

Benton Advertising & Promotion Commission

Called Meeting

Agenda

July 27, 2023

3:30 pm at the Benton Municipal Complex in Council Chambers

I. Call to Order

II. Roll Call	Present	Absent
Steve Brown	_____	_____
Alison Burch	_____	_____
Bill Eldridge	_____	_____
Elgin Hamner IV	_____	_____
Steve Lee	_____	_____
Luke Moody	_____	_____

III. Minutes from July Meeting

IV. Review of Bids

V. Adjournment

BENTON ADVERTISING & PROMOTION COMMISSION

Minutes

July 12, 2023

I. CALL TO ORDER

Chairman Bill Eldridge called the meeting of the Benton Advertising & Promotion Commission to order on July 12, 2023 at 3:31 pm at the Benton Municipal Complex in Council Chambers.

II. ROLL CALL

Commissioners in attendance included: Bill Eldridge, Steve Brown, Alison Burch, Elgin Hamner IV, Steve Lee and Luke Moody.

III. MINUTES

Luke Moody made a motion to approve the minutes of the June 14, 2023 meeting. Elgin Hamner IV seconded. Motion carried.

IV. FINANCIAL REPORTS

Financial reports were presented by Jordan Woolbright. The A&P Commission bank accounts show the following balances as of June 30, 2023:

Bank OZK – Focus Group Project	\$302,478.45
Bank OZK – A&P	\$78,520.85
Bank OZK – Event Center	\$366,199.62
Bank OZK – Savings	<u>\$370,697.18</u>
Total Checking/Savings	\$1,117,896.10

A&P profit and loss statement: for the month of June 2023 total income of \$18,800.60 and total expenses of \$10,890.23 resulting in net income of \$7,910.37. For the year to date as of June 2023 total income of \$101,544.01, total operating expenses of \$79,615.16 resulting in net income of \$21,928.85.

Event Center profit and loss statement: for the month of June 2023 total income of \$84,895.63, total operating expenses of \$33,507.95 resulting in net income of \$51,387.68. For the year to date as of June 2023 total income of \$372,628.88, total operating expenses of \$228,584.51 and capital expenditures of \$75,191.59 resulting in net income of \$68,852.78.

Focus Group profit and loss statement: for the month of June 2023 total income of \$19,566.48 and total expenses of \$0 resulting in net income of \$19,566.48. For the year to date as of June 2023 total income of \$105,188.12 and total expenses of \$0 resulting in net income of \$105,188.12.

City of Benton Financial Officer Mandy Spicer presented the bank account report with the following balances as of June 30, 2023:

	Statement Balance	Prev. Month's Balance
A&P Collections General	\$2,592.25	\$1,313.91
Bond Account	Closed	Closed
A&P Large Project Checking	\$1,188,020.65	\$1,096,431.70
A&P Small Project Checking	\$569,666.99	\$530,658.31
A&P General Operating Checking	\$80,085.85	\$70,610.48
Benton Focus Group Checking	\$302,478.45	\$282,911.97
Benton Event Center Gen Operating Checking	\$366,841.05	\$316,003.42
Benton Event Center Savings	<u>\$370,697.18</u>	\$369,391.66
	<u>\$2,880,382.42</u>	

- V. Collections received in the month of June 2023 were \$186,089.97 which is 11% higher than collections in June 2022. Below are the amounts collected in June of this year along with June of the previous four years:

June 2023 Collections	\$186,089.97
June 2022 Collections	\$168,019.16
June 2021 Collections	\$152,994.36
June 2020 Collections	\$123,024.71
June 2019 Collections	\$135,416.48

Mandy directed the commissioners to the list of delinquent businesses in their meeting packets. Of the ten businesses, only two are two months past due (the others are only one month late). All of them have been contacted by the city. Mandy reviewed the process of notifying a business that it is delinquent, including phone calls, a letter explaining the late fee and penalty and another letter detailing that the business' license may be revoked.

Luke Moody made a motion to accept the financial reports as presented. Steve Lee seconded. Motion carried.

VI. FUNDING REQUESTS

Bill Eldridge directed the commissioners to the updated list of all requested funds and approved funds so far in 2023.

1. Saline County Art League- 2nd reading for requested funding amount of \$3,150. Bill Eldridge called for any discussion or questions regarding the funding request. There were none. Steve Lee made a motion to approve the funding request of \$3,150. Luke Moody seconded. Motion carried.
2. Saline County Fair & Rodeo- 2nd reading for requested funding amount of \$6,500. Bill Eldridge called for any discussion or questions regarding the funding request. There

were none. Luke Moody made a motion to approve the funding request of \$6,500. Steve Lee seconded. Motion carried.

3. Benton Senior Activity & Wellness Center- Old Fashion Day- 2nd reading for requested amount of \$5,000. Bill Eldridge called for any discussion or questions regarding the funding request. There were none. Steve Lee made a motion to approve the funding request of \$5,000. Luke Moody seconded. Motion carried.

VII. REPORT FROM BENTON EVENT CENTER

Director Nikki Chumley reported that there have been 11 renters in the building since the last A&P meeting. There have been six multi-day events for a total of 5,105 attendees. She provided that the cleaning service has performed fantastic and the lighting project replacing some lights and retrofitting others is almost complete.

VIII. REPORT ON THE DEVELOPMENT OF EXIT 114 PROPERTY

Bill Eldridge reported that the request for bids issued for the purchase of the 30 acres of land located at Exit 114 has been extended to July 27 in response to requests made by companies interested in submitting a bid. Since the bid request required a lot of specific information to be submitted, it was decided to extend the deadline. The bids will be opened on Thursday, July 27, at 11:15 am in Council Chambers.

Bill Eldridge proposed holding a special called meeting of the A&P Commission on Thursday, July 27, at 3:30 pm to review the bids. All commissioners stated that could be in attendance.

Bill Eldridge reminded the commissioners that part of the contract to purchase the land owned by Jim Thomas is for the A&P Commission to pay for a fence to segregate the approximately 35 acres of land retained by Mr. Thomas. Bill provided that the specifications have been received and suggested a bid request be issued for a contractor to complete the project. Luke Moody made a motion to approve a bid process to receive proposals for building a fence around the approximately 35 acres of land owned by Jim Thomas pursuant to the contract. Allison Burch seconded. Motion carried.

IX. OLD BUSINESS

None.

X. NEW BUSINESS


Amy McCormick provided that the process of filling the vacant commissioner seat has begun by placing an ad in *The Saline Courier* for ten days. The deadline for interested candidates to submit a letter of interest is July 24. The candidate selected by the A&P Commission will then need to be approved by the Benton City Council.

XI. OTHER BUSINESS

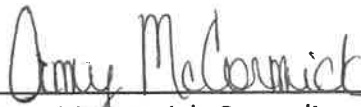
None.

XII. ADJOURNMENT

Luke Moody made a motion to adjourn the meeting. Elgin Hamner IV seconded.
Motion carried. The meeting was adjourned at 3:54 pm.



Bill Eldridge, Chairman



Amy McCormick, Recording Secretary



CITY OF BENTON
 114 S East Street
 Benton, AR 72018
 (501) 776-5900



Bid Number: 2023-10

Commodity: Thomas Property Commercial Development

Department: A & P Commission

Bid Opening Date/ Time: Thursday, July 27, 2023 @ 11:15 a.m.

Company	Representative	Amount
<u>CSMS Management</u>	<u>Joe O'Leary</u>	<u>\$77,586.21</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Witnesses
[Signature]
[Signature]



Office of Administrative Services
 114 S. East Street
 Benton, AR 72015

Request for Proposals

Bid Number: RFP 2023-10	Buyer: Mandy Spicer, CFO
Commodity: Thomas Property Commercial Development	Bid Opening Date: Thursday, June 20, 2023 Thursday, July 27, 2023
Department: A&P Commission	Bid Opening Time: 11:15 a.m.
Date Issued: Thursday, June 15, 2023	

All proposals will be accepted until ~~Thursday, June 20, 2023~~ **Thursday, July 27, 2023**. All proposals must be placed in a sealed package clearly marked on the outside "Thomas Park Commercial Development RFP." The envelope should be properly addressed to the City of Benton A&P Commission with the Proposer's name and address indicated outside on the sealed package. An unsigned proposal will be considered non-responsive.

