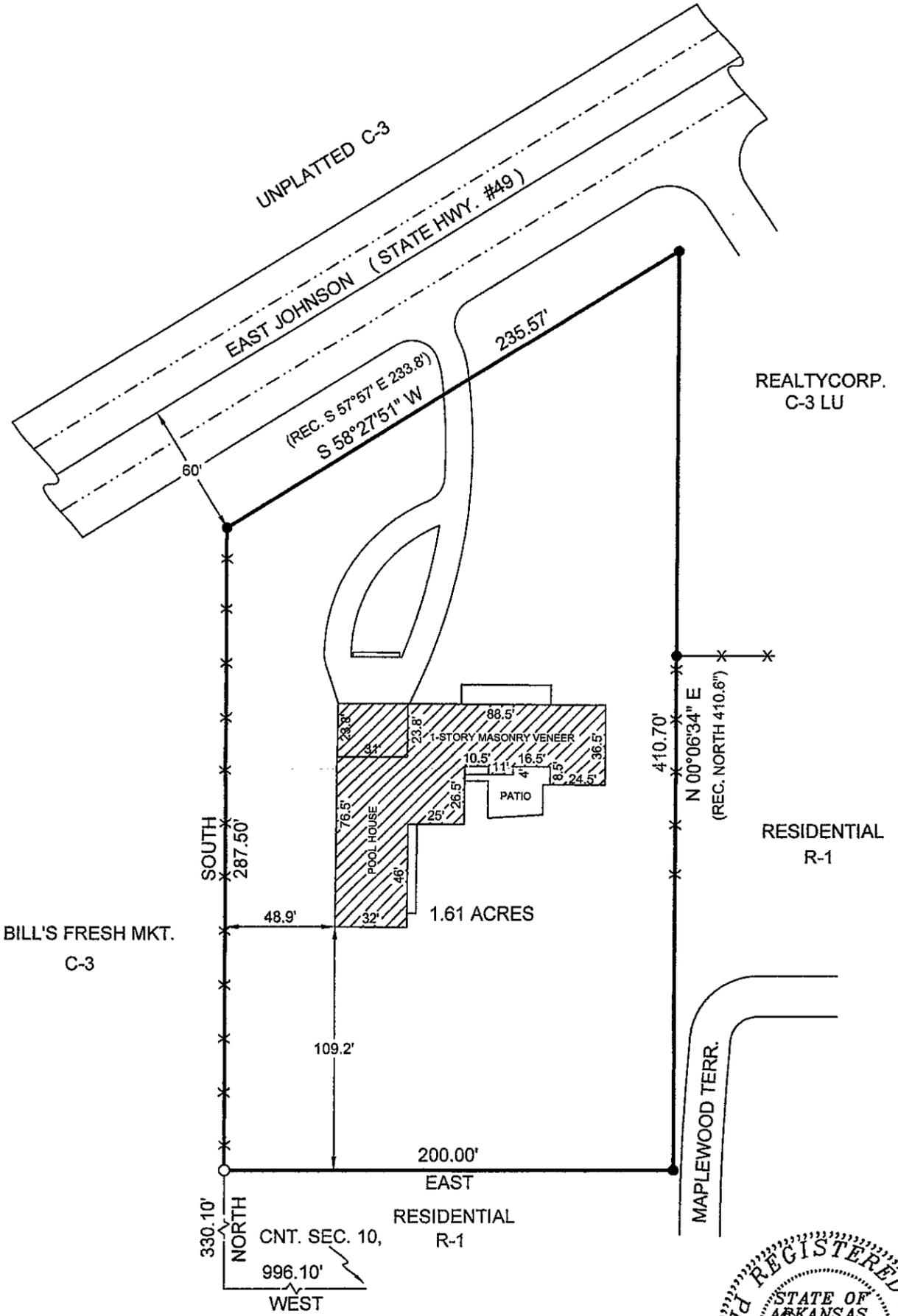
ACTION:

Mr. Dover made a motion to approve the rezoning for property of 3701 E. Johnson as C-3 L.U.O., as stated with the narrow down list of permitted uses as proposed and make recommendation to City Council. Motion was seconded by Mr. Kelton.

Roll Call Vote: Mr. Scurlock- Aye; Mr. Hoelscher- Aye; Mr. Kelton- Aye; Mr. Reece- Abstain; Mr. Tomlinson- Nay; Ms. Elmore- Nay; Ms. Nix- Nay; Mr. Dover- Nay.

Case Denied. 3- Aye to 4- Nay; 1- Abstain

PART OF THE SE 1/4 OF THE NW 1/4 OF SECTION 10, T14N-R4E, MORE PARTICULARLY DESCRIBED AS FOLLOWS; COMMENCE AT THE CENTER OF SECTION 10, T14N-R4E, THENCE WEST ON THE 1/4 SECTION LINE 996.10 FEET; THENCE NORTH 330.10 FEET TO THE POINT OF BEGINNING; THENCE EAST 200.00 FEET; THENCE N 00°06'34" E 410.70 FEET (RECORD NORTH 410.60') TO THE SOUTH RIGHT-OF-WAY OF JOHNSON STREET (HWY. 49); THENCE S 58°27'51" W ALONG SAID HIGHWAY RIGHT-OF-WAY 235.57 FEET (RECORD S 57°57' W 233.8'); THENCE SOUTH 287.50 FEET TO THE POINT OF BEGINNING, CONTAINING 1.61 ACRES, MORE OR LESS.



STATE OF ARKANSAS
 REGISTERED PROFESSIONAL LAND SURVEYOR
 NO. 1065
 DALE ADAMSON
 SIGNATURE
 4/5/2012

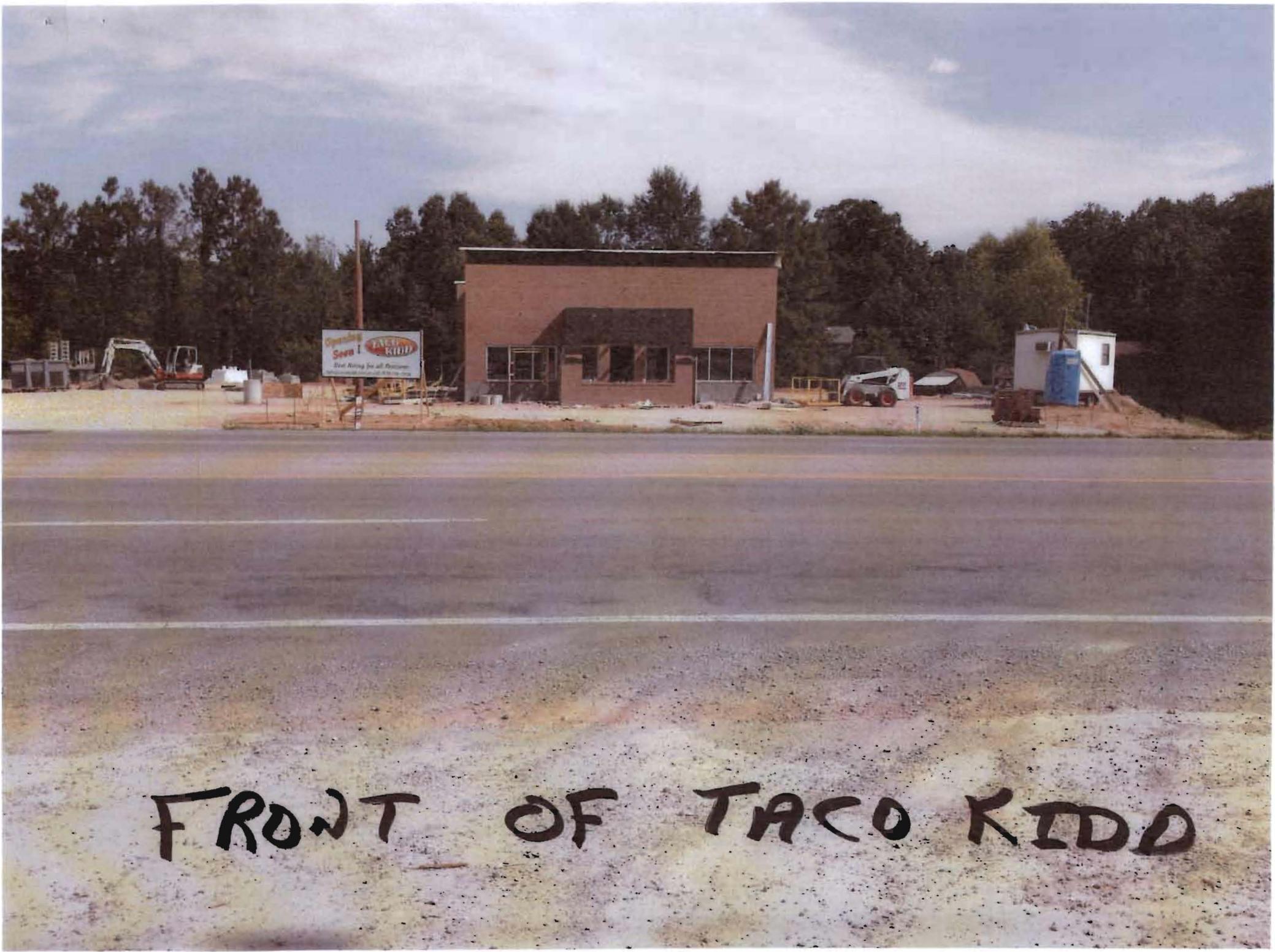
LEGEND

These standard symbols will be found in the drawing.

