

RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE EXTENSION OF SEWER SERVICES OUTSIDE THE CITY LIMITS TO CF BAT LIT, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AND OWNER OF CERTAIN PROPERTY LOCATED IN PULASKI COUNTY, ARKANSAS; TO AUTHORIZE ENTRY INTO A PRE-ANNEXATION SEWER SERVICE AGREEMENT; AND FOR OTHER PURPOSES.

WHEREAS, Little Rock, Ark., Resolution No. 7,893, §3 (February 2, 1988) requires the Little Rock Board of Directors to approve the extension of any sanitary sewer main outside the corporate limits of the City; and,

WHEREAS, CF Bat LIT, LLC, a Delaware limited liability company (“Owner”), owns certain property located in Pulaski County, Arkansas, and more fully described on Exhibit A to the Pre-Annexation Sewer Service Agreement Between the Owner and the City of Little Rock, Arkansas (“Property”); and,

WHEREAS, the Property is not currently within the corporate limits of the City; however, the Owner intends to annex to the City as soon as it is legally possible to do so; and,

WHEREAS, the Little Rock Water Reclamation Commission is willing to extend such sanitary sewer service to this area after execution of a Pre-Annexation Sewer Service Agreement to the favor of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF LITTLE ROCK, ARKANSAS:

Section 1. The Little Rock Water Reclamation Commission is authorized to extend sanitary sewer services to the Property more particularly shown and described as:

Tract 2: Part of the Southeast Quarter of the Southeast Quarter; Part of the Southwest Quarter of the Southeast Quarter; Part of the Northwest Quarter of the Southeast Quarter, and Part of the Northeast Quarter of the Southeast Quarter of Section 20, Township 1 North, Range 11 West, Pulaski County, Arkansas, more particularly described as follows: Commencing at the Southeast Corner of said Section 20; thence North 01°57'54" East 38.00 feet to the Point of Beginning; thence North 88°37'16" West 1,749.52 feet parallel with the south line of said Section 20; thence North 01°40'06" West 1,990.39 feet to a point on the southerly right-of-way line of Zueber Road; thence along said right-of-way line South 83°16'59" East 415.65 feet; thence along a curve to the left having a radius of 2,914.29 feet and a chord bearing and distance of South 84°56'30" East 168.69 feet;

1 **APPROVED AS TO LEGAL FORM:**

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4 **Thomas M. Carpenter, City Attorney**

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PREANNEXATION SEWER SERVICE AGREEMENT

THIS PREANNEXATION SEWER SERVICE AGREEMENT (“Agreement”) is entered into this ___ day of _____, 2021 between the City of Little Rock, Arkansas, a Municipal Corporation organized pursuant to the laws of the State of Arkansas, (“City” or “City of Little Rock”), acting on behalf of itself and the Little Rock Water Reclamation Commission (“WRC”), and CF Bat LIT LLC, a Delaware limited liability company (“Owner”), Owner of certain property located in Pulaski County, Arkansas and more fully described on Exhibit 1, which is attached hereto and incorporated herein (“Property”).

RECITALS

WHEREAS, the Owner desires to receive sewer service from the City of Little Rock to the Property, which is located outside the City limits; and,

WHEREAS, the City is not required to extend sewer service to the Owner because the Property is outside the present corporate boundaries of the City; and,

WHEREAS, the City established a formal policy to support growth in the future by approving Little Rock, Ark., Resolution No. 7,893 (February 2, 1988) which, in part, permits the extension of sewer service outside the City limits under certain limited circumstances; and,

WHEREAS, the extension of sewer service outside the City limits requires at a minimum the payment of a special rate for sewer service and may, at the City's option, require an agreement that the Owner petition to annex the Property to the City at a time deemed appropriate by the City; and,

WHEREAS, once the Property is contiguous with the City it may, under Arkansas law, be annexed pursuant to a voluntary petition for annexation, although this procedure is subject to a referendum vote under the appropriate circumstances; and,

WHEREAS, Owner understands that by executing this Agreement for sewer service, Owner and all future owners of the Property agree to voluntarily petition the City for annexation upon request by the City, and waive any right to avail themselves of the referendum voting procedure for annexation as provided by Arkansas State Law; and,

WHEREAS, the Owner and the City are aware of all conditions for the provision of sewer service under this Agreement, and the City has authorized such extension pursuant to Little Rock, Ark., Resolution No. _____ (resolution date).

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS SET FORTH WITHIN THIS AGREEMENT, IT IS AGREED BY THE PARTIES AS FOLLOWS:

1 **Article I**

2 **Definitions**

3 *Agreement.* The terms and conditions set forth in this writing and any attachments to this
4 writing.