Mailing Address:	Bid Opening Location:
PO Box 607	114 S. East Street
Benton, AR 72018	Benton, AR 72015

CSMS MANAGEMENT, LLC

Printed Name of Company

11200 W. Broadway, Ste. 2332, Pearland, Texas 77584

Company Address

210-833-1440

Telephone Number

Fax Number

legal@csmsmanagement.com

E-Mail Address

Joe O'Leary, Vice President

7/20/23

Printed Name of Authorized Signature

Date

7/20/23

Authorized Signature

Date



Section 1 – General Information

Introduction: This Request for Proposal is issued by the City of Benton A&P Commission to seek a prospective buyer for up to 30 acres of the Thomas Park property located in the upper southwest corner between I-30 and 229 to develop commercially. Please see the attachment at the end of the document.

Caution to Bidders:

1. Vendors **must** submit two (2) signed, original RFP responses on or before the date specified on page one.
2. The City of Benton A&P Commission has the right to award this proposal to any Proposer regardless of proposal price. Proposals may not be withdrawn within 60 days after the proposals are opened. Proposal processes shall be in accordance with state law.
3. The City of Benton A&P Commission reserves the right to award a contract or reject any or all proposals and to waive any and all informalities associated with the proposal, if it is in the best interest of the City to do so. Bids may be rejected for one or more reasons not limited to the following:
 - a. Failure of the vendor to submit bid on or before the deadline established by this RFP.
 - b. Failure to sign the Official RFP Document.
 - c. Failure to complete the Official RFP Price Sheet.
 - d. Any wording by the vendor in their response to this RFP which conflicts with or takes exception to a requirement in the RFP.
 - e. Failure of any proposed goods or service to meet or exceed the specifications.

Equal Employment Opportunity Policy: The City of Benton A&P Commission does not discriminate because of race, sex (including pregnancy), religion, color, handicap, national origin, age, genetic information or political affiliation.

Delivery of Response Documents: It is the responsibility of vendors to submit bids at the place, and on or before the date and time, set in the RFP solicitation documents. RFP documents received after the date and time designated for bid opening are considered late bids and shall not be considered.



General Terms and Conditions for Proposals

- 1. Restrictive or Ambiguous Specifications:** It is the responsibility of the prospective Proposer to review the entire RFP packet and to notify the Purchasing Department if the specifications are formulated in a manner that would unnecessarily restrict competition. Any such protest or question regarding the specifications of proposal procedures must be received in the Purchasing Department not less than seventy-two (72) hours prior to the time set for proposal opening. These requirements also apply to specifications that are ambiguous.
- 2. Taxes:** **Make sure to include all applicable taxes in your proposal.**
- 3. Liabilities:** The Proposer shall hold the City of Benton A&P Commission, its officers, elected officials, agents, servants, and employees, harmless from liability of any nature or kind because of use of any copyrighted or un-copyrighted composition, secret, process, patented or unpatented invention, articles or appliances furnished or used under this proposal, and agrees to defend, at his own expense, any and all actions brought against the City of Benton A&P Commission because of the unauthorized use of such articles.
- 4. Terms and Conditions:** In the event of a conflict between the proposal specifications and these terms and conditions the specifications will govern.
- 5. Warranties:** All warranty information must be furnished.
- 6. Alternate Proposals:** Alternate proposals are not acceptable and will be rejected unless authorized by the invitation to proposal. Alternate proposals are defined as proposals that do not comply with the proposal terms, conditions, and specifications. Proposers may submit more than one proposal providing that all such proposals comply with proposal terms, conditions, and specifications.
- 7. Exceptions:** Proposers taking exceptions to any part or section of this invitation shall indicate such exceptions on the proposal form. Failure to indicate any exception will be interpreted as the proposer's intent to comply with and/or supply the requirements as written in the proposal document.
- 8. Qualifications of Proposers:** A Proposer may be required, before the award, to show to the complete satisfaction of the City of Benton A&P Commission that it has the necessary facilities, ability, and financial resources to provide the service or goods specified.
- 9. Additional Information:** Proposers are cautioned that any statement made by an individual, or employee of the City of Benton A&P Commission that materially changed any portion of the proposal document shall not be relied upon unless subsequently ratified by a formal written amendment to the proposal document.



10. Acceptance of Terms: All terms and conditions in the invitation are deemed to be accepted by the Proposer and incorporated in the proposal, except the provision(s) which are expressly excluded by the proposal specifications.

11. Drug Free Workplace Program for Construction: Law prohibits state or local governments from contracting for construction services with any private entity having five or more employees who has not furnished a written affidavit by its principal officer at the time of the proposal or contract stating that the contractor is in compliance with the provisions of this act.

12. Public Access to Procurement Information: All public records pertaining to purchasing shall be open for inspection during normal business hours. Information relating to the award of a particular contract shall be public only after evaluation of that proposal or proposal has been completed.

Definitions:

"Applicant" - Proposer

"City" or "City of Benton" – The City of Benton, Arkansas, A&P Commission, collectively

"Hourly Labor Rate" - hourly rate without cost of materials per person

"Proposer" - the individual, firm, partnership, joint venture or corporation which submits a proposal to the City of Benton A&P Commission in response to this RFP

"RFP" - Request for Proposals

Evaluation and Award: After complete evaluation of the proposals, the anticipated award will be posted to the City of Benton Purchasing website.



Section 2 – Specific Requirements

References: Vendor must furnish as references a minimum of three (3) current customers located in the State of Arkansas who have received services of the same or similar in scope within the last five (5) years.

Business Name:	City of Athens, AL
Business Address:	
Contact Person and Phone:	Mayor Ronnie Marks 256.233.8730
Email Address:	rmarks@athensal.us

Insurance: Prior to award, the successful vendor shall furnish an approved Certificate of Insurance from a company or agent licensed in the State of Arkansas and must keep insurance in force throughout the contract period and any extensions. The insurance may not be modified without the City of Benton A&P Commission's approval.

The following is a list of liability limits for Worker's Compensation and Employee Fidelity Coverage and standard limits as outlined by vendor's insurance carrier.

1. Worker's Compensation and Employee Liability Policy

Worker's Compensation	Statutory Limits
Employer's Liability	\$1,000,000 each accident
2. Comprehensive General Liability Policy

Premises and Operation	
Contractual Insurance	
Personal Injury	

Each item listed in section 2 must have:

Bodily Injury	\$500,000 each person
	\$500,000 each occurrence
Property Damage	\$2,000,000 each occurrence
	\$2,000,000 aggregate

The Vendor shall assume all liability for any accidental or criminal occurrence.



Section 2 – Specific Requirements

References: Vendor must furnish as references a minimum of three (3) current customers located in the State of Arkansas who have received services of the same or similar in scope within the last five (5) years.

Business Name:	Gordon County Development Authority; Calhoun GA
Business Address:	
Contact Person and Phone:	Kathy Johnson, President 706.879.8008
Email Address:	kjohnson@gordoncountychamber.com

Insurance: Prior to award, the successful vendor shall furnish an approved Certificate of Insurance from a company or agent licensed in the State of Arkansas and must keep insurance in force throughout the contract period and any extensions. The insurance may not be modified without the City of Benton A&P Commission's approval.

The following is a list of liability limits for Worker's Compensation and Employee Fidelity Coverage and standard limits as outlined by vendor's insurance carrier.

1. Worker's Compensation and Employee Liability Policy

Worker's Compensation	Statutory Limits
Employer's Liability	\$1,000,000 each accident

2. Comprehensive General Liability Policy

Premises and Operation
Contractual Insurance
Personal Injury

Each item listed in section 2 must have:

Bodily Injury	\$500,000 each person \$500,000 each occurrence
Property Damage	\$2,000,000 each occurrence \$2,000,000 aggregate

The Vendor shall assume all liability for any accidental or criminal occurrence.



Section 2 – Specific Requirements

References: Vendor must furnish as references a minimum of three (3) current customers located in the State of Arkansas who have received services of the same or similar in scope within the last five (5) years.

Business Name: City of Luling, Texas
Business Address:
Contact Person and Phone: City Manager Mark Mayo 830.351.3243
Email Address: citymanager@cityofluling.net

Insurance: Prior to award, the successful vendor shall furnish an approved Certificate of Insurance from a company or agent licensed in the State of Arkansas and must keep insurance in force throughout the contract period and any extensions. The insurance may not be modified without the City of Benton A&P Commission's approval.

The following is a list of liability limits for Worker's Compensation and Employee Fidelity Coverage and standard limits as outlined by vendor's insurance carrier.

1. Worker's Compensation and Employee Liability Policy

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Premises and Operation	
Contractual Insurance	
Personal Injury	

Each item listed in section 2 must have:

Bodily Injury	\$500,000 each person
	\$500,000 each occurrence
Property Damage	\$2,000,000 each occurrence
	\$2,000,000 aggregate

The Vendor shall assume all liability for any accidental or criminal occurrence.