- SET 1/2" REBAR
- FND. PIPE
- ⊕ CALC. CORNER
- × × × FENCE

PROPERTY ADDRESS:
 3701 E. JOHNSON
 JONESBORO, ARKANSAS 72401

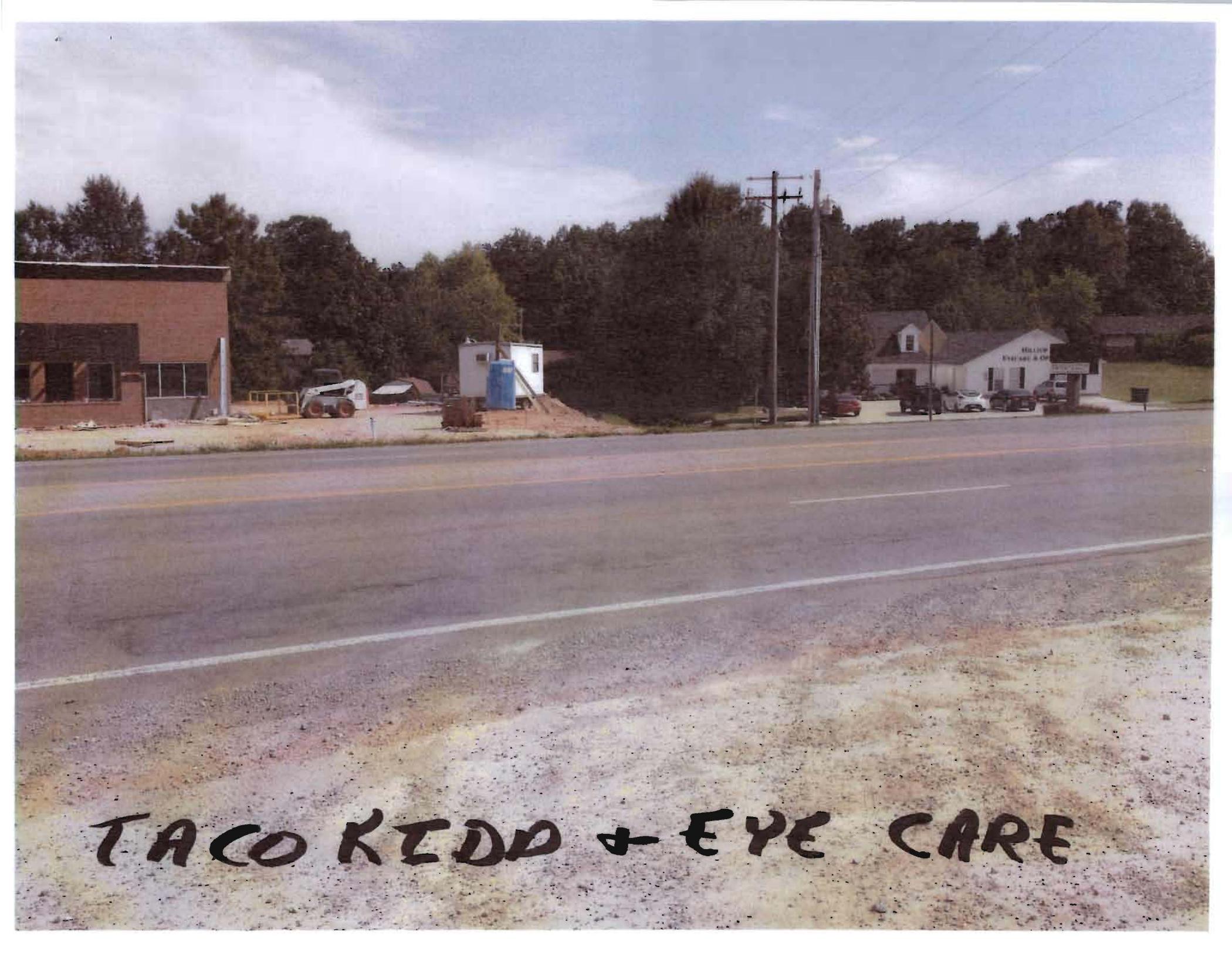
PLAT OF SURVEY		
RAY OSMENT 1203 DOVE ROAD JONESBORO, ARKANSAS 72401		
ADAMSON LAND SURVEYING, 1504 BRANCHWOOD LANE, JONESBORO ARKANSAS, 72404 PH: 932-5900		PLAN SCALE: 1" = 60.00'
REVISION		
	DATE: 04/05/2012	SHEET ONE OF ONE