5 *City.* The City of Little Rock, Arkansas, a Municipal Corporation and City of the First-Class
6 duly organized under Arkansas State Law.

7 *Default.* The reasons for which this Agreement may be cancelled; these reasons are more
8 fully described in Article III of this Agreement.

9 *Owner.* The Owner of record of the Property that is the subject of this Agreement which is
10 more fully described above or in the legal description attached as Exhibit A to this Agreement.

11 *Little Rock Water Reclamation Commission or WRC.* A municipally owned utility created
12 by the City pursuant to Arkansas Law.

13 **Article II**

14 **Consideration**

15 **Section 201 - Term of the Agreement.** The term of this Agreement shall be from the date of its
16 execution to December 31st of the same calendar year. This Agreement shall automatically be
17 renewed on a year to year basis (with each such renewal term commencing January 1st of the
18 next succeeding calendar year and ending on December 31st of such calendar year) and continue
19 in full force and effect unless terminated by reason of Default as set forth in Article III, or unless
20 terminated by mutual written agreement of the parties. Neither party will unreasonably withhold
21 its written consent to termination of this Agreement because of Owner's failure to timely pay for
22 sewer service as set forth below. The City agrees that Owner may connect to the sewer system
23 and utilize the sewer system according to the terms and conditions of this Agreement.

24 **Section 202 - Sewer Service Rates.** For so long as the Property is located outside of the City
25 limits, Owner agrees to pay the rate for sewer service to the Property that is changed from time
26 to time for service outside the City limits. This charge is in addition to any costs Owner will
27 incur to have connections made with existing sewer lines to obtain service to the Property, and
28 Owner also agrees to comply with the terms and conditions of all other contracts with the WRC
29 and to abide by all rules and regulations promulgated by the WRC, as well as to comply with all
30 sewer codes and ordinance of the City of Little Rock, including, but not limited to Little Rock,

1 Ark., Ordinance No. 17,965 (March 16, 1999), and Little Rock, Ark., Ordinance No. 19,895
2 (December 21, 2007), both as may be amended from time to time or replaced.

3 **Section 203 - Agreement and Rates only a Precondition.** Owner and the City agree that the
4 execution of this Agreement is solely a precondition to the receipt by the Owner of sewer
5 service while the Property is located outside the City limits. Entry into this Agreement by
6 the City does not mean that Owner is excused from compliance with other applicable City
7 codes and ordinances concerning building permits, zoning and subdivision approval, and
8 other City approvals to the extent the same are required prior to the use of the Property.

9 **Section 204 – Preannexation.** In addition to the Sewer Service Rates and other matters set
10 forth above, Owner agrees that, upon written request from the City to do so, Owner will
11 execute for filing a petition to voluntarily annex Owner's Property into the City. The City
12 will make this request only if Owner's Property is contiguous to the corporate boundaries of
13 the City. This Agreement does not mandate the City to make this request.

14 **Article III**

15 **Termination of the Agreement**

16 **Section 301 - Termination of the Agreement.** This Agreement may be terminated by the
17 City upon the City obtaining actual knowledge that the Owner has committed an act of
18 default as defined in Section 302 herein beyond all applicable notice and cure periods set
19 forth in Article III. Subject to the conditions set forth in Section 302 below, termination of
20 sewer service may occur after written notice of the nature of the default, to the Owner by the
21 City, and expiration of all applicable notice and cure periods set forth in Article III. In
22 addition, this Agreement will automatically terminate upon completion of both the annexation of
23 the Owner's Property into the City and connection of the Owner's Property to the sewer system.

24 **Section 302 – Default.** The following acts shall be deemed reasons to declare the Owner in
25 default of this Agreement; provided, the City agrees that it will not declare the Owner in default
26 of this Agreement for any reason without first giving the Owner written notice specifying the
27 alleged default and a period of thirty (30) days from the date of such written notice to cure the
28 same. If the alleged default is not cured within this thirty (30)-day time period, the City may
29 declare the Owner in default and send the Owner a written notice of default.

- 30 (a) The Owner fails to pay the costs incurred in providing sewer service connections to
31 the Property.

1 (b) The Owner fails to pay in full any amounts due and for owing monthly sewer
2 service. Disconnection of sewer service under this Section will not occur unless
3 Owner has received notice from WRC.

