

TEMPORARY CONSTRUCTION AND
PERMANENT UTILITY EASEMENT AGREEMENT

This temporary Construction and Permanent Utility Easement Agreement (the "Agreement") is entered into by and between Texarkana Regional Airport Authority, ("Grantor"); and Wendell Feitt, ("Grantee").

RECITALS

- A. Grantor owns of record certain real property located in Miller County, Arkansas and legally described on the attached and incorporated Exhibit A ("Grantor's Property").
- B. Grantee owns of record certain real property adjacent to Grantor's Property also located in Miller County, Arkansas and legally described on the attached and incorporated Exhibit B ("Grantee's Property") which Grantee intends to improve by connecting to City Water Utilities. Grantor's Property and Grantee's Property are sometimes referred to in this Agreement collectively as the "Property".

B. THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Grant of Easements

1.1 Utility Easement. Grantor for themselves and for their successors and assigns, hereby convey and grant to Grantee, its successors and assigns, a permanent, non-exclusive easement (the "Utility Easement") over, under, in, along, across and upon the property described on the attached and incorporated Exhibit C (the "Utility Easement Area") solely for the lawful construction, installation, maintenance, operation, repair, replacement and use of underground sanitary sewer pipe and related underground sanitary sewer facilities, underground water pipes and other utilities, including junction boxes and related equipment (the "Improvements"), and for the access to the Utility Easement Area is depicted generally on the attached and ~~incorporated~~ incorporated Exhibit C.

1.2 Temporary Construction Easement. Grantor for themselves and for their successors and assigns, hereby convey and grant to Grantee, its successors and assigns, a permanent, non-exclusive easement (the "Temporary Construction Easement") over, under, in, along, across and upon the property described on the attached and incorporated Exhibit C (the "Utility Easement Area") for use in the initial construction and installation of the improvements and other construction purposes reasonably related to the initial construction of the improvements. Prior to commencement of the Temporary Construction Easement, Grantee shall have access to the Property during normal business hours to conduct all studies, tests, examinations and surveys necessary to design and construct the improvements. The Temporary Construction Easement is depicted generally on the attached and incorporated Exhibit C.

2 Terms of Easements.

2.1 Utility Easement. The Utility Easement shall commence on the effective date of this Agreement and shall run with the land and continue in full force and effect until Grantee has abandoned the Improvements, as the term “abandonment” is defined in Section 5.7 below, or until the Utility Easement Areas has been dedicated to the City of Texarkana Water Utilities and/or such other governing jurisdiction as may request or require such dedication in connection with Grantee’s development of the Property Grantor agree to execute such documents as either grantee or any such governing jurisdiction may deem necessary or desirable in connection with the installation of the improvements or in connection with any such dedication, provided however, that Grantee agrees to construct the improvements in a manner which will make the same accessible to Grantor’s Property.

2.2 Temporary Construction Easement. The Temporary Construction Easement shall commence on the effective date of the Agreement and shall automatically terminate and expire upon (I) the date construction of the Improvements are completed, or (II) 6 months from effective date, whichever date shall first occur. Upon the expiration of the term of the Temporary Construction Easement, all of the rights and benefits of Grantee in, to and under this Agreement with respect to the Temporary Construction Easement shall automatically terminate and be of no further force and effect.

3 Reservation by Grantor/Non-Exclusive Use. All right, title and interest in and to any easement area under this Agreement which may be used and enjoyed without interfering with the rights conveyed by the Agreement are reserved to Grantor, provided, however, that Grantor shall not enact or maintain any buildings which may cause damage to or interfere with the improvements to be placed within the Utility Easement Area; or develop, landscape, or beautify any easement area in any way which would unreasonably or materially increase the costs to Grantee of installing the Improvements or restoring any of the Easement Areas after such installation.

4 Construction of Utility Improvements.

4.1 Costs/Lien-Free Construction. Grantee shall bear and promptly pay without the imposition of any lien or charge on or against all or any portion of Grantor Property all costs and expenses of construction and maintenance of the improvements, including the installation of up to two connections for Grantor’s use and the exercise of any easement rights granted under this Agreement.

4.2 Compliance with Laws. Grantee shall construct the improvements in a workmanlike manner and in compliance with the applicable statutes, ordinances, rules and regulations of all governing public authorities as those statutes, ordinances, rules and regulations are amended from time to time.