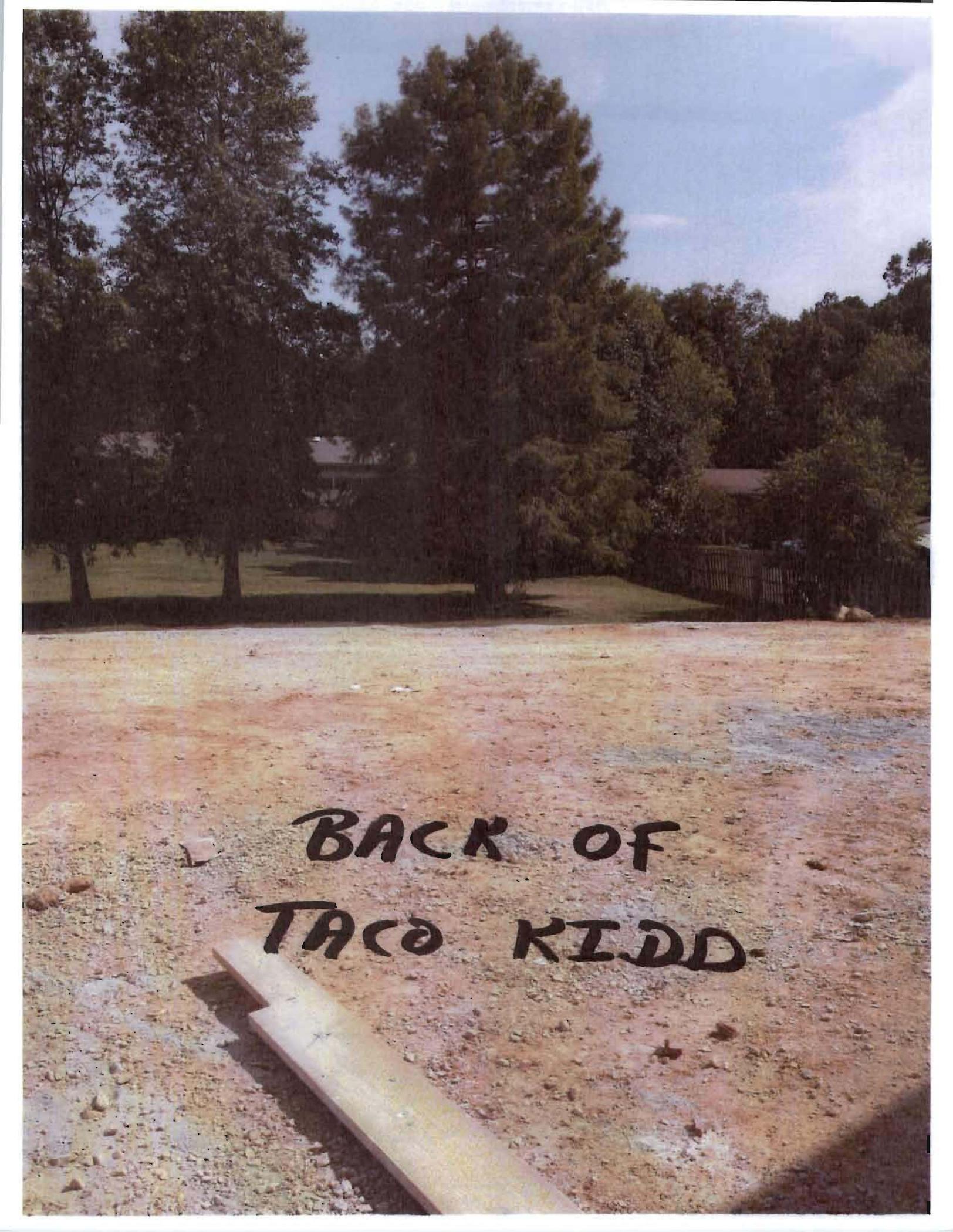
FRONT OF TACO KIDDO



FRONT OF TACO KIDD



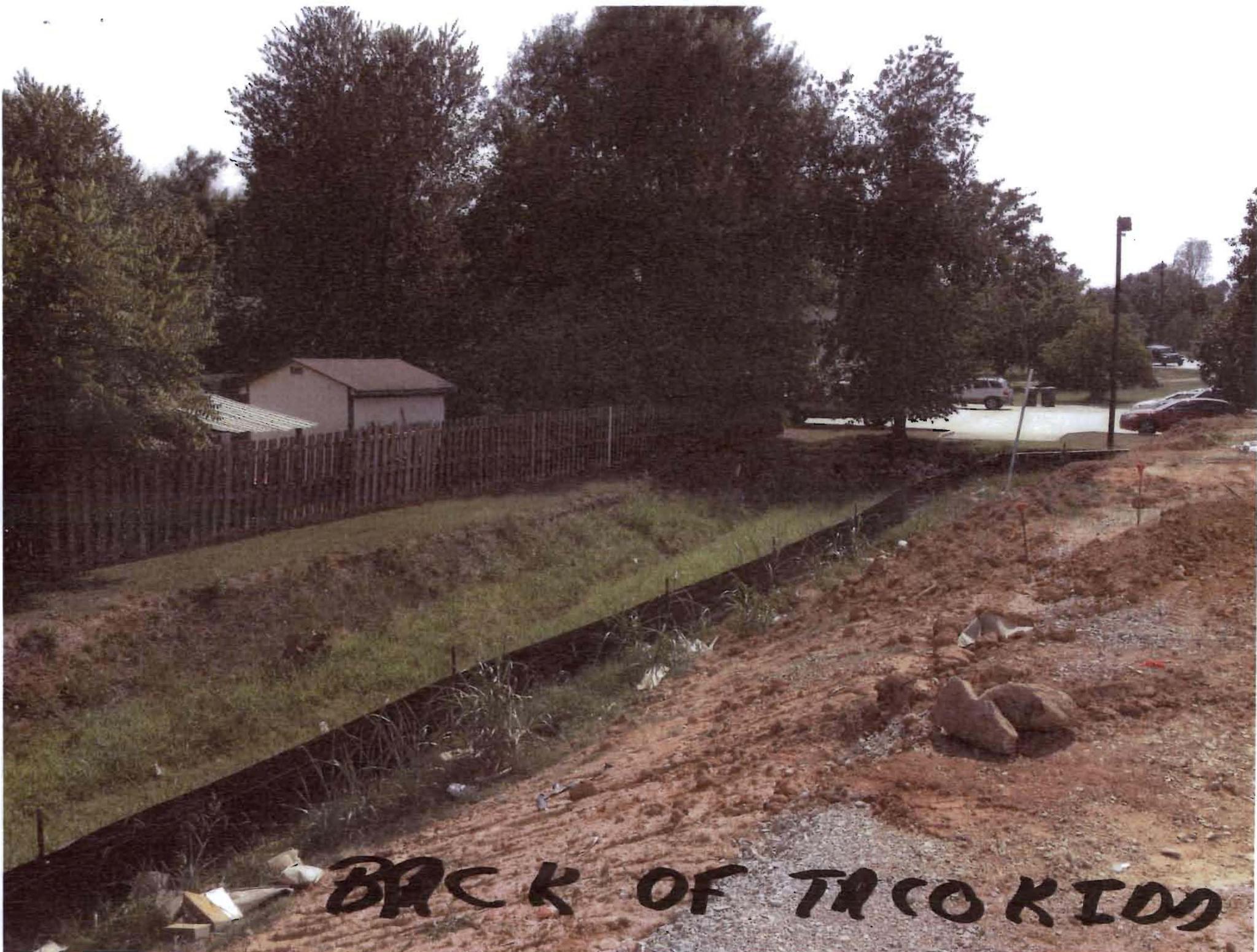
TACO KIDD & EYE CARE



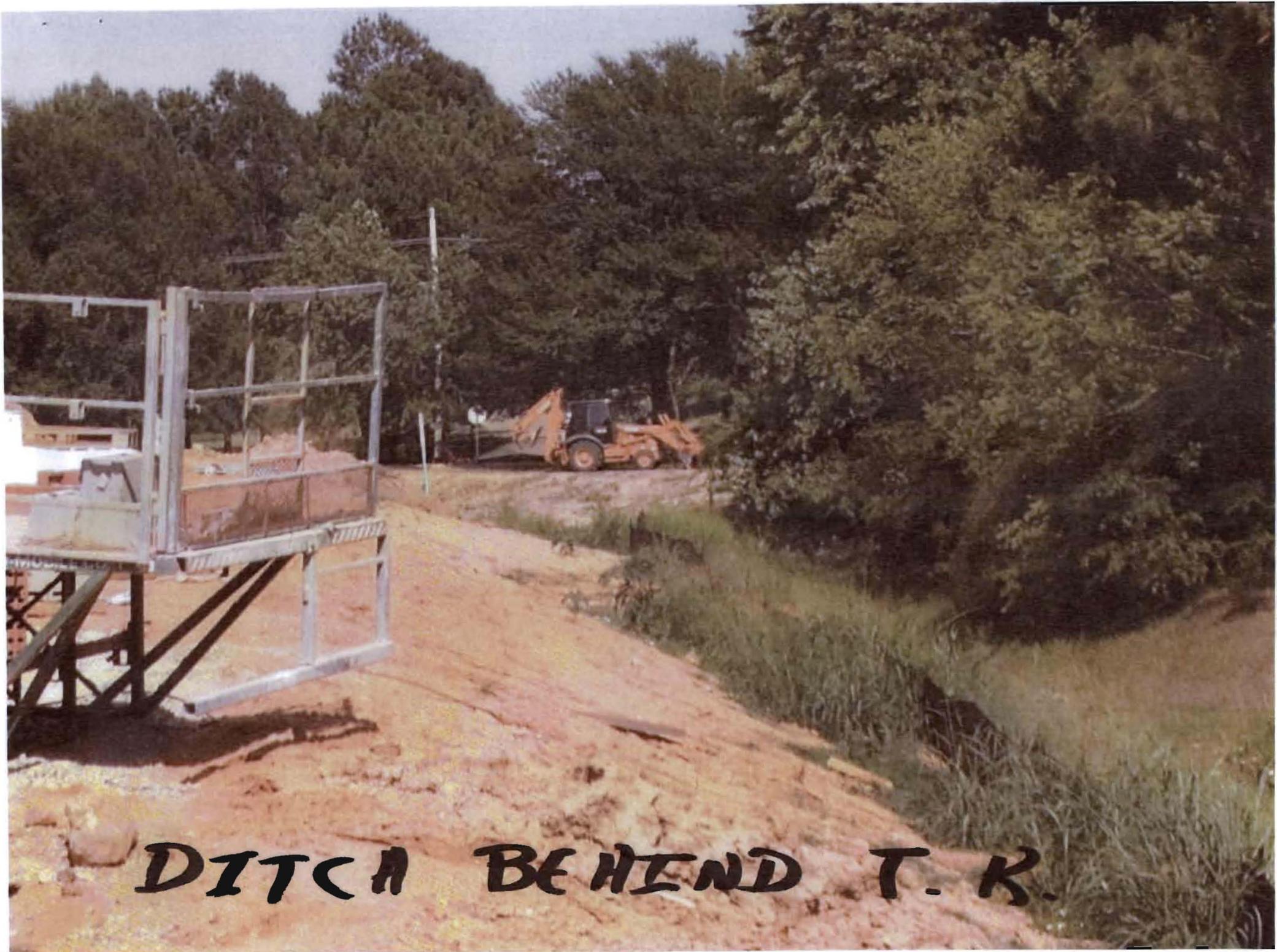
BACK OF
TACO KIDD



BACK OF TACO RIDD



BACK OF TACO KIDS



DITCH BEHIND T. R.

A photograph of a construction site. In the foreground, a dark, sloping embankment or foundation is visible. A sign is planted in the ground, reading "BACK OF C-3 AGAINST SUBDIVISION" in large, bold, black letters. The background shows a cleared area of land with a large pile of grey material (possibly gravel or sand) and a line of trees under a cloudy sky.

**BACK OF C-3 AGAINST
SUBDIVISION**



BACK OF C-3



BACK OF C-3 AGAINST
SUBDIVISION - SOUTH
VIEW



Legislation Details (With Text)

File #:	ORD-16:057	Version:	1	Name:	Ordinance to repeal Ordinance 2242
Type:	Ordinance	Status:		Status:	Second Reading
File created:	8/11/2016	In control:		In control:	City Council
On agenda:		Final action:			
Title:	AN ORDINANCE REPEALING A CERTAIN ORDINANCE ACCEPTING LANDS ANNEXED TO THE CITY OF JONESBORO, ARKANSAS, BY ORDER OF THE COUNTY COURT OF CRAIGHEAD COUNTY, ARKANSAS; ASSIGNING SAID ANNEXED TERRITORIES TO WARD 2; DECLARING THE ZONING FOR THE ANNEXED TRACT; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES				
Sponsors:					
Indexes:	Annexation				
Code sections:					
Attachments:	Survey 1989 Order of Annexation Ordinance 2242 County Judge's Letter Letter from CWL Aerial Photo Letter Requesting Deannexation				

Date	Ver.	Action By	Action	Result
9/6/2016	1	City Council		

AN ORDINANCE REPEALING A CERTAIN ORDINANCE ACCEPTING LANDS ANNEXED TO THE CITY OF JONESBORO, ARKANSAS, BY ORDER OF THE COUNTY COURT OF CRAIGHEAD COUNTY, ARKANSAS; ASSIGNING SAID ANNEXED TERRITORIES TO WARD 2; DECLARING THE ZONING FOR THE ANNEXED TRACT; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, a petition for the annexation of a particular tract to the City of Jonesboro, Arkansas, hereinafter described, was duly filed in the County Court of Craighead County, Arkansas, on April 18, 1989; and

WHEREAS, said petition for annexation for these lands was duly signed by all of the owners of the tracts to be annexed to the City of Jonesboro, Arkansas; and

WHEREAS, an order setting a hearing upon said petition was entered, notice was duly published of said hearing and a hearing upon said petition was duly had and held in the County Court of Craighead County, Arkansas, on May 22, 1989, at which hearing it was duly found and declared that said petition for annexation was right and proper and that such lands hereinafter described should be annexed to the City of Jonesboro, Arkansas, whereupon an order of annexation was made and entered; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the City Council of the City of Jonesboro, Arkansas:

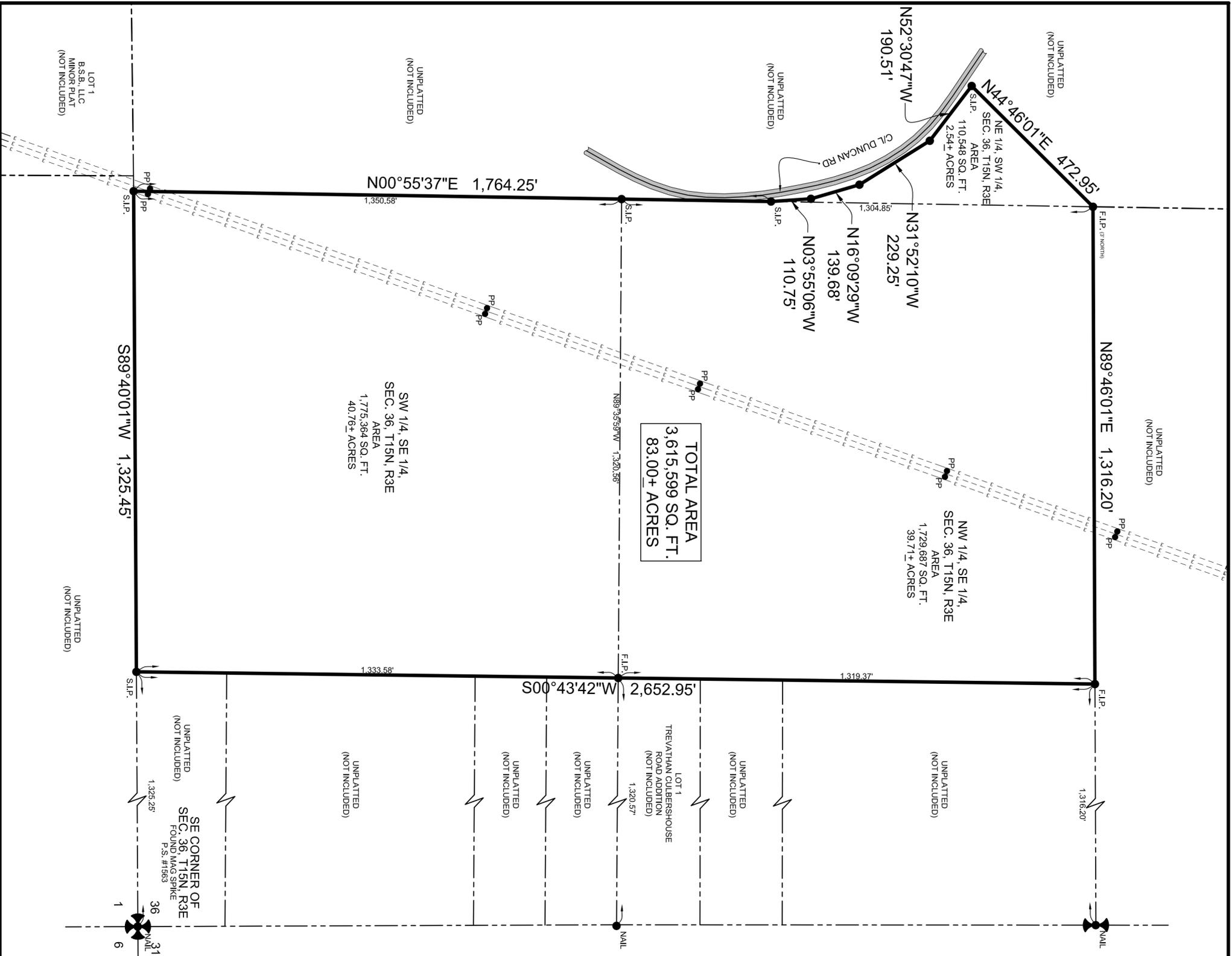
SECTION 1: All of the territory and lands annexed to the City of Jonesboro by order of the County Court of

Craighead County, Arkansas, by its order of June 28, 1989, and by Ordinance: 2242 be and they are hereby repealed.

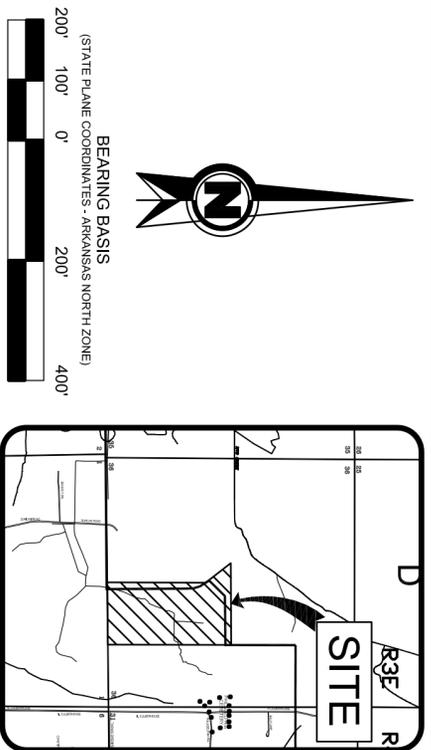
SECTION 2: The portion of lands and territory previously annexed to and accepted by the city of Jonesboro, Arkansas and affected by the repeal of Ordinance: 2242 are more particularly described as follows:

The NW - 1/4 of the SE - 1/4 and the SW - 1/4 of the SE - 1/4 and a part of the NE - 1/4 of the SW - 1/4 of Section 36, Township 15 North, Range 3 East, being more particularly described as follows: Begin at the NE Corner of the NE - 1/4 of the SW - 1/4 of said Section 36; thence South 0°23'36" West on the 40 acre line 891.19 feet to the Easterly right-of-way line of Duncan Road; thence with the meanderings of said right-of-way line as follows: North 4°27'07" West 110.75 feet; North 16°41'30" West 139.68 feet; North 32°24'11" West 229.25 feet; North 53°02'48" West 190.51 feet; North 44°14'100" East 472.96 feet to the point of beginning, containing in aggregate 82.54 acres, more or less, subject to all rights-of-way and easements of record.