4 (c) The Owner is involved in a voluntary or involuntary bankruptcy action, or the
5 Property in question is involved in a foreclosure action, and the Property is not listed
6 as the Owner's homestead interest. It is further agreed that if the Property is ever
7 listed as a homestead in any of the aforementioned actions, the City reserves the
8 right to petition the appropriate Court to approve the City's request to terminate
9 sewer service.

10 (d) The Owner transfers Owner's right, title and interest in the Property to any other
11 person or entity and does not include as a part of that transfer actual notice of the
12 terms and conditions of this Agreement and actual notice that the successor in
13 interest to the Property is to be bound by the terms and conditions of this Agreement.

14 (e) The Owner, or Owner's successors in interest, assigns this Agreement, in whole or in
15 part, to any other party without the express written approval of the City of Little
16 Rock Board of Directors; *provided, however*, that no approval of the City of Little
17 Rock Board of Directors shall be required for an assignment of this Agreement to
18 any party that succeeds Owner, or Owner's successor in interest, as owner of the
19 Property.

20 (f) The Owner, or Owner's successors in interest, refuses or resists filing a voluntary
21 petition to annex the Property into the City:

22 (i) Once the Property becomes contiguous with the City limits and the City
23 has requested that a petition for voluntary annexation be filed, or,

24 (ii) The Property would become contiguous to the City limits as a part of a
25 voluntary annexation petition, and,

26 (iii) The City has requested that a petition for voluntary annexation including
27 the Property to be filed.

28 **Article IV**

29 **Miscellaneous Provisions**

30 **Section 401 - Bill of Assurance.** The Owner and the City agree that the term of this Agreement
31 shall run with the land, and that this Agreement shall be filed of record by the City in the Deed

1 Records of the Pulaski County Circuit Clerk. Further, the parties agree that any Bill of
2 Assurance shall set forth the covenant to annex, unless the Property is already annexed, and shall
3 be filed with the Pulaski County Circuit Clerk. Any said Bill of Assurance shall be attached
4 hereto and incorporated herein as Exhibit B.

5 **Section 402 - Reservation of Remedies.** In addition to terminating this Agreement for the
6 reasons set forth in Article III above (subject to all applicable notice and cure rights of Owner),
7 the City specifically reserves the right to pursue any other legal and equitable remedies to which
8 it may be entitled as a result of Owner's Default, subject to all applicable notice and cure rights
9 of Owner set forth in Article III.

10 **Section 403 - City Authority to Enter Into Agreement.** The City represents that it has full
11 authority to enter into this Agreement by virtue of Little Rock, Ark., Resolution No. _____
12 (resolution date). The Owner warrants and represents that it has full authority to execute this
13 Agreement on behalf of the entire Property, and that it is, at present, the sole owner of the
14 acreage that would be affected by a future annexation of the Property. Further, Owner warrants
15 that it has no knowledge of any actual or threatened legal action involving the Owner or the
16 Property that could, in any way, affect Owner's right and authority to enter into this Agreement.

17 **Section 404 - Assignment of Agreement.** This Agreement shall not be assigned to any other
18 party, in whole or in part, without the prior express written approval of the City; *provided,*
19 *however,* that, notwithstanding anything herein to the contrary, approval of the City shall not be
20 required for an assignment of this Agreement to any party that succeeds to Owner, or to Owner's
21 successor in interest, as owner of the Property. Any assignee of this Agreement (whether or not
22 consent of the City is required for the assignment to such assignee) shall, promptly following
23 such assignment, provide written notice to the City of such assignment and of such assignee's
24 name and information for notices under Section 417 of this Agreement.

25 **Section 405 - Severability of Provisions.** In the event any Section, Subsection, Subdivision,
26 Paragraph, Subparagraph, Item, Sentence, Clause, Phrase, or Word of this Agreement is declared
27 or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the
28 remaining provisions of this Agreement, as if such invalid or unconstitutional provision was not
29 originally a part of this Agreement. The invalidity of any provision of this Agreement shall not
30 be grounds for terminating this Agreement without the express written consent of the City.

1 **Section 406 - Modification of the Agreement.** This Agreement may not be modified, altered,
2 or changed except by a writing signed by all of the parties to the Agreement or their duly
3 authorized representatives or successors in interest, proof of which shall be made an attachment
4 to this Agreement. Any such modification, alteration, or change, to be effective, shall first be
5 approved by resolution of the City of Little Rock Board of Directors.

6 **Section 407 - Entire Agreement.** This Agreement and the documents referenced and
7 incorporated herein contain the complete and entire agreement of the parties respecting the
8 transactions contemplated herein, and supersede all prior negotiations, agreements,
9 representations, and understandings, if any, among the parties regarding such matters.