4.3 Restoration. In the event the surface of any easement area is disturbed by Grantee's exercise of any of its easement rights under this Agreement, such area shall be restored to the condition in which it existed at the commencement of such activities.

5 General Provisions.

5.1 Covenants Running with the Land/Assignment. The parties to this Agreement acknowledge and agree that the easements and other rights conferred by this Agreement are intended to, and do, constitute covenants that run with the land and shall inure to the benefit of and be binding upon the parties and their respective grantees, heirs, successors and assigns. Without limiting the foregoing, Grantor acknowledge that Grantee's rights under this Agreement are assignable; that Grantee may enter into agreements to sell or otherwise may transfer Grantee's Property, either to affiliates of Grantee or to third parties, and that Grantor hereby consent to Grantee's assignment of all of its right, title and interest and its delegation of all of its obligations created under this Agreement upon any such the sale or transfer and, upon any such assignment, Grantee shall be forever released and discharged from any and all claims, demands and damages which Grantor may have, make or suffer as a result of anything done or occurring after the date of such assignment. Nothing contained in this Section 5.1, however, shall in any way be construed as releasing Grantee's successors and assigns from any obligations to Grantee created by this Agreement or to in any way limit Grantor's remedies at law or in equity as against such successors and assigns.

5.2 Effective Date. This Agreement shall be effective upon the date it is executed by an authorized representative of each signing party.

5.3 Authorized Representative. Each individual signing on behalf of a party to this Agreement states that he or she is the duly authorized representative of the signing party and this his or her signature on this Agreement has been duly authorized by, and creates the binding and enforceable obligation of, the party on whose behalf the representative is signing.

5.4 Notices. Any notice permitted or required by this Agreement shall be deemed received, is delivered, when actually received, or, if mailed, on the third day after mailing by registered or certified mail, postage prepaid, to the party's address set forth below their respective signatures to this Agreement, or to such other address designated in writing to the other parties.

5.5 Attorney's Fees. In the event of any dispute between the parties regarding the enforcement of effect of this Agreement, including one subject to arbitration, the non-prevailing party in any such dispute shall pay the prevailing party's reasonable attorney's fees and costs incurred. In the event of arbitration, the fees of the arbitrator and the cost of the arbitration shall be paid by the non-prevailing party. In the event that neither party wholly prevails, the court or arbitrator, as applicable, may apportion the costs or fees as the court or arbitrator deems appropriate.

5.6 Plan. Upon Grantor request, Grantee shall provide Grantor with as-built drawings and a survey showing the location and depth of the improvements installed in the Utility Easement Area.

5.7 Abandonment. In the event Grantee or its successors and assigns abandon or terminate their use of all of the improvements for a period of thirty-six (36) consecutive months, this Agreement and all easement rights granted there under shall terminate.

5.8 Further Cooperation. Each of the signatures to this Agreement agree to execute such other documents and to perform such other acts as may be reasonably necessary or desirable to further the expressed and intent purpose of this agreement.

IN WITNESS of this, the undersigned have executed this Agreement as of this _____ day of _____, 2020.

GRANTOR:

GRANTEE:

TEXARKANA AIRPORT AUTHORITY

BY _____
Ray Abernathy, Chairman

BY _____
Wendell Feitt

Date: _____

Date: _____

ATTEST:

ATTEST:

TEXARKANA AIRPORT AUTHORITY

TEXARKANA AIRPORT AUTHORITY

BY _____
Ferdinand Mehrlich, Airport Director

BY _____
Shannon Elliott, Finance Director

Date: _____

Date: _____

STATE OF ARKANSAS)

ACKNOWLEDGEMENT

COUNTY OF MILLER)

On this the _____ day of _____, 2020, personally appeared before me the undersigned Notary Public, the within named RAY ABERNATHY, CHAIRMAN TEXARKANA AIRPORT AUTHORITY, well known to me to be the person and officer of the Joint Board of the Texarkana Airport Authority, whose name is subscribed to the within instrument and acknowledged to me that they has executed for the purpose and consideration therein mentioned and set forth and in the capacity therein stated.

WITNESS my hand and official seal this _____ day of _____, 2020.

Notary Public,

County Miller

Printed Name:

(SEAL)

My Commission Expires:

Exhibit A - Grantor's Property



Exhibit B - Grantee's Property



Exhibit C - Utility Easement Area