SECTION 3: It is hereby found and declared by the City Council of the City of Jonesboro, Arkansas, that there is now an extreme urgency that Ordinance: 2242 be repealed by the City of Jonesboro, Arkansas, in order to allow orderly growth and development of said lands and territory. Therefore, an emergency is declared to exist and this ordinance being necessary for the preservation of the public peace, health and safety, it shall take effect and be in full force from and after its passage.



TOTAL AREA
3,615,599 SQ. FT.
83.00+ ACRES



LEGEND

- = BOUNDARY LINE
- - - = ADJACENT LOT LINES
- = F.L.P.
- = FOUND IRON PIPE
- = SET 1-1/4" IRON PIPE W/ PLS #1637 CAP
- = FND MAG NAIL
- = EXISTING OVERHEAD ELECTRICAL LINE
- = POWER POLE
- = PP

DESCRIPTION

THE WEST HALF OF THE SOUTHWEST QUARTER AND A PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER ALL LYING IN SECTION 36, TOWNSHIP 15 NORTH, RANGE 3 EAST, CRAIGHHEAD COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF WEST HALF OF THE SOUTHWEST QUARTER, SECTION 36, TOWNSHIP 15 NORTH, RANGE 3 EAST, CRAIGHHEAD COUNTY, ARKANSAS; THENCE NORTH 89°46'01" EAST, ALONG THE NORTH LINE OF SAID WEST HALF, A DISTANCE OF 1,316.20 FEET TO THE NORTHEAST CORNER OF SAID WEST HALF; THENCE SOUTH 00°43'42" WEST, ALONG THE EAST LINE OF SAID WEST HALF, A DISTANCE OF 2,652.95 FEET TO THE SOUTHWEST CORNER OF SAID WEST HALF; THENCE SOUTH 89°40'01" WEST, ALONG THE SOUTH LINE OF SAID WEST HALF, A DISTANCE OF 1,325.45 FEET TO THE SOUTHWEST CORNER OF SAID WEST HALF; THENCE NORTH 03°55'06" WEST, DEPARTING SAID WEST LINE AND ALONG SAID WEST LINE OF SAID WEST HALF, A DISTANCE OF 1,325.45 FEET TO THE SOUTHWEST CORNER OF SAID WEST HALF; THENCE NORTH 03°55'06" WEST, DEPARTING SAID WEST LINE AND ALONG SAID WEST LINE OF SAID WEST HALF, A DISTANCE OF 1,107.75 FEET; THENCE NORTH 16°09'29" WEST, A DISTANCE OF 139.68 FEET; THENCE NORTH 31°52'10" WEST A DISTANCE OF 229.25 FEET; THENCE NORTH 52°30'47" WEST A DISTANCE OF 190.51 FEET; THENCE NORTH 44°46'01" EAST, DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 472.95 FEET TO THE POINT OF BEGINNING.

CONTAINING IN ALL, 3,615,599 SQ. FT. OR 83.00 ACRES, MORE OR LESS.

SUBJECT TO EASEMENT, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

SURVEYOR'S NOTES

1. THIS BOUNDARY SURVEY WAS PREPARED FOR CRAIG McDANIEL REAL ESTATE.
2. NO SEARCH OF THE PUBLIC RECORDS HAS BEEN MADE BY THIS SURVEYOR FOR EASEMENTS, RESTRICTIONS, RESERVATIONS OR RIGHTS-OF-WAY AFFECTING THIS PROPERTY.
3. THE FOLLOWING DOCUMENTS WERE USED TO PREPARE THIS SURVEY:
 - A. QUITCLAIM DEED TO SOUTH LIVING TRUST, RECORDED IN BOOK 673, PAGE 577, PUBLIC RECORDS OF CRAIGHHEAD COUNTY, ARKANSAS.
 - B. QUITCLAIM DEED TO SOUTH LIVING TRUST, RECORDED IN BOOK 673, PAGE 579, PUBLIC RECORDS OF CRAIGHHEAD COUNTY, ARKANSAS.
 - C. PLAT OF SURVEY FOR ED SOUTH BY TERRY G. BARE, RECORDED IN PLAT CABINET "H", PAGE 37 AT JONESBORO, ARKANSAS.
 - D. PLAT OF SURVEY FOR ED SOUTH BY TERRY G. BARE, RECORDED IN PLAT BOOK "H", PAGE 12 AT JONESBORO, ARKANSAS.
 - E. PLAT OF TREVATHAN CULBERSHOUSE ROAD ADDITION BY TERRY G. BARE, RECORDED IN PLAT BOOK "B", PAGE 111 AT JONESBORO, ARKANSAS.

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT BENCHMARK LAND SURVEYING, INC. HAS THIS DATE MADE A BOUNDARY SURVEY OF THE ABOVE DESCRIBED PROPERTY AS SHOWN HEREON AND THAT SAID SURVEY IS ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; THERE ARE NO APPARENT ADJACENT LAND OWNERS OR INTERESTS OTHER THAN THE SPONSOR OR STATED HEREON AND THAT THIS SURVEY WAS MADE IN ACCORDANCE WITH THE ARKANSAS MINIMUM STANDARDS FOR PROPERTY SURVEYS AND PLATS IN EFFECT ON THIS DATE.

DATE OF BOUNDARY SURVEY: 06/29/2016

BOUNDARY SURVEY
CRAIG McDANIEL REAL ESTATE
W 1/2 OF THE SE 1/4 AND
PART OF THE NE 1/4, SW 1/4
JONESBORO, ARKANSAS

BENCHMARK LAND SURVEYING, INC.
LAND SURVEYING - CONSTRUCTION LAYOUT SERVICES
2500 ALEXANDER DR., SUITE A
P.O. BOX 1921 - JONESBORO, AR 72403
FAX: 870-336-2060 PH: 870-336-2059



DATE:	BY:	DESCRIPTION:
07/17/16	KS	CORRECT DESCRIPTION

500-15N-03E-0-36-203-16-1637	CADD FILE: 16162-2001-R1	SCALE: 1"=200'	SHEET
DATE: 06/29/16	DWG#: 0315362.0001		1 OF 1

Certified Copy
DATE 12-27-89
COUNTY CLERK

IN THE COUNTY COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT

FILED

IN THE MATTER OF THE PROPOSED
ANNEXATION OF CERTAIN LANDS TO
THE CITY OF JONESBORO, ARKANSAS

JUN 23 1989

No. CO-89-9

JANET L. CADD
COUNTY CLERK

ORDER OF ANNEXATION

On this June 19, 1989, comes to be heard the Petition of Edward L. South and GERALINE South, praying for the annexation of the following described land to the City of Jonesboro, Craighead County, Arkansas:

The NW-1/4 of the SE-1/4 and the SW-1/4 of the SE-1/4 and a part of the NE-1/4 of the SW-1/4 of Section 36, Township 15 North, Range 3 East, being more particularly described as follows: Begin at the NE Corner of the NE-1/4 of the SW-1/4 of said Section 36; thence South 0° 23' 36" West on the 40 acre line 891.19 feet to the Easterly right of way line of Duncan Road; thence with the meanderings of said right of way line as follows: North 4° 27' 07" West 110.75 feet; North 16° 41' 30" West 139.68 feet; North 32° 24' 11" West 229.25 feet; North 53° 02' 48" West 190.51 feet; thence North 44° 14' 00" East 472.96 feet to the point of beginning, containing in aggregate 82.54 acres, more or less, subject to all rights of way and easements of record.

From the evidence adduced, the court finds that the above described property is contiguous to and adjoins the city limits of Jonesboro, Arkansas; petitioners constitute all the real estate owners of the above described lands; notice of the time, place, and date of this hearing has been published in the Jonesboro Sun, a newspaper of general circulation in Craighead County, Arkansas; the first publication thereof was thirty days before this hearing and the Petition has been filed for not less than thirty days.

The court further finds that the statements in the Petition are true; that the territory sought to be annexed has been accurately described; an accurate map of the lands has been made and filed; that the lands described above should be annexed; and that no objections have been made to said annexation.

IT IS THEREFORE CONSIDERED, ORDERED AND ADJUDGED that the prayer of the petitioners is hereby granted and that the above described land is hereby annexed to and made a part of the City of Jonesboro, Craighead County, Arkansas.

Roy C. Beard
County Judge



City of Jonesboro

300 S. Church Street
Jonesboro, AR 72401

Signature Copy

Ordinance: 2242

File Number: ORD-89:1176

Enactment Number: 2242

AN ORDINANCE ACCEPTING CERTAIN LANDS ANNEXED TO THE CITY OF JONESBORO, ARKANSAS, BY ORDER OF THE COUNTY COURT OF CRAIGHEAD COUNTY, ARKANSAS; ASSIGNING SAID ANNEXED TERRITORIES TO WARD 2; DECLARING THE ZONING FOR THE ANNEXED TRACT; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, a petition for the annexation of a particular tract to the City of Jonesboro, Arkansas, hereinafter described, was duly filed in the County Court of Craighead County, Arkansas, on April 18, 1989; and

WHEREAS, said petition for the annexation for these lands was duly signed by all of the owners of the tracts to be annexed to the City of Jonesboro, Arkansas and

WHEREAS, an order setting a hearing upon said petition was entered, notice was duly published of said hearing and a hearing upon said petition was duly had and held in the County Court of Craighead County, Arkansas on May 22, 1989, at which hearing it was duly found and declared that said petition for annexation was right and proper and that such lands hereinafter described should be annexed to the City of Jonesboro, Arkansas whereupon an order of annexation was made and entered; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the City Council of the City of Jonesboro, Arkansas:

SECTION 1: All of the territory and lands annexed to the City of Jonesboro by order of the County Court of Craighead County, Arkansas by its order of June 28, 1989, be and they are hereby accepted by the City of Jonesboro, Arkansas, and said territory hereinafter described shall be hereafter deemed and taken to be a part and parcel of the limits of the City of Jonesboro, Arkansas, and the inhabitants residing therein shall have and enjoy all privileges of the inhabitants within the original limits of the City of Jonesboro, Arkansas.