10 **Section 408 - Governing Law.** This Agreement shall be construed in accordance with the laws
11 of the state of Arkansas, and venue for any action related thereto shall lie exclusively in Pulaski
12 County, Arkansas.

13 **Section 409 - No Waiver.** The waiver of the breach of one or more of any covenants or
14 conditions by the City shall not be construed as the waiver of any subsequent breach of the same
15 or any other covenant or conditions; and the consent and approval of the City to any act by
16 Owner requiring the City's consent or approval shall not be deemed a waiver and shall still
17 render necessary the City's consent or approval to or of any subsequent or similar act by Owner.

18 **Section 410 - Counterparts; Copies Same as Original.** This Agreement may be executed in
19 any number of counterparts, each of which shall be deemed an original and all of which
20 counterparts together shall constitute one agreement with the same effect as if the parties had
21 signed the same signature page. This Agreement shall be executed in the original, and any
22 number of executed copies. Any copy of this Agreement so executed shall be deemed an original
23 and shall be deemed authentic for any other use.

24 **Section 411 - Captions.** All captions contained in this Agreement are inserted only as a matter
25 of convenience and in no way define, limit or extend the scope or intent of this Agreement.

26 **Section 412 - Agreement Binding.** This Agreement shall be binding on the agents, successors
27 and permitted assigns of the parties.

28 **Section 413 - Authority to Execute Agreement.** The undersigned officials of the parties
29 hereto are the properly authorized officials and have the necessary authority to execute this
30 Agreement on behalf of the parties hereto, and each party hereby certifies to the other that any

1 necessary resolutions or other documentation extending said authority have been duly passed and
2 are now in full force and effect.

3 **Section 414 - Legal Review.** Agreement shall be construed without regard to the identity of the
4 persons who drafted the provisions contained herein. Moreover, each and every provision of the
5 Agreement shall be construed as though each party hereto participated equally in the drafting
6 thereof. As a result of the foregoing, any rule of construction that the document is to be
7 construed against the drafting party shall not be applicable. Both parties acknowledge that they
8 have had full opportunity to review this Agreement with legal counsel of their choice.

9 **Section 415 - Approval of City of Little Rock Board of Directors Required.** The terms and
10 conditions of this Agreement shall be approved by the City of Little Rock Board of Directors in
11 the form of a resolution.

12 **Section 416 - Voluntary Agreement.** Owner has read and understands the terms and conditions
13 for sewer service as set forth herein. Owner enters into this Agreement knowingly, voluntarily,
14 and without coercion on the part of the City of Little Rock, or WRC.

15 **Section 417 – Notices.** Any notices to be given under this Agreement shall be in writing and
16 may be served by depositing the same in the United States Mail, postage prepaid, certified or
17 registered mail with return receipt requested, or by delivering the same in person to the party to
18 be notified via a delivery service, Federal Express or any other nationally recognized overnight
19 courier service that provides a return receipt showing the date of actual delivery of same to the
20 addressee thereof, or by electronic transmission (e-mail) with evidence of receipt. Any party
21 giving notice hereunder shall use reasonable efforts to send a copy of any such notice or
22 electronic transmission to the individual or entity designated below to receive copies on the same
23 date as deposited in the mail or given to such delivery service. Notice given in accordance
24 herewith shall be deemed given and shall be effective upon the earlier of actual receipt
25 (including, without limitation, receipt of electronic transmission) or refusal of delivery. For
26 purposes of notice, the addresses of the parties shall be as follows:

27

28 If to Owner: CF Bat LIT LLC
29 c/o Fortress Investment Group
30 1345 Avenue of the Americas, 46th Floor
31 New York, New York 10105
32 Attention: Constantine Dakolias
33 E-mail: gc.credit@fortress.com

1 With a copy to: CF Bat LIT LLC
2 c/o Fortress Investment Group
3 11611 San Vicente, 10th Floor
4 Los Angeles, California 90049
5 Attention: William Turner
6 E-mail: wturner@fortress.com
7

8 With a copy to: Dain, Torpy, Le Ray, Wiest & Garner, P.C.
9 745 Atlantic Avenue, 5th Floor
10 Boston, Massachusetts 02111
11 Attention: Timothy Pecci, Esq.
12 Phone: (617) 542-4854
13 E-mail: tpecci@daintorpy.com
14

15 If to the City: The City of Little Rock
16 Jamie Collins, PE | Director
17 City of Little Rock
18 Planning and Development
19 723 West Markham Street
20 Little Rock, AR 72201-1334
21 Phone: (501) 371-6818 | Fax: (501) 399-3435
22 E-mail: gcollins@littlerock.gov
23

