

Upon recording, please return to:

Rupe Helmer Group
3114 East 81st Street
Tulsa OK 74137
918-749-1880
21-0407DL

DRAINAGE AND DETENTION EASEMENT

This Drainage and Detention Easement (“Easement”) is made and entered into as of the ____ day of September, 2022, by and among (i) The City of Arkansas City, Kansas Land Bank Board of Trustees, a City Land Bank created under the laws of the State of Kansas (“Land Bank”); (ii) the City of Arkansas City, Kansas, a Kansas municipal corporation (“City”), and (iii) Arkansas City 23987, LLC, an Oklahoma limited liability company (“AC 23987”), with reference to the following:

RECITALS

WHEREAS, Land Bank is the owner of the tract of land situated in Cowley County, State of Kansas and described on Exhibit “A” attached to this Easement and made a part hereof (“Tract A”); and

WHEREAS, City is the owner of the tract of land situated in Cowley County, State of Kansas and described on Exhibit “B” attached to this Easement and made a part hereof (“Tract B”); and

WHEREAS, AC 23987 is the owner of the tract of land situated in Cowley County, State of Kansas and described on Exhibit “C” attached to this Easement and made a part hereof (“Tract C”); and

WHEREAS, AC 23987 has requested of Land Bank and the City, and Land Bank and the City have agreed to grant to AC 23987, a non-exclusive easement and the right to construct and use a detention pond, surface and below grade drainage and detention facilities, and related facilities (all as may be later widened, reconfigured, dredged, deepened, expanded, or otherwise improved) on Tract A and Tract B for the drainage of storm water from Tract C under and across Tract A and Tract B into such detention pond (the “Detention Easement” and the “Construction Easements”, respectively);

NOW, THEREFORE, for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, paid to Land Bank and the City by AC 23987, and in consideration of the mutual covenants and agreements herein contained, Land Bank, the City, and AC 23987 hereby covenant and agree as follows:

AGREEMENT

1. Drainage and Detention Easement. Land Bank and the City hereby grant to AC 23987 a non-exclusive easement and the right in perpetuity, to construct and use a detention pond, surface and below grade drainage and detention facilities, and related facilities (all as may be later widened, reconfigured, dredged, deepened, expanded, or otherwise improved) on Tract A and Tract B for the drainage of storm water from Tract C under and across Tract A and Tract B.
2. Temporary Construction Easements. Land Bank and the City hereby grant to AC 23987 temporary construction and access easements in and on Tract A and Tract B (the “Construction Easement”) for the limited purposes of work related to the construction of storm water drainage and detention facilities on Tract A and Tract B (“Construction Activities”). The Construction Easement shall terminate and be of no further force and effect upon such date as AC 23987 completes its Construction Activities; provided, however, that such termination of the Construction Easements shall not act to terminate the Detention Easement.
3. Maintenance of Detention Easement. Following the completion of the Construction Activities, the City shall (as among the parties hereto) be solely responsible for the cost of maintenance and upkeep (including any future dredging, widening or deepening) of the detention pond and related drainage and detention facilities located on or within the Detention Easement. The City shall conduct such maintenance and upkeep activities in a good and workmanlike manner and in accordance with all applicable laws, codes, rules, statutes and regulations of governmental authorities having jurisdiction thereof and in such a manner as to not interfere with the drainage of storm water from Tract C.
4. Amendment and Termination. This Easement shall not be amended, modified, terminated or otherwise affected, except in writing, signed and acknowledged by each of Land Bank, the City, and AC 23987, or their respective successors and assigns.
5. Successors and Assigns. The burdens and the benefits of the easements and rights of use created by this Easement shall run with the lands described herein and shall inure to the benefit of the parties hereto and their respective successors and assigns.

[Signature Pages Follow]

IN WITNESS WHEREOF, Land Bank, the City, and AC 23987 have executed and delivered this Easement as of the date set forth above.

“Land Bank”

The City of Arkansas City, Kansas Land Bank Board
of Trustees

By: _____
Name: _____
Title: _____

STATE OF KANSAS)
) ss
COUNTY OF COWLEY)

This instrument was acknowledged before me this ____ day of September, 2022, by _____, as _____ of The City of Arkansas City, Kansas Land Bank Board of Trustees, a City Land Bank created under the laws of the State of Kansas.

Notary Public

My Commission No: _____
My Commission Expires: _____

“City”

City of Arkansas City, Kansas

By: _____

Name: Kanyon Ginger

Title: Mayor

STATE OF KANSAS)
) ss
COUNTY OF COWLEY)

This instrument was acknowledged before me this ____ day of September, 2022, by Kanyon Ginger, as Mayor of the City of Arkansas City, Kansas, a Kansas municipal corporation.

Notary Public

My Commission No: _____
My Commission Expires: _____

“AC 23987”

Arkansas City 23987, LLC

By: Battle Creek Holdings, LLC,
an Oklahoma limited liability company
Its Manager

By: _____
Mark D. Helmer, Manager

By: Rupe Capital, LLC,
an Oklahoma limited liability company
Its Manager

By: _____
John Rupe, Jr., Manager

STATE OF OKLAHOMA)
)ss.
COUNTY OF TULSA)

This instrument was acknowledged before me on September _____, 2022, by Mark D. Helmer, as Manager of Battle Creek Holdings, LLC, an Oklahoma limited liability company and John Rupe, Jr., as Manager of Rupe Capital, LLC, an Oklahoma limited liability company, Managers of Arkansas City 23987, LLC, an Oklahoma limited liability company.

Notary Public

My Commission No: _____
My Commission Expires: _____

EXHIBIT “A”
Legal Description of Tract A

Lots 23, 24, 25, 26, 27 and 28, Block 2, Park Place Addition, Arkansas City, Cowley County, Kansas, together with one-half of the vacated alley adjacent thereto

EXHIBIT “B”
Legal Description of Tract B

Lots 21 and 22, Block 2, Park Place Addition, Arkansas City, Cowley County, Kansas, together with one-half of the vacated alley adjacent thereto

EXHIBIT "C"
Legal Description of Tract C

The City Tract

Lots 1 and 2, Block 2, Park Place Addition, Arkansas City, Cowley County, Kansas, together with one-half of the vacated alley adjacent thereto.

AND

A portion of Lots 3, 4, 5, 6 and 7, Block 2, Park Place Addition, Arkansas City, Cowley County, Kansas, more particularly described as: Beginning on the North line of said Lot 3, 24.1 feet East of the Northwest corner thereof; thence South 89°37'42": East along said North line, a distance of 107.98 feet to the Northeast corner thereof; thence South 00°22'04" West along the East line of said Lots 3-7, a distance of 125.00 feet to the Southeast corner of said Lot 7; thence North 89°37'42" West along the South line of said Lot 7, a distance of 20.42 feet; thence North 34°38'24" West, a distance of 152.62 feet to the point of beginning,

AND

All of vacated Third Street, formerly known as 10th Street, right of way adjoining Lots 1-7, Block 2, Park Place Addition to Arkansas City, Cowley County, Kansas.

AND

The MKT Tract

Lots 3, 4, 5, 6 and 7, Block 2, Park Place Addition, Arkansas City, Cowley County, Kansas, together with one-half of the vacated alley adjacent thereto, EXCEPT railroad right of way.