SECTION 2: The portion of lands and territory hereby annexed to and accepted by the City of Jonesboro, Arkansas, are more particularly described as follows:

The NW-1/4 of the SE-1/4 and the SW-1/4 of the SE-1/4 and a part of the NE-1/4 of the SW-1/4 of Section 36, Township 15 North, Range 3 East, being more particularly described as follows: Begin at the NE Corner of the NE-1/4 of the SW-1/4 of said Section 36; thence South 0° 23' 36" West on the 40 acre line 891.19 feet to the Easterly right-of-way line of Duncan Road; thence with the meanderings of said right-of-way line as follows: North 4° 27' 07" West 110.75 feet; North 16°41'

30" West 139.68 feet; North 32° 24' 11" West 229.25 feet; North 53°02' 48" West 190.51 feet; thence North 44°14' 00" East 472.96 feet to the point of beginning, containing in aggregate 82.54 acres, more or less, subject to all rights-of-way and easements of record.

SECTION 3: The lands and territory annexed to the City of Jonesboro and hereby accepted by the City of Jonesboro are assigned and attached to Ward 2.

SECTION 4: Said lands and territory annexed to the City of Jonesboro are hereby classified for purposes of zoning as Residential - 1.

SECTION 5: It is hereby found and declared by the City Council of the City of Jonesboro, Arkansas, that there is now an extreme urgency that the territory herein be immediately annexed to and accepted by the City of Jonesboro, Arkansas so that said property and the citizens and property owners of said territory described herein can be entitled to fire, police, zoning and other protection and benefits and that said benefits and protection are urgently needed now in order to allow orderly growth and development of said lands and territory. Therefore, an emergency is declared to exist and this ordinance being necessary for the preservation of the public peace, health and safety, it shall take effect and be in full force from and after its passage.

PASSED AND ADOPTED this 4th day of December, 1989.



Owned by the Citizens of Jonesboro

August 31, 2016

Craig McDaniel
Craig McDaniel Real Estate
P.O. Box 1673
Jonesboro, AR 72403-1673

Re: Duncan Road Property Electric Release

Dear Mr. McDaniel,

Subject to the approval of the Jonesboro City Council, City Water & Light Plant of the City of Jonesboro (CWL) releases the right to provide electric service to the eighty-three (83) acres on Duncan Road; more particularly described as the west half of the southeast quarter and a part of the northeast quarter of the southwest quarter of Section 36, Township 15 North, Range 3 East, Craighead County, Arkansas. See attachment.

This release is for the described acreage only and is a result of the closest CWL power line being almost 3,000 feet away. Please direct any questions to the CWL Engineering Department.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jake Rice III", is written over a light blue horizontal line.

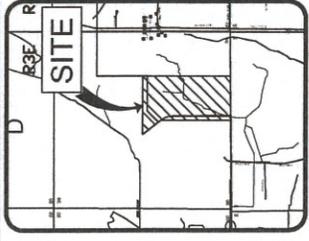
Jake Rice III, PE
Manager

BOUNDARY SURVEY
CRAIG McDANIEL REAL ESTATE
W 1/2 OF THE SE 1/4 AND
PART OF THE NE 1/4, SW 1/4
JONESBORO, ARKANSAS

CERTIFICATE OF AUTHORIZATION
 BENCHMARK LAND SURVEYING, INC.
 NO. 3020
 REGISTERED PROFESSIONAL SURVEYOR
 ARKANSAS, C.O.A. #2020

REGISTERED PROFESSIONAL SURVEYOR
 ARKANSAS
 KEVIN ESCOFFER
 ARKANSAS PERM #187

DATE:	02/29/16	DESCRIPTION:	
BY:	KS	CORRECT DESCRIPTION:	
CAUD FILE:	18162-001-HH	SCALE:	1"=200'
DATE:	06/29/16	SHEET	1 OF 1
DWG#:	0315302.0001		



- LEGEND**
- BOUNDARY LINE
 - - - ADJACENT LOT LINES
 - F.I.P.
 - FOUND IRON PIPE
 - SET 1-1/4" IRON PIPE W/ P.L.G. #1837 CAP
 - FND MAG NAIL
 - - - EXISTING OVERHEAD ELECTRICAL LINE
 - PP POWER POLE

DESCRIPTION

THE WEST HALF OF THE SOUTHWEST QUARTER AND A PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER ALL LYING IN SECTION 36, TOWNSHIP 15 NORTH, RANGE 3 EAST, CRAWFORD COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF WEST HALF OF THE SOUTHWEST QUARTER, SECTION 36, TOWNSHIP 15 NORTH, RANGE 3 EAST, CRAWFORD COUNTY, ARKANSAS; THENCE NORTH TO THE NORTHEAST CORNER OF SAID WEST HALF; THENCE SOUTH 80°43'42" WEST, ALONG THE EAST LINE OF SAID WEST HALF, A DISTANCE OF 2,852.95 FEET TO THE SOUTHWEST CORNER OF SAID WEST HALF; THENCE SOUTH 89°55'06" WEST, ALONG THE WEST LINE OF SAID WEST HALF, A DISTANCE OF 1,339.57 FEET TO THE SOUTHWEST CORNER OF SAID WEST HALF; THENCE NORTH 00°53'37" EAST, ALONG THE WEST LINE OF SAID WEST HALF, A DISTANCE OF 1,764.25 FEET TO A POINT LYING ON THE EASTERLY RIGHT-OF-WAY LINE OF DUNCAN ROAD; THENCE NORTH 03°50'00" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 110.75 FEET; THENCE NORTH 15°09'29" WEST, A DISTANCE OF 139.68 FEET; THENCE NORTH 31°52'10" WEST, A DISTANCE OF 229.25 FEET; THENCE NORTH 52°30'47" WEST, A DISTANCE OF 190.51 FEET; THENCE SOUTH 89°55'06" WEST, ALONG THE WEST LINE OF SAID WEST HALF, A DISTANCE OF 472.95 FEET TO THE POINT OF BEGINNING.

CONTAINING IN ALL, 3,615,599 SQ. FT. OR 83.00 ACRES, MORE OR LESS.

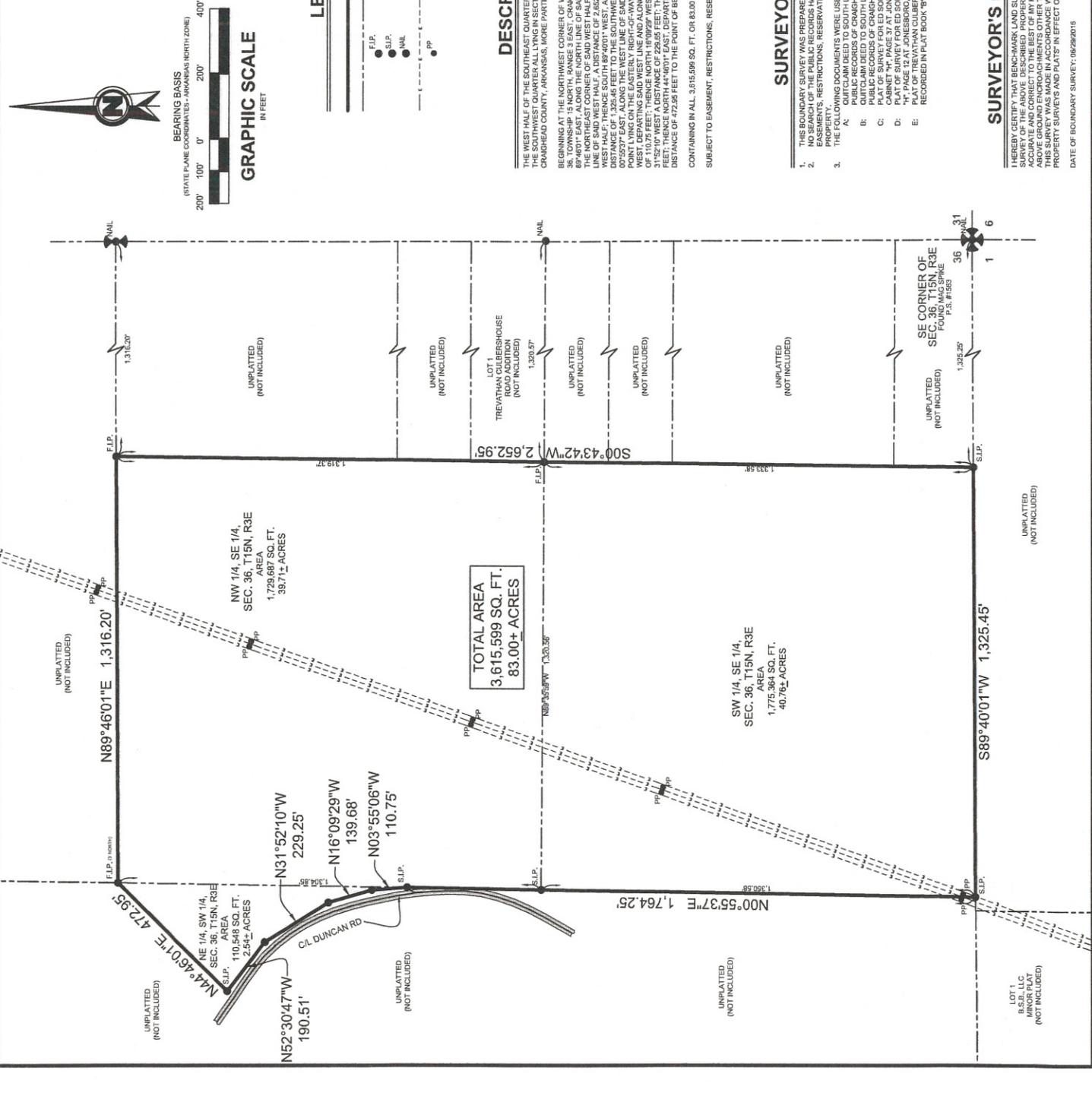
SUBJECT TO EASEMENT, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

- SURVEYOR'S NOTES**
- THIS BOUNDARY SURVEY WAS PREPARED FOR CRAIG McDANIEL REAL ESTATE, 1500 W. 10TH ST., JONESBORO, ARKANSAS 72403, FOR THE PURPOSES OF EASEMENTS, RESTRICTIONS, RESERVATIONS OR RIGHTS-OF-WAY AFFECTING THIS PROPERTY.
 - THE FOLLOWING DOCUMENTS WERE USED TO PREPARE THIS SURVEY:
 - PUBLIC RECORDS OF CRAWFORD COUNTY, ARKANSAS.
 - OUTCUM DEED TO SOUTH LIVING TRUST, RECORDED IN BOOK 67A, PAGE 579, PUBLIC RECORDS OF CRAWFORD COUNTY, ARKANSAS.
 - PLAT SURVEY FOR ED SOUTH BY TERRY G. BARE, RECORDED IN PLAT CABINET "H", PAGE 37 AT JONESBORO, ARKANSAS.
 - PLAT OF SURVEY FOR ED SOUTH BY TERRY G. BARE, RECORDED IN PLAT BOOK 111 AT JONESBORO, ARKANSAS.
 - PLAT OF THE VATHAN CULBERHOUSE ROAD ADDITION BY TERRY G. BARE, RECORDED IN PLAT BOOK "B", PAGE 111 AT JONESBORO, ARKANSAS.