Section 3 – Scope of Services

Scope of Services: The City of Benton A&P Commission is seeking a prospective buyer of up to 30 acres of the Thomas Park property located within the City of Benton, Saline County, Arkansas, for commercial development. The site is located along the Saline River in the upper southwest corner between Interstate 30 and 220. It is anticipated that the property will be annexed into the City of Benton and will be appropriately zoned for commercial purposes. The City of Benton A&P Commission anticipates developing adjacent property to include a RV Park, ball fields, bicycle and walking trail. The prospective buyer shall begin developing commercially within one (1) year of closing of the property and completion within three (3) years. Please see attached site plan provided by McClelland Consulting Engineers, Inc.

A successful bid shall include:

1. Number of acres proposed to purchase;
2. Price per acre;
3. Anticipated commercial purpose;
4. Number of anticipated employees and ranges of compensation;
5. Any requested buyer concessions;
6. A proposed purchase contract; and
7. A description of the anticipated economic impact for the community.

Proposals will be evaluated based upon their short and long-term economic impact on the City of Benton.

*Contact Mandy Spicer, Chief Financial Officer at Mandy.Spicer@bentonar.org or 501-381-3710 for additional information on this proposal.



Office of Administrative Services
 114 S. East Street
 Benton, AR 72015

Official RFP Price Sheet

All applicants must fill out the form below, along with the appropriate authorized signatures.

Number of acres proposed to purchase	29
Price per acre	\$77,586.21
Anticipated commercial purpose	travel center \$60MM Capital Expenditure
Number of anticipated employees and ranges of compensation	250
Any requested buyer concessions	\$16 - \$18/hour*
A proposed purchase contract	see attached
A description of the anticipated economic impact for the community	\$1,250,000 sales tax revenue **

* with insurance benefits, 401(k), 3 weeks paid time off **\$275,000 property tax; 5 MM visitors/ > 60% from out of county/state

Upon signing this form, the applicant acknowledges that all information provided in this RFP is true and will provide documentation requested.

Price given above is the final to the City of Benton and includes all taxes, overhead and profit to the bidder. The City of Benton reserves the right to accept any or all part of bids, to reject any or all bids and to award to the bid deemed in the best interest to the City.

CSMS MANAGEMENT, LLC

Printed Name of Company

11200 W. Broadway, Ste. 2332, Pearland, Texas 77584

Company Address

281-928-7743

Telephone Number

Fax Number

legal@csmsmanagement.com

E-Mail Address

Joe O'Leary, Vice President

7/20/23

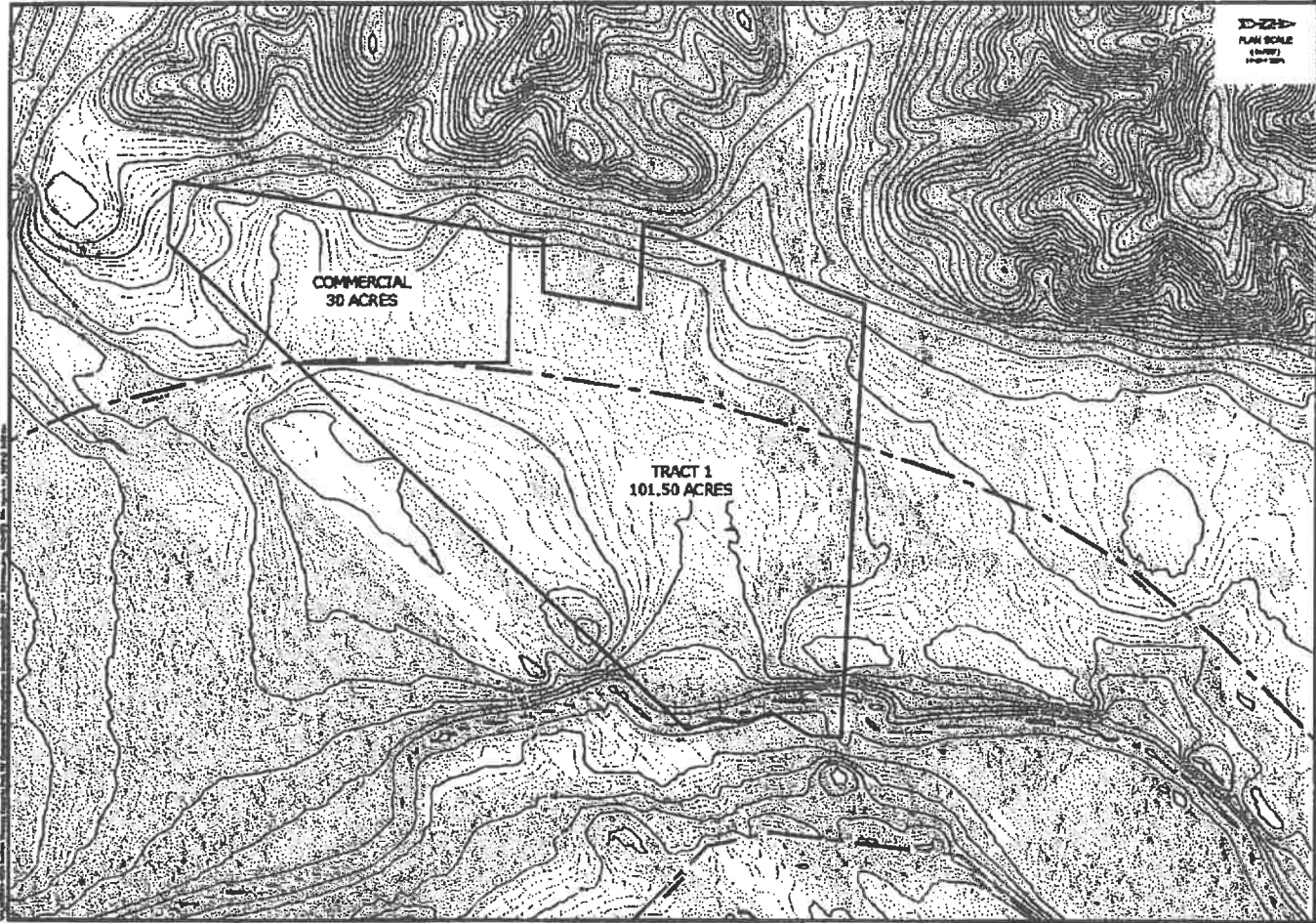
Printed Name of Authorized Signature

Date

7/20/23

Authorized Signature

Date



ANGLIAN CONSULTING
 1000 W. 10th St.
 Little Rock, Arkansas 72209
 (501) 371-6000
 www.anglian.com

10/11

**THOMAS PARK
 RV CAMPGROUND**
 SITE PLAN



NO.	DATE	DESCRIPTION

23-3720 -
 DESK06 - 206
 SCALE_01

NO.	DATE	DESCRIPTION

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (this "Agreement") is made and entered into this ___ day of _____, 2023 (the "Effective Date"), by and between City of Benton Arkansas, a [_____] ("Seller"), and CSMS Management, LLC, a Delaware limited liability company ("Buyer"). Buyer and Seller are sometimes referred to in this Agreement collectively as the "Parties" and individually as a "Party."

WHEREAS, Seller is the owner of approximately [___] acres of land located in Benton, Saline County, Arkansas, [parcel number(s) _____] which is [described/depicted] on Exhibit D, attached hereto and incorporated herein (the "Seller's Land"), and

WHEREAS Seller desires to sell to Buyer and Buyer desires to acquire from Seller a portion of the Seller's Land, all as more fully described and pursuant to the terms and conditions set forth below.

Now, therefore, for and in consideration of One Hundred Dollars (\$100.00), the exchange of obligations in this Agreement, and other good and valuable consideration, the sufficiency of which is acknowledged, the Parties agree as follows:

1. Purchase and Sale. Subject to the terms and conditions set forth in this Agreement, Seller shall convey to Buyer, and Buyer shall purchase from Seller fee simple title to approximately Twenty-Nine (29) acres of unimproved real estate located at the northeast corner of I-30 and Hwy 229 in Benton, Saline County Arkansas, approximately as depicted on Exhibit A attached hereto and made a part hereof, (the "Sale Land"), together with all rights, titles, privileges, hereditaments, easements, oil and gas and other minerals, licenses, adjacent streets, alleys, strips, gores, rights-of-way, appurtenances, improvements, structures, fixtures, billboards, entitlements, personal property, if any, and all other interests of Seller appurtenant to the Sale Land (the "Property"). The legal description of the Property is subject to a current survey to be obtained by Buyer at Buyer's expense (the "Survey"), and the Parties agree to amend this Agreement to reference the legal description on the Survey. Seller and Buyer acknowledge that the depictions of the Property to be acquired contained in this Agreement (until such time as the parties attach an agreed upon legal description for the Property) technically may be, or is, legally insufficient for the purposes of supporting an action for specific performance or other enforcement hereof. As such, Seller and Buyer confirm unto one another that notwithstanding the insufficiency, the parties desire to proceed to sell and purchase the Property. Therefore, because the parties are desirous of executing this Agreement, and to provide for the right of Buyer to demand and successfully enforce specific performance and to insure such right is not precluded due to the legal description of the Property, Seller and Buyer agree that (a) in fact, they specifically are familiar with the location of the Property, (b) each party waives any and all claims of an insufficient legal description in a cause of action for performance hereunder, and (c) upon Seller and Buyer's approval of the Survey provided for herein, the metes and bounds of the Property prepared by the surveyor shall become the legal description of the Property.