24 If to LRWRA: Little Rock Water Reclamation Authority
25 S. Vincent Hotho, P.E.
26 Engineering Manager
27 11 Clearwater Drive
28 Little Rock, AR 72204
29 Phone: (501) 688-1452
30 E-mail: steven.hotho@lrwra.com
31

32 Any party may change its address for notice purposes by giving the other parties written
33 notice in accordance with the provisions of this section.
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[Signatures Follow]

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1 **IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT.**

2
3 **CF Bat LIT LLC,**
4 a Delaware limited liability company

City of Little Rock, Arkansas

5
6 **By:** _____
7 **Name: William Turner**
8 **Title: Authorized Signatory**

By: _____
Frank Scott, Jr., Mayor

9 Date: _____, 2021

10
11 **APPROVED AS TO LEGAL FORM:**

12
13 **Office of the City Attorney**

14
15 **By:** _____
16 **Thomas M. Carpenter, City Attorney**

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20 **CERTIFICATE**

21
22 The Little Rock Water Reclamation Commission certifies its willingness and ability to serve
23 the Owner. Any additional contracts with the Owner as referenced in Article II hereof shall not
24 become effective until this Agreement is executed by the City of Little Rock.

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26 **Little Rock Water Reclamation Commission**

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28 **By:** _____

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A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of Los Angeles)

On _____, 2021, before me, _____, Notary Public, personally appeared William Turner, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

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1 **STATE OF ARKANSAS**)
2)ss **ACKNOWLEDGEMENT**
3 **COUNTY OF PULASKI**)
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5 On this ____ day of _____, 2021, before me, the undersigned, a Notary Public,
6 duly commissioned and sworn, qualified and acting within and for the said County and State
7 appeared in person, Mayor Frank Scott, Jr., to me personally known, who stated that he had
8 executed the above and foregoing document in his duly authorized capacity as Mayor of the City
9 of Little Rock for the consideration, uses and purposes therein mentioned and set forth.

10 WITNESS my hand and official seal.

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13 _____
14 Notary Public

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16 My Commission Expires: _____

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1 **STATE OF ARKANSAS**)
2)ss **ACKNOWLEDGEMENT**
3 **COUNTY OF PULASKI**)
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5 On this ____ day of _____, 2021, before me a Notary Public, duly
6 commissioned, qualified and acting within and for the said County and State appeared in person,
7 _____, to me personally known, who stated that he/she had executed the above
8 and foregoing document in the duly authorized capacity as _____ on behalf of the
9 Water Reclamation Commission for the consideration, uses and purposes therein mentioned and
10 set forth.

11 WITNESS my hand and official seal.

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13 _____
14 **Notary Public**

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17 My Commission Expires: _____

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1 **Exhibit A**

2 **Property Description**

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4 The land referred to below is situated in the County of Pulaski, State of Arkansas, and is described as
5 follows:

6 Tract 2: Part of the Southeast Quarter of the Southeast Quarter; Part of the Southwest Quarter of the
7 Southeast Quarter; Part of the Northwest Quarter of the Southeast Quarter, and Part of the Northeast
8 Quarter of the Southeast Quarter of Section 20, Township 1 North, Range 11 West, Pulaski County,
9 Arkansas, more particularly described as follows: Commencing at the southeast corner of said Section
10 20; thence North 01°57'54" East 38.00 feet to the Point of Beginning; thence North 88°37'16" West
11 1,749.52 feet parallel with the south line of said Section 20; thence North 01°40'06" West 1,990.39 feet to
12 a point on the Southerly right of way line of Zueber Road; thence along said right-of-way line South
13 83°16'59" East 415.65 feet; thence along a curve to the left having a radius of 2,914.29 feet and a chord
14 bearing and distance of South 84°56'30" East 168.69 feet; thence South 86°35'58" East 936.35 feet;
15 thence along a curve to the right having a radius of 4,921.49 feet and a chord bearing and distance of
16 South 87°42'25" East 190.24 feet; thence South 88°48'52" East 101.62 feet; thence leaving said South
17 right of way line of Zueber Road, South 01°57'54" West 1,175.08 feet; thence South 88°47'08" East 65.01
18 feet; thence South 01°57'54" West 727.56 feet along the East line of said Section 20 returning to the Point
19 of Beginning, containing 78.481 acres, more or less.