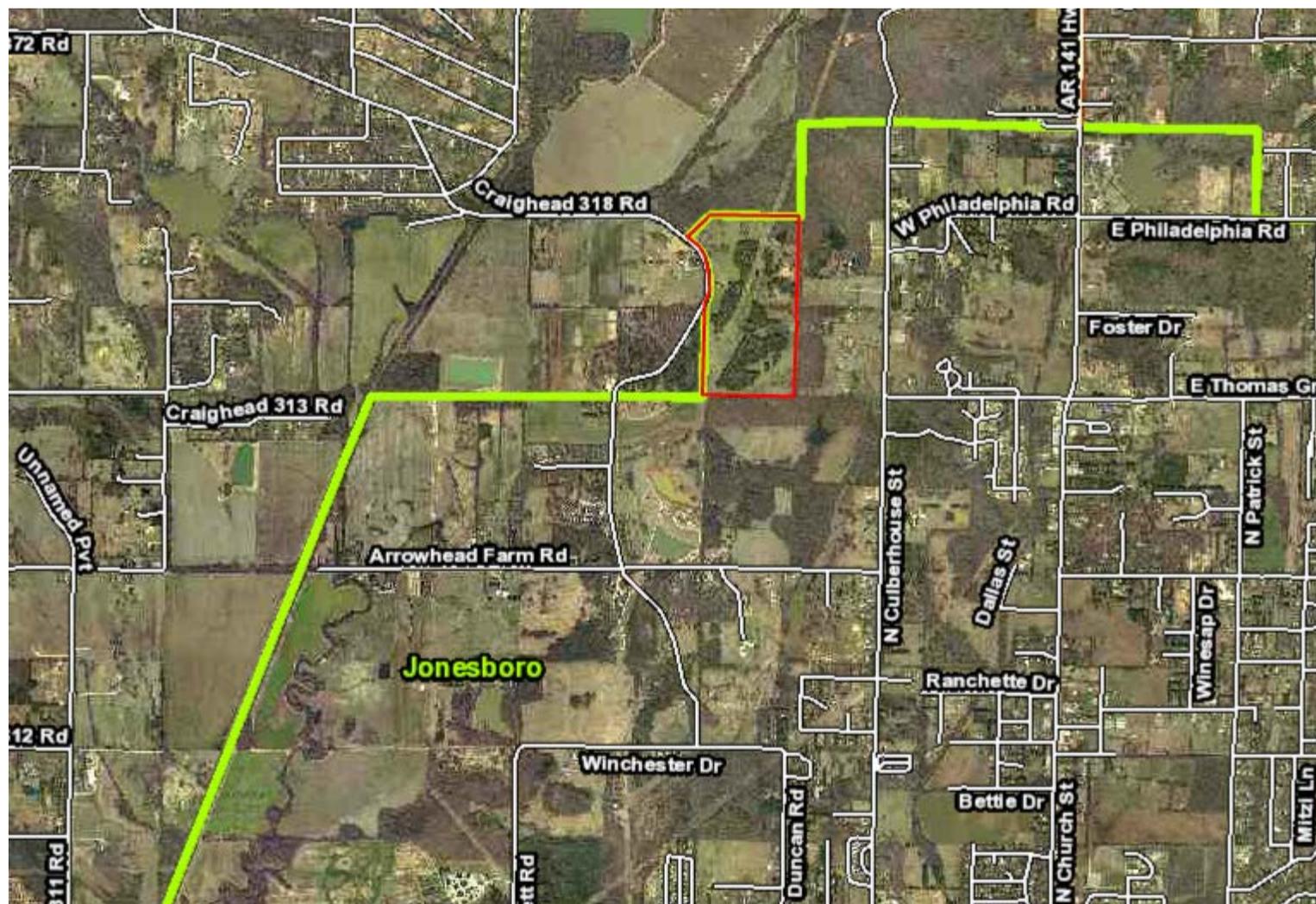
SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT BENCHMARK LAND SURVEYING, INC. HAS THIS DATE MADE A BOUNDARY SURVEY OF THE ABOVE DESCRIBED PROPERTY AS SHOWN HEREON AND THAT SAID SURVEY IS ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THERE ARE NO APPARENT ENCUMBRANCES, EASEMENTS, RESTRICTIONS, RESERVATIONS OR RIGHTS-OF-WAY AFFECTING THIS SURVEY WAS MADE IN ACCORDANCE WITH THE ARKANSAS MINIMUM STANDARDS FOR PROPERTY SURVEYS AND PLATS IN EFFECT ON THIS DATE.

DATE OF BOUNDARY SURVEY: 06/29/2016



TOTAL AREA
 3,615,599 SQ. FT.
 83.00+ ACRES



July 8, 2016

Donna Jackson
City Clerk
300 S. Church
Jonesboro, AR 72401

RE: 83 Acres S36-15N-R3E Detachment

Ms. Jackson:

The above referenced land was annexed into the Jonesboro city in 1989. The land has been used as a cattle farm and still is today. The property has been for sale for several years. Two years ago there was a serious offer to purchase the property. Jonesboro City Water & Light was contacted for an estimate for providing electricity to the property. The cost of the electricity kept the property from selling. Craighead Electric currently has an electric pole on the property. It does not serve the property but it is active. The property is located along the municipal border.

For these reasons, we wish to have the property detached from the municipality.

Thank you.

Ron South, Trustee

Edward South Trust
by Ron South Trustee

Attachments



Legislation Details (With Text)

File #: ORD-16:063 **Version:** 1 **Name:** Amend 2016 budget for the Police Department
Type: Ordinance **Status:** Second Reading
File created: 9/6/2016 **In control:** Public Safety Council Committee
On agenda: **Final action:**
Title: AN ORDINANCE AUTHORIZING THE CITY OF JONESBORO TO AMEND THE 2016 ANNUAL BUDGET FOR THE POLICE DEPARTMENT
Sponsors: Police Department
Indexes: Budget amendment
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
9/6/2016	1	City Council		

AN ORDINANCE AUTHORIZING THE CITY OF JONESBORO TO AMEND THE 2016 ANNUAL BUDGET FOR THE POLICE DEPARTMENT

WHEREAS, Ordinance Number 15:069 adopted the 2016 Budget; and

WHEREAS, the City of Jonesboro acknowledges the value of employees and the need to address several critical workforce related issues within the Police Department; and

WHEREAS, the Public Safety Salary Committee has developed a salary compensation plan that has addressed these critical workforce related issues within the Police Department and

WHEREAS, The 2016 Police Department Budget will be increased in the amount of \$646,005.00 in order to implement the amended salary compensation plan for the department.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS THAT:

SECTION 1: The sum of \$646,005.00 to be added to the Police Department Budget for salaries, said sum coming from the unappropriated funds of the reserve funds.

SECTION 2: This ordinance being necessary to retain experienced personnel in order to ensure the health, safety and welfare of the citizens of the City of Jonesboro, Arkansas an emergency is declared to exist and this ordinance shall be effect from and after its passage and approval.



City of Jonesboro

300 S. Church Street
Jonesboro, AR 72401

Legislation Details (With Text)

File #: COM-16:071 **Version:** 1 **Name:** Airport financial report for August, 2016
Type: Other Communications **Status:** To Be Introduced
File created: 9/8/2016 **In control:** City Council
On agenda: **Final action:**
Title: Airport financial report for August, 2016
Sponsors: Municipal Airport Commission
Indexes: Airport financial statements
Code sections:
Attachments: [Financial Report](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Airport financial report for August, 2016

**Jonesboro Airport Commission
Financial Statements
For the Eight Months Ended August 31, 2016 and 2015**

Orr, Lamb & Fegtly, PLC
PO Box 1796
Jonesboro, AR 72403

Accountant's Compilation Report

Jonesboro Airport Commission
Jonesboro, Arkansas

Management is responsible for the accompanying financial statements of Jonesboro Airport Commission (a nonprofit organization), which comprise the statement of financial position as of August 31, 2016, and the related statements of activities for one month and 8 Months in accordance with accounting principles generally accepted in the United States of America. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the financial statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, a conclusion, nor provide any form of assurance on these financial statements.

Management has elected to omit substantially all of the disclosures required by accounting principles generally accepted in the United States of America. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the Organization's financial position and changes in net assets. Accordingly, these financial statements are not designed for those who are not informed about such matters.

We are not independent with respect to Jonesboro Airport Commission .

Orr, Lamb & Fegtly, PLC
Certified Public Accountants

September 7, 2016

**Jonesboro Airport Commission
Statement of Assets, Liabilities, and Equity
Modified Cash Basis
August 31, 2016**

ASSETS

CURRENT ASSETS

Cash - Centennial Bank	\$ 800,104.70	
Cash-Centennial Bank-Project Acct	<u>159.25</u>	
Total Current Assets		\$ 800,263.95

PROPERTY AND EQUIPMENT

OTHER ASSETS

Rice Growers Stock	\$ <u>928.25</u>	
Total Other Assets		<u>928.25</u>
TOTAL ASSETS		<u>\$ 801,192.20</u>

See accountants' compilation report.

**Jonesboro Airport Commission
Statement of Assets, Liabilities, and Equity
Modified Cash Basis
August 31, 2016**

LIABILITIES AND EQUITY

CURRENT LIABILITIES

Fica Taxes Payable	\$ 1,491.63
FWH Taxes Payable	887.00
SWH Taxes Payable	425.74
State Unemployment Payable	<u>47.11</u>

Total Current Liabilities \$ 2,851.48

EQUITY

Beg Retained Earnings	\$ 954,125.65
YTD Net Income(Loss)	<u>(155,784.93)</u>

Total Equity 798,340.72

TOTAL LIABILITIES & EQUITY \$ 801,192.20

See accountants' compilation report.