2. Price, Deposit, and Consideration.

(a) The purchase price for the Property shall be Two Million Two Hundred Fifty Thousand and No/100 Dollars (\$2,250,000.00) (the "Purchase Price").

(b) No later than three (3) business days after the Effective Date, Buyer shall deliver One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) in immediately available funds to Chicago Title Insurance Company at 609 Main Street, Suite 2350, Houston, Texas 77002 Attention: Ria van Dright (the "Title Company") for deposit in an interest-bearing escrow account (the "Escrow Account"). Funds in the Escrow Account excluding the Independent Consideration (as defined below) shall be

referred to in this Agreement as the “**Earnest Money**”. The Earnest Money shall be fully refundable if Buyer terminates this Agreement prior to the expiration of the Initial Due Diligence Period (as defined in Section 3 below). Notwithstanding any other provision of this Agreement, upon Closing (as defined below), all Earnest Money, including any non-refundable Earnest Money, shall be applied to the Purchase Price. If the Closing does not occur, the Earnest Money shall be disbursed as provided for in Section 3 below and all interest, earned on the Earnest Money, if any, shall be disbursed to Buyer.

(c) No later than ten (10) business days after the Effective Date, the Title Company shall deliver to Seller One Hundred Dollars (\$100.00) (the “**Independent Consideration**”) from the Escrow Account, which amount has been bargained for and agreed to as consideration for Buyer’s option to purchase the Property, Buyer’s right to conduct inspections under Section 3 below, and Buyer’s right to terminate this Agreement under Section 3 below. The Independent Consideration shall be non-refundable and shall not be applied to the Purchase Price.

3. Due Diligence.

(a) No later than twenty (20) business days after the Effective Date, Seller shall deliver to Buyer all information set forth on Exhibit B that is in Seller’s possession, custody, or control relating to the Property, and Seller shall promptly deliver to Buyer additional information in Seller’s possession, custody, or control relating the Property that Buyer may reasonably request during the Due Diligence Period (the “**Property Information**”).

(b) For a period of one-hundred eighty (180) calendar days commencing on the Effective Date (the “**Initial Due Diligence Period**”), Buyer or any person or entity authorized by Buyer shall have the right to enter upon the Property for purposes of undertaking tests, analysis, inspections, or evaluations of any kind in Buyer’s sole and absolute discretion, including but not limited to Phase I and Phase II environmental testing, to determine the suitability of the Property for Buyer’s intended use (“**Due Diligence**”). Buyer’s Due Diligence may include applications of any kind including applications relating to zoning, building permits, site plan approval, design review, entitlements, and access permits (“**Permits**”), and Seller, at Buyer’s sole cost and expense, shall cooperate with Buyer’s applications for Permits including executing or submitting applications if Seller, as the Property owner, is required to execute or submit such applications. Seller shall execute an assignment at Closing assigning to Buyer any Permits, applications for Permits, associated drawings, deposits, bonds, and development rights, if any. No Permits shall become effective until Closing without Seller’s consent in Seller’s sole and absolute discretion. If the transaction fails to Close because Buyer terminates this Agreement under Section 3(d), Buyer shall promptly restore the Property to substantially the same condition as the Property’s condition immediately prior to the Initial Due Diligence Period at Buyer’s sole cost and expense. Buyer’s obligation to restore the Property shall survive termination of this Agreement.

(c) Buyer may extend the Initial Due Diligence Period as set forth below. The Initial Due Diligence Period as extended below shall be referred to as the “**Due Diligence Period**”.

(i) Buyer shall have the option to extend the Initial Due Diligence Period for forty-five (45) calendar days (the “**First Extension Period**”) by delivering (in accordance with Section 14(g)) written notice to extend (an “**Extension Notice**”) prior to the expiration of the Initial Due Diligence Period. Fifty Thousand and No/100 Dollars (\$50,000.00) of the Earnest Money shall become non-refundable (but shall be applied to the Purchase Price at Closing) when Buyer delivers the first Extension Notice to Seller;

(ii) Buyer shall have the option to extend the Due Diligence Period for an additional forty-five (45) calendar days (the “**Second Extension Period**”) by delivering (in accordance with

Section 14(g)) an Extension Notice to Seller prior to the expiration of the First Extension Period. An additional deliver Fifty Thousand and No/100 Dollars (\$50,000.00) of the Earnest Money shall become non-refundable (but shall be applied to the Purchase Price at Closing) when Buyer delivers the second Extension Notice to Seller; and

(iii) Buyer shall have the option to extend the Due Diligence Period for a third Extension Period of forty-five (45) calendar days (the "**Third Extension Period**") by delivering (in accordance with Section 14(g)) an Extension Notice to Seller prior to the expiration of the Second Extension Period. An additional Fifty Thousand and No/100 Dollars (\$50,000.00) of the Earnest Money shall become non-refundable (but shall be applied to the Purchase Price at Closing) when Buyer delivers the third Extension Notice to Seller.

(d) If Buyer, for convenience, for any reason, or for no reason whatsoever, in Buyer's sole and absolute discretion, determines during the Due Diligence Period not to proceed with acquisition of the Property, Buyer shall have the right to terminate this Agreement by delivering notice of termination (the "**Termination Notice**") on or before expiration of the Due Diligence Period whereupon this Agreement shall immediately terminate. If Buyer terminates this Agreement under this Section 3(d) prior to the end of the Initial Due Diligence Period, the Earnest Money shall be disbursed to Buyer within seven (7) business days after Delivery of the Termination Notice to Seller. The non-refundable portion of the Earnest Money shall be disbursed to Seller within seven (7) business days after delivery of the Termination Notice to Seller if Buyer terminates this Agreement under this Section 3(d) after the Initial Due Diligence Period. Notwithstanding any provision to the contrary, in the event Buyer terminates this Agreement after the Due Diligence Period due to Buyer's inability to obtain governmental approval of (i) Buyer's intended use of the Property or (ii) Buyer's desired improvements to the I-40/ Weir Road intersection, all Earnest Money, including non-refundable Earnest Money, shall be disbursed to Buyer within seven (7) business days after Delivery of the Termination Notice to Seller. Upon termination under this Section 3(d), neither Party shall have any further obligations under this Agreement, other than obligations that expressly survive termination.

4. Title Review. Seller shall cause the Title Company to deliver to Buyer a commitment (the "**Title Commitment**") to issue an owner's policy of title insurance that will insure that Buyer will receive good and marketable fee simple title to the Property upon Closing (the "**Title Policy**") together with copies of documents underlying the terms of the Title Commitment. Any exclusions, exception, or encumbrances ("**Title Exceptions**") in the Title Policy that Buyer has approved in writing shall be referred to in this Agreement as the "**Permitted Exceptions**". Seller shall cure without notice (a) mortgages, monetary liens, deeds of trust, assignments, judgments, judgment liens, mechanic's and materialman's liens, and similar liens not caused by Buyer; (b) any real estate tax or special-assessment liens relating to periods on or before Closing; (c) any seller obligations under the "Requirements" section of the Title Commitment; and (e) any assessments, fees, costs, or other charges asserted or imposed by governing authorities, water districts, and any property owners' association or similar entity or association (the "**Mandatory Cure Exceptions**"). Prior to expiration of the Due Diligence Period, Buyer shall notify Seller of any exceptions in the Title Commitment that are unacceptable to Buyer. If Seller is unwilling or unable to resolve and remove such title exceptions Buyer shall have the right to terminate this Agreement. Should Buyer terminate this Agreement pursuant to this Section 4 notwithstanding any other provision of this Agreement to the contrary, all Earnest Money, including non-refundable Earnest Money, but excluding the Independent Consideration, shall be disbursed to Buyer within seven (7) business days after termination by Buyer; and neither Party shall have any further obligations under this Agreement, other than obligations that expressly survive termination. For avoidance of doubt, Seller shall be obligated to cure Mandatory Cure Exceptions regardless of whether Buyer objects to them.