20 Tract 3: Part of the Southwest Quarter of the Southwest Quarter; Part of the Northwest Quarter of the
21 Southwest Quarter of Section 21, Township 1 North, Range 11 West, Pulaski County. Arkansas, more
22 particularly described as follows: Beginning at the southwest corner of said Section 21; thence North
23 01°57'54" East 1,940.67 feet; thence South 88°48'52" East 35.00 feet; thence South 01°57'54" West
24 1,940.72 feet; thence North 88°45'52" West 35.00 feet returning to the Point of Beginning, containing
25 1.560 acres, more or less.

26 Tract 4: Part of the Southeast Quarter of the Southeast Quarter and part of the Northeast Quarter of the
27 Southeast Quarter of Section 20, Township 1 North, Range 11 West, Pulaski County, Arkansas, more
28 particularly described as follows: Commencing at the Southeast Corner of said Section 20; thence North
29 01°57'54" East 765.56 feet to the Point of Beginning; thence North 88°47'08" West 65.01 feet; thence
30 North 01°57'54" East 1,175.08 feet; thence South 88°49'12" East 65.00 feet; thence South 01°57'54" West
31 1,175.11 feet returning to the Point of Beginning, containing 1.754 acres, more or less.

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Exhibit B
Bill of Assurance

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1 THIS INSTRUMENT PREPARED BY:
2 J. Cliff McKinney
3 Quattlebaum, Grooms & Tull PLLC
4 111 Center Street, Suite 1900
5 Little Rock, Arkansas 72201
6 (501) 379-1700
7

8 **BILL OF ASSURANCE**
9

10 WHEREAS, CF Bat LIT LLC, a Delaware limited liability company ("Owner"), is the owner of the
11 following described land lying in the City of Little Rock, Pulaski County, Arkansas (the "City"):

12 Owner has caused the land described on Exhibit 1 to be surveyed and the plat thereof made, which is
13 identified by the title of "_____ Addition, Pulaski County, Arkansas" (the "Plat"). This Bill
14 of Assurance and the Plat has been signed by Owner, and the Plat is recorded in the office of the Circuit
15 Clerk and Ex-Officio Recorder of Pulaski County, Arkansas, on _____, 2021 as Instrument
16 #_____. The land described on Exhibit 1 will be platted into one or more lots (the "Lots").
17 Owner does hereby make this Bill of Assurance to govern and control the land described in the Plat and
18 the Lots.

19 HEREAFTER, conveyances and descriptions of the property as shown on the Plat shall be a proper
20 and sufficient description thereof.

21 _____ the Lots shall be subject to the covenants contained herein and the Plat.
22

23 RIGHTS-OF-WAY: With the filing of this Bill of Assurance and the Plat in the office of the
24 Circuit Clerk of Pulaski County, Arkansas, the rights-of-way shown on
25 the Plat are hereby dedicated to the City. The utility easements shown
26 thereon are hereby dedicated to the appropriate public utilities as
27 identified thereon.

28 TERM/AMENDMENT: This Bill of Assurance shall be in full force and effect in perpetuity
29 subject to the following amendment and termination rights of the owners
30 of the Lots. This Bill of Assurance may be amended or terminated at any
31 time from the date hereof by the unanimous written agreement of the
32 owners of the Lots. Owner is mindful of the decision in *Rausch*
33 *Coleman Homes, LLC v. Brech*, 2009 Ark. App. 225 (the "Decision")
34 and does not wish for the Decision to limit the ability of the parties to
35 amend this Bill of Assurance at any time and from time-to-time. Owner
36 intends that this Bill of Assurance may be amended at any time from the

1 date hereof throughout the term of this Bill of Assurance and expressly
2 intends and agrees that this Bill of Assurance may be amended prior to
3 any expiration or termination date set forth herein; provided, however,
4 that the restrictions and covenants contained herein, particularly the
5 covenant to voluntarily annex the Lots into the City, shall be included in
6 any such amendment to this Bill of Assurance.

7 RESTRICTIONS:

Owner, to be binding on all future grantees of the Lots, specifically
8 agrees all ordinances of the City shall be strictly adhered to and followed
9 and, should the Plat or this Bill of Assurance be contrary, in any way, to
10 the ordinances adopted by the City, from time to time, such ordinances
11 shall have precedence.

12 All buildings constructed on the Lots shall be constructed no nearer the
13 street than the building line shown on the Plat, and all buildings shall be
14 constructed in conformance with the Building Code and Zoning
15 Ordinance of the City.

16 ANNEXATION:

Owner agrees that, upon written request from the City to do so, if the
17 Lots are contiguous to the corporate boundaries of the City, Owner will
18 execute for filing a petition to voluntarily annex the Lots into the City.
19 The City is not required to make this request.