Jonesboro Airport Commission
Statement of Revenues & Expenses-Modified Cash Basis
For the 1 Month and 8 Months Ended August 31, 2016 and 2015

	1 Month Ended		1 Month Ended		8 Months Ended		8 Months Ended	
	August 31, 2016	%	August 31, 2015	%	August 31, 2016	%	August 31, 2015	%
Revenues								
Grant Revenue-City of Jonesboro	\$ 0.00	0.00	\$ 0.00	0.00	\$ 70,000.00	8.73	\$ 70,000.00	6.65
Grant Revenue-Federal & State	2,821.58	8.52	167,612.82	84.25	487,027.50	60.76	739,643.71	70.22
Construction Reimbursements- no	0.00	0.00	0.00	0.00	7,470.60	0.93	11,250.00	1.07
Hanger Revenue - FBO	17,645.00	53.29	17,645.00	8.87	141,160.00	17.61	129,760.00	12.32
Revenue-Sharp Aviation	2,105.80	6.36	2,105.80	1.06	16,846.40	2.10	16,846.40	1.60
Revenue-Gate Card Fees	603.00	1.82	500.00	0.25	4,453.00	0.56	4,950.00	0.47
Fuel Flowage	6,877.05	20.77	4,616.25	2.32	46,097.70	5.75	42,769.35	4.06
HANGER-FOWLER FOODS	858.78	2.59	858.78	0.43	6,870.24	0.86	6,870.24	0.65
HANGER-LANDRY	0.00	0.00	0.00	0.00	4,106.18	0.51	0.00	0.00
HANGER-Pinnacle Operating Corp	0.00	0.00	1,600.00	0.80	0.00	0.00	12,800.00	1.22
HANGER-Goldeneye	0.00	0.00	0.00	0.00	0.00	0.00	2,500.00	0.24
Auto Rental Agency & Land Lease	0.00	0.00	0.00	0.00	300.00	0.04	300.00	0.03
HANGER-HYTROL	0.00	0.00	0.00	0.00	350.00	0.04	300.00	0.03
HANGER-GOLDEN EYE	500.00	1.51	500.00	0.25	4,000.00	0.50	1,500.00	0.14
Terminal Building Leases-AIR CH	1,100.00	3.32	3,300.00	1.66	9,950.00	1.24	8,822.28	0.84
Other Income	600.00	1.81	200.00	0.10	2,865.86	0.36	4,954.43	0.47
Total Revenues	33,111.21	100.00	198,938.65	100.00	801,497.48	100.0	1,053,266.41	100.0
Cost of Revenues								
Grant Project Expenditures	85,266.68	257.52	0.00	0.00	787,318.75	98.23	693,975.34	65.89
Grounds	883.30	2.67	924.26	0.46	4,847.42	0.60	8,432.45	0.80
Hanger Expense-FBO	192.16	0.58	0.00	0.00	13,593.53	1.70	395.81	0.04
T-Hanger Expense	93.04	0.28	0.00	0.00	93.04	0.01	94.89	0.01
Terminal Building Expense-	1,025.55	3.10	745.00	0.37	21,023.68	2.62	21,713.50	2.06
Terminal Building Expense	444.13	1.34	92.23	0.05	7,367.74	0.92	1,096.07	0.10
Flight Service Station	0.00	0.00	0.00	0.00	401.92	0.05	19,619.00	1.86
Fire Rescue Building Expense	79.95	0.24	74.95	0.04	1,591.48	0.20	1,906.49	0.18
Sharp Aviation Expense	0.00	0.00	0.00	0.00	498.35	0.06	395.81	0.04
Old Terminal Bldg - CAP	0.00	0.00	0.00	0.00	4,199.59	0.52	179.37	0.02
Beacon & Field Lights	0.00	0.00	0.00	0.00	195.30	0.02	0.00	0.00
Total Cost of Revenues	87,984.81	265.73	1,836.44	0.92	841,130.80	104.9	747,808.73	71.00
Gross Profit	(54,873.60)	(165.73)	197,102.21	99.08	(39,633.32)	(4.94)	305,457.68	29.00
General & Administrative Exp.								
Bank Charges	20.00	0.06	0.00	0.00	23.00	0.00	0.00	0.00
Dues/Subscriptions	0.00	0.00	0.00	0.00	145.85	0.02	0.00	0.00
Insurance	2,734.00	8.26	2,551.00	1.28	39,554.60	4.94	33,396.68	3.17
Insurance - Medical	560.99	1.69	536.10	0.27	5,516.56	0.69	5,317.44	0.50
Janitorial	0.00	0.00	0.00	0.00	650.00	0.08	0.00	0.00
Office Expense	16.01	0.05	34.75	0.02	530.82	0.07	34.75	0.00
Payroll Taxes	775.62	2.34	453.13	0.23	4,375.27	0.55	3,289.32	0.31
Postage	0.00	0.00	0.00	0.00	219.90	0.03	98.00	0.01
Rent Expense	0.00	0.00	0.00	0.00	0.00	0.00	92.00	0.01
Repairs/Maintenance	305.87	0.92	167.19	0.08	2,095.70	0.26	920.59	0.09
Salaries - Manager	4,025.00	12.16	3,833.34	1.93	32,200.00	4.02	30,666.72	2.91
Salaries - Other	5,959.00	18.00	2,080.00	1.05	24,485.75	3.06	11,450.50	1.09
Supplies	0.00	0.00	0.00	0.00	758.93	0.09	436.53	0.04

See accountants' compilation report.

Jonesboro Airport Commission
Statement of Revenues & Expenses-Modified Cash Basis
For the 1 Month and 8 Months Ended August 31, 2016 and 2015

	1 Month Ended		1 Month Ended		8 Months Ended		8 Months Ended	
	<u>August 31, 2016</u>	<u>%</u>	<u>August 31, 2015</u>	<u>%</u>	<u>August 31, 2016</u>	<u>%</u>	<u>August 31, 2015</u>	<u>%</u>
Telephone	306.89	0.93	288.23	0.14	2,404.72	0.30	2,277.15	0.22
Meals/Entertainment	0.00	0.00	0.00	0.00	573.77	0.07	258.97	0.02
Utilities	0.00	0.00	0.00	0.00	0.00	0.00	170.92	0.02
Legal & Accounting	<u>550.00</u>	<u>1.66</u>	<u>675.00</u>	<u>0.34</u>	<u>4,570.00</u>	<u>0.57</u>	<u>4,515.00</u>	<u>0.43</u>
Total G & A Expenses	<u>15,253.38</u>	<u>46.07</u>	<u>10,618.74</u>	<u>5.34</u>	<u>118,104.87</u>	<u>14.74</u>	<u>92,924.57</u>	<u>8.82</u>
Revenues from Operations	<u>(70,126.98)</u>	<u>(211.79)</u>	<u>186,483.47</u>	<u>93.74</u>	<u>(157,738.19)</u>	<u>(19.6)</u>	<u>212,533.11</u>	<u>20.18</u>
Other Revenue (Expenses)								
Interest Income	<u>481.52</u>	<u>1.45</u>	<u>170.38</u>	<u>0.09</u>	<u>1,953.26</u>	<u>0.24</u>	<u>1,353.01</u>	<u>0.13</u>
Total Other Revenue (Exp.)	<u>481.52</u>	<u>1.45</u>	<u>170.38</u>	<u>0.09</u>	<u>1,953.26</u>	<u>0.24</u>	<u>1,353.01</u>	<u>0.13</u>
Net Earnings	<u>\$ (69,645.46)</u>	<u>(210.34)</u>	<u>\$ 186,653.85</u>	<u>93.82</u>	<u>\$ (155,784.93)</u>	<u>(19.4)</u>	<u>\$ 213,886.12</u>	<u>20.31</u>

See accountants' compilation report.

**Jonesboro Airport Commission
General Ledger**

Date	Reference	T	Description	Beginning Balance	Current Amount	YTD Balance
			1020 Cash - Centennial Bank	866,819.13		
08/31/16	1		Cash Disbursements		(90,648.47)	
08/30/16	3		deposit recap		17,645.00	
08/30/16	3		deposit recap		858.78	
08/30/16	3		deposit recap		500.00	
08/30/16	3		deposit recap		1,203.00	
08/30/16	3		deposit recap		2,105.80	
08/30/16	3		deposit recap		6,877.05	
08/30/16	3		deposit recap		476.37	
08/30/16	3		deposit recap		1,100.00	
08/30/16	3		deposit recap		(2,021.62)	
08/30/16	3		deposit recap		2,821.58	
08/30/16	P89		Payroll Journal Entry		(4,752.40)	
08/30/16	P89.1		Payroll Journal Entry		(2,879.52)	
					<u>(66,714.43)</u>	<u>800,104.70</u>
			1034 Cash-Centennial Bank-Project Acct	2,674.10		
08/30/16	1		Cash Disbursements		(85,266.68)	
08/30/16	3		deposit recap		5.15	
08/30/16	4		bank charges		(20.00)	
08/16/16	10428	V	Jonesboro Airport Commission Project ADA 3452-15		77,510.43	
08/16/16	10437	V	Jonesboro Airport Commission Project INV#944622		5,256.25	
					<u>(2,514.85)</u>	<u>159.25</u>
			2530 Rice Growers Stock	928.25		
					<u>0.00</u>	<u>928.25</u>
			3040 Fica Taxes Payable	(1,109.62)		
08/30/16	3		deposit recap		1,109.62	
08/30/16	P89		Payroll Journal Entry		(911.71)	
08/30/16	P89.1		Payroll Journal Entry		(579.92)	
					<u>(382.01)</u>	<u>(1,491.63)</u>
			3050 FWH Taxes Payable	(912.00)		
08/30/16	3		deposit recap		912.00	
08/30/16	P89		Payroll Journal Entry		(525.00)	
08/30/16	P89.1		Payroll Journal Entry		(362.00)	
					<u>25.00</u>	<u>(887.00)</u>
			3060 SWH Taxes Payable	(396.37)		
08/09/16	10414	V	Dept. of Finance & Administration		396.38	
08/30/16	P89		Payroll Journal Entry		(225.75)	
08/30/16	P89.1		Payroll Journal Entry		(200.00)	
					<u>(29.37)</u>	<u>(425.74)</u>
			3080 State Unemployment Payable	(17.31)		
08/30/16	P89		Payroll Journal Entry		(29.80)	
					<u>(29.80)</u>	<u>(47.11)</u>
			5030 Beg Retained Earnings	(954,125.65)		
					<u>0.00</u>	<u>(954,125.65)</u>

**Jonesboro Airport Commission
General Ledger**

Date	Reference T	Description	Beginning Balance	Current Amount	YTD Balance
		6001 Grant Revenue-City of Jonesboro	(70,000.00)	<u>0.00</u>	<u>(70,000.00)</u>
08/30/16	3	6002 Grant Revenue-Federal & State deposit recap	(484,205.92)	<u>(2,821.58)</u> <u>(2,821.58)</u>	<u>(487,027.50)</u>
		6003 Construction Reimbursements- non gov't	(7,470.60)	<u>0.00</u>	<u>(7,470.60)</u>
08/30/16	3	6010 Hanger Revenue - FBO deposit recap	(123,515.00)	<u>(17,645.00)</u> <u>(17,645.00)</u>	<u>(141,160.00)</u>
08/30/16	3	6011 Revenue-Sharp Aviation deposit recap	(14,740.60)	<u>(2,105.80)</u> <u>(2,105.80)</u>	<u>(16,846.40)</u>
08/30/16	3	6012 Revenue-Gate Card Fees deposit recap	(3,850.00)	<u>(603.00)</u> <u>(603.00)</u>	<u>(4,453.00)</u>
08/30/16	3	6015 Fuel Flowage deposit recap	(39,220.65)	<u>(6,877.05)</u> <u>(6,877.05)</u>	<u>(46,097.70)</u>
08/30/16	3	6016 HANGER-FOWLER FOODS deposit recap	(6,011.46)	<u>(858.78)</u> <u>(858.78)</u>	<u>(6,870.24)</u>
		6017 HANGER-LANDRY	(4,106.18)	<u>0.00</u>	<u>(4,106.18)</u>
		6020 Auto Rental Agency & Land Lease	(300.00)	<u>0.00</u>	<u>(300.00)</u>
		6021 HANGER-HYTROL	(350.00)	<u>0.00</u>	<u>(350.00)</u>
08/30/16	3	6022 HANGER-GOLDEN EYE deposit recap	(3,500.00)	<u>(500.00)</u> <u>(500.00)</u>	<u>(4,000.00)</u>
08/30/16	3	6030 Terminal Building Leases-AIR CHOICE deposit recap	(8,850.00)	<u>(1,100.00)</u> <u>(1,100.00)</u>	<u>(9,950.00)</u>