5. Condemnation and Casualty. Seller shall be responsible for risk of loss resulting from (a) any casualty adversely affecting the Property including contamination by or a release of Hazardous Substances (as defined below) and (b) any condemnation, eminent domain, taking proceeding, conveyance of a deed in lieu thereof, or any similar action (each a "Taking") that is commenced or has been threatened before Closing. If before Closing, the Property or any portion of the Property shall be damaged by casualty, shall be subjected to threat of a Taking, or shall become the subject of any proceeding, judicial, administrative, or otherwise relating to a Taking, (i) Buyer shall have the right to terminate this Agreement in which event, all Earnest Money, including non-refundable Earnest Money, but excluding the Independent Consideration, shall be disbursed to Buyer within seven (7) business days after termination by Buyer; and (iv) neither Party shall have any further obligations under this Agreement, other than obligations that expressly survive termination. If Buyer does not exercise Buyer's right to terminate under this Section 5, this Agreement shall remain in full force and effect and Seller shall assign to or pay Buyer at Closing all Seller's interest in and to all insurance proceeds resulting from Property casualty or any condemnation awards relating to a Taking.

6. Restrictive Covenants. At Closing, Seller shall instruct the Title Company to record, in the official real estate records of Pope County, Arkansas immediately prior to conveyance of the Property to Buyer, restrictive covenants (the "Restrictive Covenants") that shall run with the land and shall benefit the Property and burden the Seller's Property retained by Seller [and any additional property contiguous to Seller's Property acquired by Seller prior to Closing] ("Seller's Remaining Property"). The Restrictive Covenants shall prohibit the competitive and offensive uses set forth on Exhibit E, attached hereto and made a part hereof. Seller's Remaining Property shall be more particularly described by metes and bounds in the Restrictive Covenants.

7. Closing. Completion of the transactions contemplated in this Agreement ("Closing") shall occur at the offices of the Title Company on a date agreed upon between the Parties but in no event more than thirty (30) calendar days after the expiration of the Due Diligence Period. Neither Seller nor Buyer shall be required to be physically present at the Title Company for Closing. On or before Closing, the Parties shall deliver to the Title Company the following items in escrow:

(a) Seller shall deliver at Closing:

(i) A special warranty deed (the "Deed") in the form attached as Exhibit C and executed and acknowledged by Seller, conveying the Property to Buyer, subject only to the Permitted Exceptions;

(ii) The Title Policy;

(iii) Disclosures, reports, and instruments required by applicable federal, state, or local law in connection with the conveyance of real property;

(iv) Certification of Seller's non-foreign status pursuant to section 1445 of the Internal Revenue Code of 1986, as amended;

(v) A duly executed affidavit in a form customarily used for commercial real estate transactions in the State of Arkansas and which will allow the Title Company to issue its standard title insurance policy without the "gap" exception and without exception for leases, persons in possession, or any standard exceptions;

(vi) Seller's settlement statement prepared by the Title Company and executed by Seller;

(vii) Resolutions, certificates of good standing, or other organizational documents the Title Company reasonably requires to satisfy the Title Policy requirements and establish Seller's authority to Close;

(viii) An assignment of Permits and development rights prepared by Buyer and executed by Seller;

(ix) Restrictive Covenants prepared by Buyer and executed by Seller; and

(x) Any additional documents the Title Company or Buyer reasonably requires from Seller for the Closing.

(b) Buyer shall deliver at Closing:

(i) The Purchase Price in immediately available funds, adjusted by application of the Earnest Money, prorations, Closing costs, and expenses

(ii) Buyer's settlement statement prepared by the Title Company and executed by Buyer; and

(iii) Any additional documents the Title Company or Seller may reasonably require to Close.

8. Closing Costs and Prorations.

(a) All ad valorem taxes and assessments shall be prorated as of Closing based upon the most recent assessed values and tax rates, subject to post-Closing adjustment at Buyer's written election to be made within thirty (30) calendar days after final assessments become available. The Parties shall be responsible for costs and expenses associated with their own legal counsel, document preparation, and document review.

(b) Buyer shall be solely responsible for (i) costs associated with Buyer's Due Diligence, (ii) fifty percent (50%) of Closing fees charged by the Title Company, (iii) the cost of title examination and the Title Policy, (iv); expenses associated with endorsements (beyond extended coverage) to the Title Policy requested by Buyer, and (iv) the cost of the Survey.

(c) Seller shall be solely responsible for (i) fifty percent (50%) of Closing fees charged by the Title Company; (ii) all real estate commissions; (iii) all transfer taxes, costs, or expenses; (iv) costs associated with recording the Deed including any deed stamp or deed tax; and (v) costs associated with the removal of all Title Exceptions Seller is obligated to remove, including all Mandatory Cure Exceptions.

(d) The provisions of this Section 8 shall survive Closing.

9. Buyer's Representations and Warranties. As a material inducement for Seller to enter into this Agreement and Close, Buyer represents and warrants that:

(a) Buyer has been duly organized and is validly existing as a Delaware limited liability company;

(b) Buyer has the right, power, and authority and has obtained all consents required to satisfy Buyer's obligations under this Agreement and to Close;

(c) Buyer is not obligated to compensate or pay any fees or commissions to any real estate finder, broker, banker, or financial advisor relating to any of the transactions contemplated by this Agreement or the negotiations relating to Closing based upon arrangements made by or on behalf of Buyer; and

(d) Buyer's representations and warranties in this Section 9 are true as of the Effective Date and will be true as of Closing and shall survive Closing.

10. Seller's Representations and Warranties. As a material inducement for Buyer to enter into this Agreement and Close, Seller makes the representations and warranties below to Buyer. If Seller becomes aware prior to Closing that any of Seller's representations or warranties are or have become inaccurate or misleading, Seller shall promptly notify Buyer and take any actions approved by Buyer to remedy any facts that are inconsistent with such representations or warranties. Seller's representations and warranties set forth in this Section 10 must be true as of the Effective Date and as of Closing and shall survive Closing.

(a) Seller has been duly organized and is validly existing as a [_____]. Seller has the full right, power, and authority and has obtained all consents required to enter into this Agreement and Close. Seller has the power and authority required to own and convey the Property and to perform its obligations hereunder. The execution and delivery by Seller of this Agreement and the performance of its obligations hereunder do not violate any laws (including, without limitation, any building, planning, or zoning law), statutes, rules, regulations, ordinances, orders, codes, arbitration awards, judgments, decrees or other legal requirements of any Governmental Entity ("**Applicable Law**"); Seller's organizational documents, or any contract to which Seller is a party. "**Governmental Entity**" means any agency, board, bureau, commission, court, municipality, department, subdivision or instrumentality thereof, or any arbitrator or arbitration panel. This Agreement has been, and as of Closing will have been, duly executed and delivered by Seller, and this Agreement constitutes, and as of Closing shall constitute, the valid and binding agreement of Seller, enforceable against Seller in accordance with its terms.

(b) There is no action, suit, arbitration, administrative or other proceeding, or investigation pending or threatened against or affecting the Property or against Seller that would challenge or impair Seller's ability to execute or perform its obligations under this Agreement or that would adversely affect the transfer, ownership, use, occupancy, value, operation, or title to the Property.

(c) There is no violation of any Applicable Law relating to the Property. Seller has received no written notice that any Governmental Entity has determined that any such violations currently exist.

(d) Except as set forth in Section 11(g) below, Seller is not obligated to compensate or pay any fees or commissions to any real estate finder, broker, banker, or financial advisor relating to any of the transactions contemplated by this Agreement or the negotiations relating to Closing, based upon arrangements made by or on behalf of Seller.

(e) Seller is in peaceful and undisturbed possession of the Property and there are no restrictions imposed by contract or by Applicable Law that preclude or restrict the use thereof for the Buyer's intended use. There is no pending, threatened, or contemplated action by any Governmental Entity having the power of eminent domain that could result in a Taking of any part of the Property.

(f) There are no adverse physical conditions affecting any of the Property that would cause the Property to be unsuitable for Buyer's intended use.

(g) Good and marketable fee-simple title to the Property is vested in Seller. Except with respect to matters of record, (i) the Property is free and clear of any lien, mortgage, pledge, hypothecation, right of others, claim, security interest, encumbrance, lease, sublease, license, interest, option, charge or other restriction or limitation of any nature whatsoever ("Liens"); (ii) Seller has not leased any portion of the Property to any third party; Seller has not agreed to encumber any portion of the Property; (iii) no options or rights of first refusal have been granted to any third party to purchase or lease any interest in any part of the Property, or prevent the use or sale of the Property which are effective as of the date hereof or will be effective as of Closing; and (iv) there are no limitations concerning or restricting the use of the Property.