20
21
22 [Signatures Follow]

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1 IN WITNESS WHEREOF, Owner does hereby set their hand and seal on this Bill of Assurance as of
2 this ____ day of _____, 2021.

3 **CF Bat LIT LLC,**
4 a Delaware limited liability company

5
6 By: _____

7
8 Name: _____

9
10 Title: _____
11

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

12
13 **State of California**)
14)
15 **County of Los Angeles**)
16

17 On _____, 2021, before me, _____, Notary
18 Public, personally appeared William Turner, who proved to me on the basis of satisfactory
19 evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and
20 acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies),
21 and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
22 which the person(s) acted, executed the instrument.

23 I certify under PENALTY OF PERJURY under the laws of the State of California that the
24 foregoing paragraph is true and correct.

25 WITNESS my hand and official seal.

26
27 **Signature:** _____

28 (Seal)

29 //

1 **Exhibit 1**

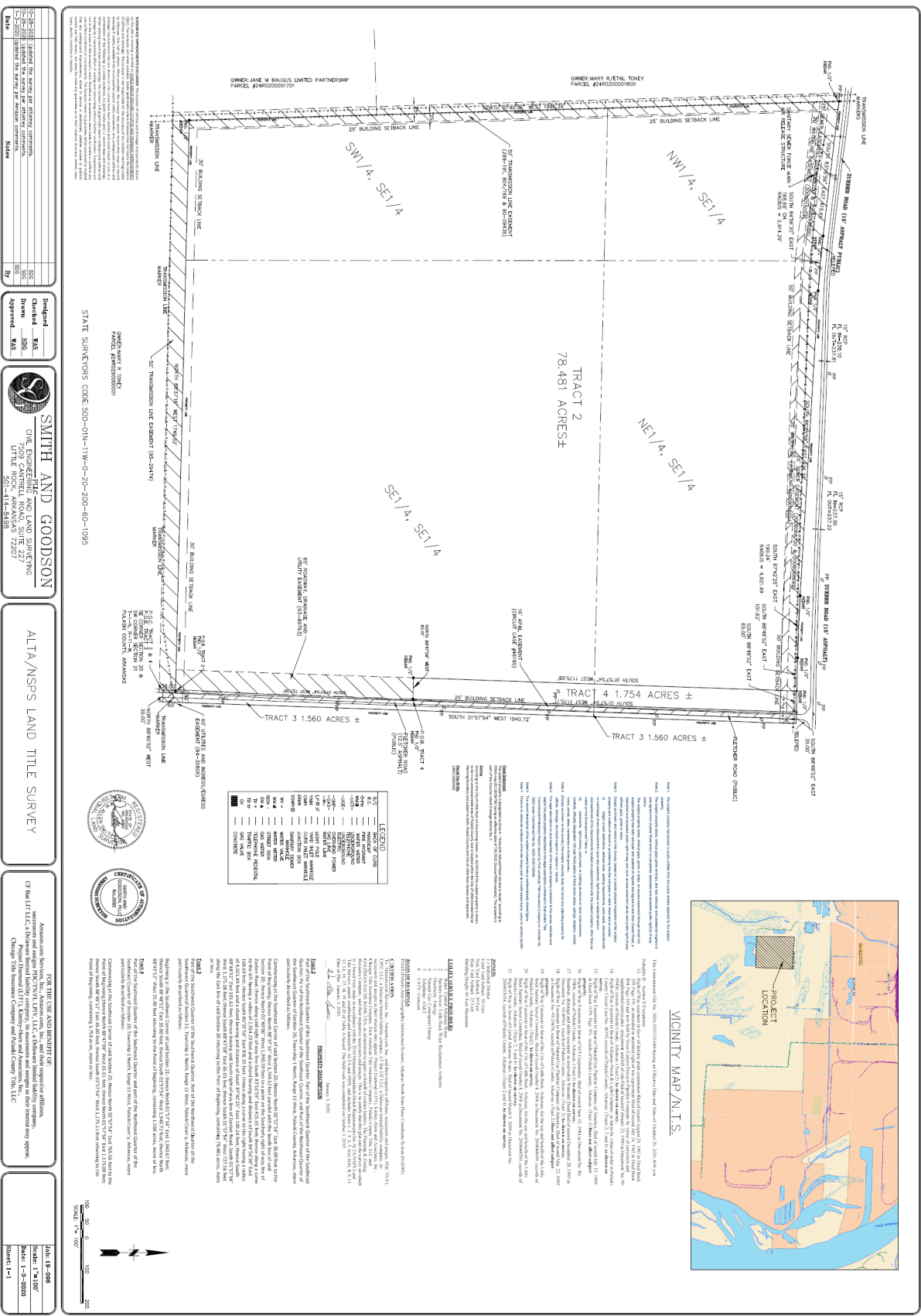
2
3 The land referred to below is situated in the County of Pulaski, State of Arkansas, and is described as
4 follows:

5 Tract 2: Part of the Southeast Quarter of the Southeast Quarter; Part of the Southwest Quarter of the
6 Southeast Quarter; Part of the Northwest Quarter of the Southeast Quarter, and Part of the Northeast
7 Quarter of the Southeast Quarter of Section 20, Township 1 North, Range 11 West, Pulaski County,
8 Arkansas, more particularly described as follows: Commencing at the southeast corner of said Section
9 20; thence North 01°57'54" East 38.00 feet to the Point of Beginning; thence North 88°37'16" West
10 1,749.52 feet parallel with the south line of said Section 20; thence North 01°40'06" West 1,990.39 feet to
11 a point on the southerly right-of-way line of Zueber Road; thence along said right-of-way line South
12 83°16'59" East 415.65 feet; thence along a curve to the left having a radius of 2,914.29 feet and a chord
13 bearing and distance of South 84°56'30" East 168.69 feet; thence South 86°35'58" East 936.35 feet;
14 thence along a curve to the right having a radius of 4,921.49 feet and a chord bearing and distance of
15 South 87°42'25" East 190.24 feet; thence South 88°48'52" East 101.62 feet; thence leaving said South
16 right-of-way line of Zueber Road, South 01°57'54" West 1,175.08 feet; thence South 88°47'08" East
17 65.01 feet; thence South 01°57'54" West 727.56 feet along the East line of said Section 20 returning to the
18 Point of Beginning, containing 78.481 acres, more or less.

19 Tract 3: Part of the Southwest Quarter of the Southwest Quarter; Part of the Northwest Quarter of the
20 Southwest Quarter of Section 21, Township 1 North, Range 11 West, Pulaski County, Arkansas, more
21 particularly described as follows: Beginning at the southwest corner of said Section 21; thence North
22 01°57'54" East 1,940.67 feet; thence South 88°48'52" East 35.00 feet; thence South 01°57'54" West
23 1,940.72 feet; thence North 88°45'52" West 35.00 feet returning to the Point of Beginning, containing
24 1.560 acres, more or less.

25 Tract 4: Part of the Southeast Quarter of the Southeast Quarter and part of the Northeast Quarter of the
26 Southeast Quarter of Section 20, Township 1 North, Range 11 West, Pulaski County, Arkansas, more
27 particularly described as follows: Commencing at the southeast corner of said Section 20; thence North
28 01°57'54" East 765.56 feet to the Point of Beginning; thence North 88°47'08" West 65.01 feet; thence
29 North 01°57'54" East 1,175.08 feet; thence South 88°49'12" East 65.00 feet; thence South 01°57'54" West
30 1,175.11 feet returning to the Point of Beginning, containing 1.754 acres, more or less.

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DATE	BY	REVISION
01-20-2020	SMITH AND GOODSON	FINAL SURVEY
01-20-2020	SMITH AND GOODSON	REVISIONS
01-20-2020	SMITH AND GOODSON	REVISIONS
01-20-2020	SMITH AND GOODSON	REVISIONS
01-20-2020	SMITH AND GOODSON	REVISIONS

Prepared by: **SMITH AND GOODSON**
 Checked by: **SMITH AND GOODSON**
 Approved by: **SMITH AND GOODSON**

ALTA/MSPS LAND TITLE SURVEY

Assurances given by the Surveyor, in accordance with the provisions of the Arkansas Code, are hereby acknowledged. The Surveyor is not responsible for the accuracy of the information provided by the client.

FOR THE USE AND BENEFIT OF:
 ALTA/MSPS LAND TITLE SURVEY, INC.
 1800 W. 10th Street, Suite 100
 Little Rock, Arkansas 72207

Date: 01-20-2020
 Scale: 1" = 100'
 Sheet: 1 of 1

STATE SURVEYORS CODE 509-011-11W-0-20-200-60-1095
 REGISTERED PROFESSIONAL SURVEYOR
 LICENSE NO. 11922
 EXPIRES 12/31/2023

PROJECT: ALTA/MSPS LAND TITLE SURVEY
 PARCEL # 418020001700

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