Date	Reference	T	Description	Beginning Balance	Current Amount	YTD Balance
	6060		Other Income	(2,265.86)		
08/30/16	3		deposit recap		(600.00)	
					<u>(600.00)</u>	<u>(2,865.86)</u>
	7005		Grant Project Expenditures	702,052.07		
08/30/16	1179		marr/arnold planning		2,500.00	
08/30/16	1180		michael baker		12,929.03	
08/30/16	1181		michael baker		4,118.49	
08/30/16	1182		michael baker		5,338.48	
08/30/16	1183		atlas asphalt		55,124.43	
08/30/16	1184		michael baker		5,256.25	
					<u>85,266.68</u>	<u>787,318.75</u>
	7010		Grounds	3,964.12		
08/16/16	10415	V	Arkansas Air Center		402.96	
08/16/16	10424	V	Gateway Tire of Arkansas		15.93	
08/16/16	10426	V	Greenway Equipment , Inc.		16.96	
08/16/16	10432	V	Quality Farm Supply		447.45	
					<u>883.30</u>	<u>4,847.42</u>
	7030		Hanger Expense-FBO	13,401.37		
08/16/16	10418	V	Barton's of Jonesboro		50.38	
08/16/16	10430	V	METAL MART		141.78	
					<u>192.16</u>	<u>13,593.53</u>
	7035		T-Hanger Expense	0.00		
08/16/16	10435	V	TEC Electric		93.04	
					<u>93.04</u>	<u>93.04</u>
	7040		Terminal Building Expense-	19,998.13		
08/16/16	10420	V	Cardinal Supplies of Arkansas, Inc.		57.11	
08/16/16	10422	V	Dixie Contractors Inc.		215.08	
08/16/16	10427	V	Greg Moore		650.00	
08/16/16	10434	V	Suddenlink		103.36	
					<u>1,025.55</u>	<u>21,023.68</u>
	7041		Terminal Building Expense	6,923.61		
08/16/16	10421	V	City Water & Light		244.13	
08/16/16	10427	V	Greg Moore		200.00	
					<u>444.13</u>	<u>7,367.74</u>
	7050		Flight Service Station	401.92		
					<u>0.00</u>	<u>401.92</u>
	7051		Fire Rescue Building Expense	1,511.53		
08/16/16	10433	V	Suddenlink		79.95	
					<u>79.95</u>	<u>1,591.48</u>
	7052		Sharp Aviation Expense	498.35		
					<u>0.00</u>	<u>498.35</u>

**Jonesboro Airport Commission
General Ledger**

Date	Reference	T	Description	Beginning Balance	Current Amount	YTD Balance
	7053		Old Terminal Bldg - CAP	4,199.59	0.00	4,199.59
	7060		Beacon & Field Lights	195.30	0.00	195.30
08/30/16	8050	4	Bank Charges bank charges	3.00	20.00	23.00
	8090		Dues/Subscriptions	145.85	0.00	145.85
08/16/16	8100	10436 V	Insurance ZENITH INSURANCE COMPANY	36,820.60	2,734.00	39,554.60
08/01/16	8110	10410 V	Insurance - Medical Arkansas Blue Cross Blue Shield 10917833	4,955.57	854.51	
08/30/16		P89.1	Payroll Journal Entry		(293.52)	
					560.99	5,516.56
	8130		Janitorial	650.00	0.00	650.00
08/16/16	8140	10423 V	Office Expense FEDEX OFFICE	514.81	16.01	530.82
08/30/16	8160	P89	Payroll Taxes Payroll Journal Entry	3,599.65	485.66	
08/30/16		P89.1	Payroll Journal Entry		289.96	
					775.62	4,375.27
	8170		Postage	219.90	0.00	219.90
08/16/16	8190	10429 V	Repairs/Maintenance Lowes Business Accounts	1,789.83	305.87	2,095.70
08/30/16	8200	P89.1	Salaries - Manager Payroll Journal Entry	28,175.00	4,025.00	
					4,025.00	32,200.00
08/30/16	8210	P89	Salaries - Other Payroll Journal Entry	18,526.75	5,959.00	
					5,959.00	24,485.75

**Jonesboro Airport Commission
General Ledger**

Date	Reference T	Description	Beginning Balance	Current Amount	YTD Balance
	8220	Supplies	758.93	<u>0.00</u>	<u>758.93</u>
	8240	Telephone	2,097.83		
08/16/16	10416 V	AT & T		163.52	
08/16/16	10417 V	AT&T MOBILITY		143.37	
				<u>306.89</u>	<u>2,404.72</u>
	8250	Meals/Entertainment	573.77	<u>0.00</u>	<u>573.77</u>
	8280	Legal & Accounting	4,020.00		
08/16/16	10419 V	Cahoon & Smith Law Office		250.00	
08/16/16	10431 V	Orr, Lamb & Fegtly		300.00	
				<u>550.00</u>	<u>4,570.00</u>
	9010	Interest Income	(1,471.74)		
08/30/16	3	deposit recap		(481.52)	
				<u>(481.52)</u>	<u>(1,953.26)</u>
Current Profit/(Loss)		<u>(69,645.46)</u>	YTD Profit/(Loss)		<u>(155,784.93)</u>
Number of Transactions		72	The General Ledger is in balance		
					<u>0.00</u>

**Jonesboro Airport Commission
Transaction Listing**

Date	Reference	T	Account	Description	Amount	Reference Total
08/30/16	1		1034	Cash Disbursements	(85,266.68)	
08/31/16	1		1020	Cash Disbursements	(90,648.47)	(175,915.15)
08/30/16	3		1020	deposit recap	17,645.00	
08/30/16	3		1020	deposit recap	858.78	
08/30/16	3		1020	deposit recap	500.00	
08/30/16	3		1020	deposit recap	1,203.00	
08/30/16	3		1020	deposit recap	2,105.80	
08/30/16	3		1020	deposit recap	6,877.05	
08/30/16	3		1020	deposit recap	476.37	
08/30/16	3		1020	deposit recap	1,100.00	
08/30/16	3		1020	deposit recap	(2,021.62)	
08/30/16	3		1020	deposit recap	2,821.58	
08/30/16	3		1034	deposit recap	5.15	
08/30/16	3		3040	deposit recap	1,109.62	
08/30/16	3		3050	deposit recap	912.00	
08/30/16	3		6002	deposit recap	(2,821.58)	
08/30/16	3		6010	deposit recap	(17,645.00)	
08/30/16	3		6011	deposit recap	(2,105.80)	
08/30/16	3		6012	deposit recap	(603.00)	
08/30/16	3		6015	deposit recap	(6,877.05)	
08/30/16	3		6016	deposit recap	(858.78)	
08/30/16	3		6022	deposit recap	(500.00)	
08/30/16	3		6030	deposit recap	(1,100.00)	
08/30/16	3		6060	deposit recap	(600.00)	
08/30/16	3		9010	deposit recap	(481.52)	
08/30/16	4		1034	bank charges	(20.00)	
08/30/16	4		8050	bank charges	20.00	
08/30/16	1179		7005	marr/arnold planning	2,500.00	2,500.00
08/30/16	1180		7005	michael baker	12,929.03	12,929.03
08/30/16	1181		7005	michael baker	4,118.49	4,118.49
08/30/16	1182		7005	michael baker	5,338.48	5,338.48
08/30/16	1183		7005	atlas ashalt	55,124.43	55,124.43
08/30/16	1184		7005	michael baker	5,256.25	5,256.25
08/01/16	10410	V	8110	Arkansas Blue Cross Blue Shield 10917833	854.51	854.51
08/30/16	10411		Payroll	Gibson, Lanny	1,366.91	
08/30/16	10412		Payroll	Reynolds, Zachary C	857.18	
08/30/16	10413		Payroll	Reed, Don	2,528.31	
08/09/16	10414	V	3060	Dept. of Finance & Administration	396.38	396.38
08/16/16	10415	V	7010	Arkansas Air Center	402.96	402.96
08/16/16	10416	V	8240	AT & T	163.52	163.52
08/16/16	10417	V	8240	AT&T MOBILITY	143.37	143.37
08/16/16	10418	V	7030	Barton's of Jonesboro	50.38	50.38
08/16/16	10419	V	8280	Cahoon & Smith Law Office	250.00	250.00
08/16/16	10420	V	7040	Cardinal Supplies of Arkansas, Inc.	57.11	57.11
08/16/16	10421	V	7041	City Water & Light	244.13	244.13
08/16/16	10422	V	7040	Dixie Contractors Inc.	215.08	215.08
08/16/16	10423	V	8140	FEDEX OFFICE	16.01	16.01
08/16/16	10424	V	7010	Gateway Tire of Arkansas	15.93	15.93
08/30/16	10425		Payroll	JACKSON, GEORGE K	2,879.52	
08/16/16	10426	V	7010	Greenway Equipment , Inc.	16.96	16.96
08/16/16	10427	V	7040	Greg Moore	650.00	
08/16/16	10427	V	7041	Greg Moore	200.00	850.00
08/16/16	10428	V	1034	Jonesboro Airport Commission Project ADA 3452-15	77,510.43	77,510.43
08/16/16	10429	V	8190	Lowes Business Accounts	305.87	305.87
08/16/16	10430	V	7030	METAL MART	141.78	141.78
08/16/16	10431	V	8280	Orr, Lamb & Fegty	300.00	300.00
08/16/16	10432	V	7010	Quality Farm Supply	447.45	447.45
08/16/16	10433	V	7051	Suddenlink	79.95	79.95

**Jonesboro Airport Commission
Transaction Listing**

Date	Reference	T	Account	Description	Amount	Reference Total
08/16/16	10434	V	7040	Suddenlink	103.36	103.36
08/16/16	10435	V	7035	TEC Electric	93.04	93.04
08/16/16	10436	V	8100	ZENITH INSURANCE COMPANY	2,734.00	2,734.00
08/16/16	10437	V	1034	Jonesboro Airport Commission Project INV#944622	5,256.25	5,256.25
08/30/16	P89		1020	Payroll Journal Entry	(4,752.40)	
08/30/16	P89		3040	Payroll Journal Entry	(911.71)	
08/30/16	P89		3050	Payroll Journal Entry	(525.00)	
08/30/16	P89		3060	Payroll Journal Entry	(225.75)	
08/30/16	P89		3080	Payroll Journal Entry	(29.80)	
08/30/16	P89		8160	Payroll Journal Entry	485.66	
08/30/16	P89		8210	Payroll Journal Entry	5,959.00	
08/30/16	P89.1		1020	Payroll Journal Entry	(2,879.52)	
08/30/16	P89.1		3040	Payroll Journal Entry	(579.92)	
08/30/16	P89.1		3050	Payroll Journal Entry	(362.00)	
08/30/16	P89.1		3060	Payroll Journal Entry	(200.00)	
08/30/16	P89.1		8110	Payroll Journal Entry	(293.52)	
08/30/16	P89.1		8160	Payroll Journal Entry	289.96	
08/30/16	P89.1		8200	Payroll Journal Entry	4,025.00	
					Transaction Balance	<u>0.00</u>

Total Debits 222,309.12

Total Credits 222,309.12

A/C Hash Total 367076.000

Number of Transactions 76