(h) Seller is not indebted to any contractor, laborer, mechanic, materialman, architect, or engineer for work, labor or services performed or rendered, or for materials supplied or furnished, in connection with the Property for which any person could claim a Lien against the Property. Any mechanic's or materialman's liens against the Property have been or by Closing will be satisfied and released, and as of Closing, there will be no right of any person or entity to file a mechanic's, materialman's, or other lien after Closing.

(i) There are no management agreements, maintenance or service contracts, or other agreements relating to the Property which would be binding on the Property or Buyer following Closing.

(j) There is no dispute involving or concerning the location of the boundary lines or corners of any portion of the Property, and there are no encroachments on any portion of the Property or by the Property on any other property.

(k) There have not been any releases of asbestos, any flammable, explosive, radioactive, hazardous, toxic, contaminating, polluting matter, waste or substance, including any material defined or designated as a hazardous or toxic waste, material or substance, or other similar term ("**Hazardous Substances**"), under any laws, statutes, ordinances, rules, regulations, orders or binding determinations of any Governmental Entity pertaining to the environment, including wetlands, in any and all jurisdictions in which any of the Property is located, including without limitation, the Clean Air Act, as amended, the Comprehensive Environmental, Response, Compensation, and Liability Act of 1980, as amended, the Federal Water Pollution Control Act, as amended, the Resource Conservation and Recovery Act of 1976, as amended, the Safe Drinking Water Act, as amended, the Toxic Substances Control Act, as amended, the Hazardous & Solid Waste Amendments Act of 1984, as amended, the Superfund Amendments and Reauthorization Act of 1986, as amended, the Hazardous Materials Transportation Act, as amended, any state laws pertaining to the handling of wastes or the use, maintenance, and closure of pits and impoundments, and other state or federal environmental conservation or protection laws in effect or that may be promulgated in the future ("**Environmental Laws**") on or from the Property, regardless of whether such releases were reported to any Governmental Entity.

(l) There have been no orders, judgments, injunctions, rulings, decrees, directives, notices of violation or other decisions of any Governmental Entity against the Property or Seller or issued to Seller under or relating to any Environmental Laws pertaining to the Property; nor is there any pending or threatened action, suit, proceeding, investigation, or inquiry by or before any Governmental Entity under any Environmental Laws relating to any of the Property that would have an adverse effect on the Property or its value, and there are no existing grounds on which any such action, suit, investigation, inquiry or proceeding could be commenced.

(m) All notices, permits, licenses, or similar authorizations, if any, required to be obtained or filed by Seller under any Environmental Laws (collectively, "**Environmental Permits**") with respect to any portion of the Property, including without limitation, those relating to the treatment, storage, disposal

or release of a Hazardous Substance or solid waste into the environment or construction of facilities, have been duly obtained or filed. Seller is in compliance with the terms and conditions of all Environmental Permits with respect to the Property, and all Environmental Permits with respect to the Property were issued by a Governmental Entity and have the force and effect of the laws under which they were issued.

- (n) Seller is in compliance with all Environmental Laws relating to the Property.
- (o) The copies of documents contained in the Property Information are true, accurate, and complete in all respects.
- (p) Seller has made no assignment or voluntary transfer for the benefit of creditors.
- (q) Seller is not a "foreign person" as contemplated by section 1445 of the Internal Revenue Code, as amended, and the relevant Income Tax Regulations.

11. Covenants. From the Effective Date through and including the earlier of termination of this Agreement or Closing, as the case may be, Seller, at Seller's sole cost and expense, shall:

- (a) Keep the Property insured sufficient to cover any risk of loss from casualty;
- (b) Enter into only those third-party contracts or leases affecting the Property for which Buyer has provided written consent in Buyer's sole discretion;
- (c) Promptly provide Buyer with copies of all notices or communications of any kind Seller receives relating to the Property;
- (d) Except for any existing Property listing agreement, not list the Property verbally or in writing with any individual or entity, and Seller agrees not to solicit, make, discuss, negotiate, or accept any offers to sell the Property or enter into any contracts or agreements, including back-up agreements, regarding conveyance of the Property;
- (e) Consult and coordinate with Buyer regarding any tax contest of ad valorem valuations affecting the Property, and Seller shall not take any actions in the prosecution or settlement of any tax contest that purports to bind the Property without Buyer's written consent, in Buyer's sole discretion;
- (f) Terminate any leases on the Property that are not approved by Buyer in writing, if any; and
- (g) Compensate Steve Greenburg, of The Retail Connection, acting as the broker for Seller, under the terms of a separate agreement between Steve Greenburg/ The Retail Connection and Seller.

12. Default.

(a) If Buyer fails to perform any of Buyer's material obligations under this Agreement, and such failure continues for more than three (3) business days after Seller has provided Buyer with written notice of such failure, Seller's sole and exclusive remedy shall be to terminate this Agreement after providing at least fifteen (15) calendar days' prior written notice and, if such termination occurs after the expiration of the Due Diligence Period, receive the Earnest Money as liquidated damages to compensate Seller for performance of Seller's obligations under this Agreement including those under Section 11 above, time spent, labor, services performed, and loss of Seller's bargain. The Parties agree it would be impracticable or extremely difficult to value damages if Buyer so defaults. The Earnest Money represents a reasonable estimate of Seller's damages.

(b) If Seller fails to perform any of Seller's material obligations under this Agreement, and such failure continues for more than three (3) business days after Buyer has provided Seller with written notice of such failure, Buyer may pursue any remedies in law or equity, including, without limitation, specific performance, and the recovery of all damages and reasonable legal fees and costs. Additionally, notwithstanding any provision to the contrary, Buyer shall be entitled to disbursement of the Earnest Money, including non-refundable Earnest Money.

(c) The provisions of this Section 12 shall survive Closing.

13. Indemnification.

(a) Seller shall indemnify, defend, and hold harmless Buyer, Buyer's affiliates, and their members, owners, officers, directors, employees, representatives, and agents against any and all claims, demands, suits, proceedings, attachments, levies, damages, losses, liabilities, liens, fines, penalties, demands for indemnification or contribution, and any other matter whatsoever, and all costs and expenses incurred in connection therewith, including attorneys' fees incurred or suffered by them as a result of (i) any failure to be true or correct of any of Seller's representation or warranty in this Agreement or any of the certificates or other writings required by Seller or delivered at Closing pursuant to this Agreement; (ii) any failure to perform or comply with any covenant or agreement of Seller in this Agreement; (iii) violation of any Environmental Law or the presence of any Hazardous Substance on the Property, any Hazardous Substance migrating from the property arising from or relating to conditions existing or events that occurred prior to Closing; or (iv) any act or omission of Seller.

(b) The provisions of this Section 13 shall survive Closing.

14. Miscellaneous.

(a) Buyer shall be permitted to assign this Agreement in whole or in part in Buyer's sole and absolute discretion. Seller shall be permitted to assign this Agreement with Buyer's prior written consent, in Buyer's reasonable discretion. No assignment shall relieve the assigning Party of its obligations under this Agreement.

(b) If any portion of this Agreement is held to be invalid or inoperative, so far as is reasonable and possible, the remainder of this Agreement shall be deemed valid and operative, and effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure by either Party to enforce any term or provision of this Agreement against the other Party shall not be considered a waiver of the non-breaching Party's right to enforce the same or any other term or provision in the future.

(c) The law of the State of Arkansas shall govern the interpretation of this Agreement and venue for any dispute shall be laid in the state or federal court in Pope County, Arkansas.

(d) This Agreement embodies the entire agreement between the Parties and supersedes all prior agreements and understandings relating to the Property. This Agreement may only be amended in writing signed by the Party against whom enforcement is sought.

(e) Time is of the essence in the performance of this Agreement.

(f) Should the Parties seek enforcement of any provision of this Agreement through any dispute resolution process, the unsuccessful Party shall pay the prevailing Party all costs, charges, and expenses including reasonable attorneys' fees incurred in connection with such dispute resolution.

(g) All notices required or permitted under this Agreement shall be in writing and delivered at the addresses below. Notices shall be either (i) sent by overnight delivery using a nationally recognized overnight courier, in which case notice shall be considered to be delivered one (1) business day after deposit; (ii) personally delivered; or (iii) sent by e-mail in which case notice shall be considered to be delivered upon successful transmission or upon failure to transmit not due to any acts or omissions of the transmitting Party. A Party's contact information may be changed by notice in compliance with this Section 14(g).

A Buyer's contact information for notice purposes:

(1) Richard Golden; CSMS Management, LLC; 11200 W. Broadway, Suite 2332; Pearland, TX 77584; richard@csmsmanagement.com; 346-570-5325 and

(2) Jeff Nadalo; CSMS Management, LLC; 11200 W. Broadway, Suite 2332; Pearland, TX 77584; legal@csmsmanagement.com; 364-774-2260.

B Seller's contact information for notices purposes:

(1) [ADD]

(2) WITH A COPY TO:[ADD]

(h) The word "including" in this Agreement shall be construed to mean "including, without limitation". The Parties acknowledge they and their counsel have reviewed and negotiated this Agreement, and ambiguities shall not be construed against the Party that drafted this Agreement or any provision in question.

(i) All exhibits attached to this Agreement are incorporated herein for all purposes as if fully set forth in this Agreement.

(j) The Parties acknowledge and agree the relationship between them under this Agreement is strictly seller and buyer of real property. Neither Party is the agent, joint venture, nor partner of the other Party. Seller shall not, and shall ensure that anyone acting under Seller does not, use or disclose to any third party the existence or terms of this Agreement or the transactions contemplated by this Agreement; Buyer's non-public or proprietary information including all information concerning Buyer's past, present and future business affairs; store operations and physical plant layout; finances; organizational structure and internal practices; forecasts, sales and other financial results; commercial strategies; or notes, analyses, reports, studies, or samples. Notwithstanding the foregoing, Seller may disclose information about this Agreement to professional consultants Seller must consult to complete the transactions contemplated by this Agreement, provided that any third party to whom Seller discloses information about this Agreement shall comply with confidentiality obligations at least as strict as those set forth in this Section 14(j). The obligations under this Section 14(j) shall survive termination of this Agreement and Closing.

(k) If any time period for giving notice or taking action hereunder expires on a day which is a Saturday, Sunday, or legal holiday in the State of Arkansas, the time period shall be automatically extended to the business day immediately following such Saturday, Sunday or holiday.

(l) If the performance of any obligation under this Agreement by either Party is delayed because of events or circumstances beyond the reasonable control of the obligated Party ("**Force Majeure**"), the time or time by which performance is required shall be delayed until such event or circumstance has ceased to delay performance. For purposes of this Agreement and without limiting the

generality of the foregoing, "Force Majeure" shall mean any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, epidemic or pandemic, inability to obtain labor, services, materials, or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, governmental delays in approval of the permits, plans or other entitlement documents for Buyer's Due Diligence, judicial orders, enemy or hostile governmental action, civil commotion or unrest, fire or other casualty, and other cause (except financial) beyond the reasonable control of the Party delayed, its contractors, subcontractors, or any entity controlled by Buyer that delays the performance of any obligation under this Agreement despite such Party's commercially reasonable efforts to fulfill the obligation. The end of a time period during which an obligation must be performed including, without limitation, Buyer's Due Diligence, shall automatically be extended one day for each day a Force Majeure event or circumstance delays performance.

(m) This Agreement may be executed by electronic signatures and in identical counterparts, each of which shall constitute an original and all of which shall constitute one Agreement.

[Signature Page Follows]

Executed as of the Effective Date.

BUYER:

CSMS MANAGEMENT, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

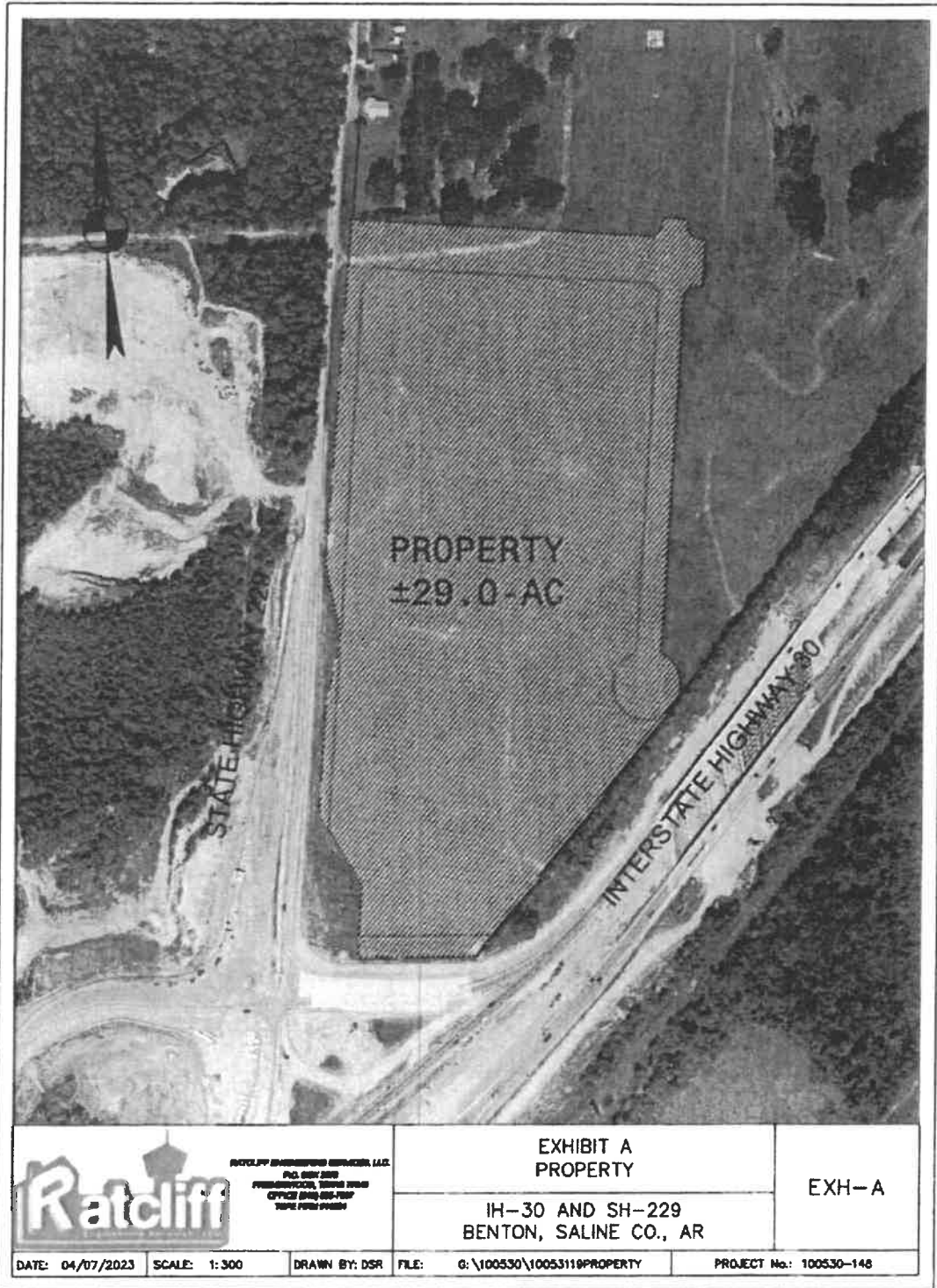
SELLER:

CITY OF BENTON, ARKANSAS,
a [_____]

By: _____
Name: _____
Title: _____

EXHIBIT A
to
REAL ESTATE PURCHASE AND SALE AGREEMENT
THE SALE LAND

EXHIBIT "A"



RATCLIFF ENGINEERING SERVICES, L.L.C.
P.O. BOX 200
FARMINGTON, MISSISSIPPI 38625
OFFICE (662) 892-7007
TEXT (662) 892-7007

EXHIBIT A
PROPERTY

IH-30 AND SH-229
BENTON, SALINE CO., AR

EXH-A

DATE: 04/07/2023 SCALE: 1:300 DRAWN BY: DSR FILE: G:\100530\10053119\PROPERTY PROJECT No.: 100530-148

EXHIBIT B
to
REAL ESTATE PURCHASE AND SALE AGREEMENT

PROPERTY INFORMATION

1. Any and all inspection reports, soil reports and environmental reports related to the Property, in Seller's possession or control.
2. Real and personal property tax statements for the Property for the previous two (2) calendar years, together with any notifications received from any taxing authority with respect to the Property during the previous two (2) calendar years.
3. Copies of any appraisals of the Property.
4. Copies of any surveys of the Property.
5. Any and all utility information, site plans and other engineering reports related to the Property, in Seller's possession or control.
6. Any covenants, restrictions, or exclusions affecting the Property or use of the Property whether written or verbal and whether or not of record.
7. Any and all contracts affecting the Property, whether written or verbal.
8. Copies of current insurance certificate(s) for the insurance currently covering the Property, and a list of all insurance claims related to the Property submitted within the last two (2) calendar years.
9. Flood zone certificates, if any.
10. Information relating to any property owners' associations.
11. Any and all documents relating to development approvals and entitlements.
12. Copies of the organizational documents of Seller.
13. Authorizing resolutions of Seller and all applicable members, managers, directors, and officers, as required by the organizational documents of Seller, approving the execution of this Agreement and the consummation of the transactions contemplated under this Agreement.

EXHIBIT C
to
REAL ESTATE PURCHASE AND SALE AGREEMENT

AFTER RECORDING MAIL TO:

Special Warranty Deed

This Special Warranty Deed (this "Deed"), is made this ____ day of _____, 202__ between [_____] a [_____] whose address is _____ ("Grantor"), and _____ a Delaware limited liability company, whose address is _____ ("Grantee").

WITNESSETH, that Grantor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey, unto Grantee, and its successors and assigns forever, the real property, together with all of Grantor's right, title, interests, privileges, hereditaments, easements, rights of way, oil and gas and other minerals, water rights of every nature and kind, licenses, adjacent streets, alleys, strips, gores, appurtenances, improvements, structures, fixtures, billboards, entitlements, and all other interests of Grantor appurtenant or related to the real estate described in Exhibit A attached hereto (collectively, the "Property").

THIS Deed is executed by Grantor and accepted by Grantee subject to the matters described on Exhibit B attached hereto (collectively, the "Permitted Exceptions").

TO HAVE AND TO HOLD said Property above described with the appurtenances, unto the Grantee and its successors and assigns forever. Grantor, for itself, its successors and assigns, does covenant and agree that it shall and will WARRANT and FOREVER DEFEND the Property, subject to the Permitted Exceptions, in the quiet and peaceable possession of Grantee, its successors and assigns, against all and every person or persons claiming or to claim the whole or any part thereof, by, through or under Grantor, but not otherwise.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, this Special Warranty Deed is executed by Grantor to be effective as of the day and year first above written.

GRANTOR:

[_____] ,
a [_____]

By: _____
Name: _____
Title: _____

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 202__, by _____, as _____ of [_____], a [_____].

My Commission expires: _____

Witness my hand and official seal.

Notary Public

**EXHIBIT A
TO
SPECIAL WARRANTY DEED**

Legal Description

**EXHIBIT B
TO
SPECIAL WARRANTY DEED**

Permitted Exceptions

EXHIBIT D
to
REAL ESTATE PURCHASE AND SALE AGREEMENT
SELLER'S LAND

EXHIBIT E
to
REAL ESTATE PURCHASE AND SALE AGREEMENT

RESTRICTIVE COVENANTS

In no event shall any portion of Seller's Remaining Property be used for any of the following purposes or activities:

1. **COMPETITIVE RESTRICTIONS:** The uses set forth in this Section 1 (the "Competitive Restrictions") shall benefit the Property, shall burden Seller's Remaining Property, shall run with the land, and shall bind the Parties' successors and assigns. The following Competitive Restrictions shall be prohibited on Seller's Remaining Property.

(a) **Convenience Store:**

(i) A business commonly referred to as a convenience store;

(ii) The retail sale of gasoline, petroleum or ethanol fuels, or other motor vehicle fuels or energy (provided, however, a grocery store shall be permitted so long as it does not also include the retail sale of gasoline, petroleum and ethanol fuels or other motor vehicle fuels or energy); or

(iii) The sale of tobacco products of any kind (provided, however, an establishment shall have the right to sell tobacco products so long as the sale of tobacco products does not constitute more than fifteen (15%) of the gross revenue of such establishment during any twelve-month period; provided, further, however, any establishment sharing a common boundary line with the Property shall not have the right to sell tobacco products of any kind).

(b) **Barbecue Food Services:** An establishment serving primarily barbecued or smoked meats for onsite or offsite consumption or any establishment having the words "Barbecue", "BBQ", "Bar-B-Que", "Bar-B-Q", "Smoke", or "Smokehouse" as part of its name or on its signage.

(c) **Alcohol Sales:** An establishment engaged in the retail sale of alcoholic beverages including, but not limited to, bars, lounges, or taverns; however, the following shall be permitted:

(i) A bar or lounge within and ancillary to a hotel, motel, or similar transient lodging;

(ii) The sale of alcoholic beverages for either on-premises or off-premises consumption in an establishment that does not derive from all of its operations more than fifty-one percent (51%) of its gross revenue during any twelve-month period from the sale of alcoholic beverages; or

(iii) The sale of alcoholic beverages for off premises consumption in cases where such sale is directly connected to a delivery of food from a full service restaurant by either the restaurant staff or a delivery service.

(d) **Car Wash.** A facility or area for the cleaning or steam cleaning, washing, polishing, or waxing of passenger vehicles by machine or hand-operated facilities, including, but not limited to, a single-unit type that has a single bay or a group of single bays with each bay to accommodate one vehicle only, or a tunnel type that allows washing of multiple vehicles in tandem arrangement while moving through the structure.

2. **OFFENSIVE USE RESTRICTIONS:** The offensive uses set forth in this Section 2 (the "Offensive Use Restrictions") shall benefit the Property, shall burden Seller's Remaining Property, shall run with the land, and shall bind the Parties' successors and assigns. The following Offensive Use Restrictions shall be prohibited on Seller's Remaining Property:

- (a) Any use that creates a nuisance actionable under Applicable Laws an offensive odor, fumes, dust, smoke, noise, pollution, environmental contamination, or a risk of fire or explosion;
- (b) Any use which involves the generation, treatment, storage or disposal of material amounts of Hazardous Materials in violation of Applicable Laws or Environmental Laws;
- (c) The storage, display, or sale of explosives or fireworks;
- (d) The storage of, or in, trucks, trailers, shipping containers, or similar holders;
- (e) Outside storage without proper berms, landscaping, or fencing; however, outside storage ancillary to the retail sale of new goods shall be permitted;
- (f) Adult-oriented businesses or activities based primarily upon materials or performances that depict, describe, or relate to sexual activities, human anatomy, or nudity, including, but not limited to, adult arcades, adult bookstores, adult cabarets, adult theaters, or any other sexually-oriented business;
- (g) Massage parlors;
- (h) Mortuaries, crematoriums, or funeral homes;
- (i) Mobile-home courts or trailer courts;
- (j) Animal raising (other than pet shops);
- (k) Veterinarian clinics or animal hospitals that have provisions for keeping animals outdoors overnight;
- (l) Pawn shops; pawn brokers; short term, title, or payday loan establishments; or similar activities;
- (m) Smoke, cigarette, tobacco, cigar, vape, hookah, bong, pipe, water pipe, or head shops or lounges; CBD stores; marijuana dispensaries; or similar establishments;
- (n) Establishments engaged in tattoo or body piercing activities;
- (o) Drug rehabilitation, convicted felon halfway housing, or adult rooming or boarding; however, elderly assisted living centers shall not be prohibited;
- (p) Fire sales, bankruptcy sales (unless pursuant to a court order), or auction-house activities;
- (q) The sale, lease, or rental of used cars, boats, recreational vehicles, or motorcycles ("Vehicles"); however, the sale, lease, or rental of used Vehicles ancillary to a new Vehicle dealership shall be permitted;
- (r) Labor camps;

- (s) Any type of junkyard or salvage yard activity;
- (t) Automotive repair, automotive body, or fender repair activity, except as ancillary to a new Vehicle dealership;
- (u) Dry cleaning plants or businesses;
- (v) Any "second hand" store or any army, navy, or government-type "surplus" store, except resale shops which merchandise and sell used products in a first-class manner but no such goods or products may be sold or stored outside an enclosed building;
- (w) Stockyards;
- (x) Carnivals or amusement parks;
- (y) Landfills, garbage dumps, or facilities for the dumping, disposing, incineration, or reduction of waste or Hazardous Materials;
- (z) Gambling establishments or betting parlors; however, the sale of lottery tickets shall not be prohibited;
- (aa) Jails or prisons;
- (bb) Assembling, manufacturing, industrial, distilling, refining, or smelting activities; and
- (cc) Drilling for oil, gas or other hydrocarbons or mineral extraction of any kind or character.

CSMS Management, LLC

July 4, 2023

Via Federal Express

Thomas Park Commercial Development RFP
c/o City of Benton A & P Commission
P.O. Box 607
Benton, Arkansas 72018

Re: Thomas Park Commercial Development RFP; Bid Number RFP 2023 10 (the
"Thomas Park Commercial Development RFP")

To: The City of Benton,

Enclosed please find two (2) original signed proposals submitted by CSMS Management,
LLC in response to the Thomas Park Commercial Development RFP.

Sincerely,



Michelle LeBlanc

Direct: (346) 774-2280
Mobile: (979) 529-5011
legal@csmsmanagement.com