

City of Fayetteville Staff Review Form

2019-0140

Legistar File ID

3/19/2019

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Tim Nyander

2/28/2019

WATER SEWER (720)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends the approval of a Land Sale Agreement between the City of Fayetteville and Ozarks Electric Cooperative Corporation for the sale of 3,123 square feet of City-owned property near the Gulley Road water tank to Ozarks Electric Cooperative Corporation for the sum of \$5,387.50.

Budget Impact:

N/A

N/A

Account Number

Fund

N/A

N/A

Project Number

Project Title

Budgeted Item? NA

Current Budget

\$ -

Funds Obligated

\$ -

Current Balance

\$ -

Does item have a cost? NA

Item Cost

\$ -

Budget Adjustment Attached? NA

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20180321

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



MEETING OF MARCH 19, 2019

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Water & Sewer Committee

FROM: Tim Nyander, Utilities Director

DATE: February 28, 2019

SUBJECT: **Approval of a Land Sale Agreement between the City of Fayetteville and Ozarks Electric Cooperative Corporation**

RECOMMENDATION:

Staff recommends the approval of a Land Sale Agreement between the City of Fayetteville and Ozarks Electric Cooperative Corporation for the sale of 3,123 square feet of City-owned property near the Gulley Road water tank to Ozarks Electric Cooperative Corporation for the sum of \$5,387.50.

BACKGROUND:

The City-owned land that contains the Gulley Road water tank is adjacent to an Ozarks Electric Cooperative Corporation "Ozarks" electric substation. Due to the underground utilities inside the substation property, Ozarks has requested that they City of Fayetteville sell them a small portion of land to place a building for fiber infrastructure in addition to an access easement.

DISCUSSION:

The proposed land sale would include 3,123 square feet of the southwest portion of the City's Gulley Road water tank property. Approximately 960 square feet would be used for the fiber building and would be sold for the amount of \$3,450.00. Approximately 2,163 square feet would be used for an access easement and would be sold for the amount of \$1,937.50. The total proposed land sale would be for the sum of \$5,387.50. The water tank is located across the access road that runs through the City property and the land sale would not affect the water tank, piping, or any future plans or improvements to the water tank.

BUDGET/STAFF IMPACT:

Upon City Council approval, Ozarks will pay the City \$5,387.50 for the land.

Attachments:

Land Sale Agreement
Exhibit

LAND SALE AGREEMENT

This Land Sale Agreement is made and entered into by and between the City of Fayetteville, Arkansas, a municipal corporation of the State of Arkansas (hereinafter "City" or "Fayetteville") and Ozarks Electric Cooperative Corporation ("Purchaser").

The City of Fayetteville agrees to sell to Purchaser fee simple title to a parcel of about 960 square feet near the southwest corner of the City's Gulley Road Substation Property for THREE THOUSAND FOUR HUNDRED FIFTY DOLLARS (\$3,450.00) and an access easement of approximately 2,163 square feet for ONE THOUSAND NINE HUNDRED THIRTY SEVEN DOLLARS AND FIFTY CENTS (\$1,937.50) and Purchaser's performance of all of the terms, conditions and promises set forth in this Agreement.

Purchaser agrees to pay to the City of Fayetteville the total sum of FIVE THOUSAND THREE HUNDRED EIGHTY SEVEN DOLLARS AND FIFTY CENTS (\$5,387.50) for this 960 square foot parcel and access easement and to perform all of the terms, conditions and promises set forth later in this Agreement.

TERMS AND CONDITIONS

1. *Sale*

Subject to existing easements and rights of way and subject to the terms and conditions, mutual promises and covenants of this Agreement, the City of Fayetteville agrees to sell:

A parcel of about 960 square feet located near the southwest corner of the City's Gulley Road Substation Property by warranty deed to Purchaser for the amount of THREE THOUSAND FOUR HUNDRED FIFTY DOLLARS (\$3,450.00). This parcel is defined as "Fiber Building" and shown and legally described on Exhibit A.

Also an access easement of about 2,163 square feet from an existing driveway to the parcel described above to Purchaser for the amount of ONE THOUSAND NINE HUNDRED THIRTY SEVEN DOLLARS AND FIFTY CENTS (\$1,937.50). This access easement is defined as "Ingress\Egress" and shown and legally described on Exhibit A

The approximately 960 square foot parcel and 2,163 square foot access easement shall be referred to herein collectively as the "Property."

2. *Purchase*

Subject to the terms and conditions, mutual promises and covenants of this Agreement, Purchaser agrees to buy the Property for FIVE THOUSAND THREE HUNDRED EIGHTY-SEVEN DOLLARS AND FIFTY CENTS (\$5,387.50) to be paid to the City of Fayetteville on or before the Closing Date by certified check or cashier's check.

3. *Closing Date and Place*

Closing shall occur within 60 days following the date this Agreement has been executed by both parties unless extended by mutual agreement of the parties in writing. The Closing shall occur at 113 West Mountain Street, Fayetteville, Arkansas in a room supplied by the City of Fayetteville.

4. *Date of Possession*

Possession of the Property shall be delivered to Purchaser on the Closing date free of any tenancies or other third party possessory rights.

5. *Deed and Other Documents*

On the Closing date, the City of Fayetteville shall convey marketable and insurable title to the Property by general warranty deed, free and clear of all liens, restrictions, and encumbrances except as provided in this Agreement, subject only to current real estate taxes, if any (to be apportioned between the parties) and existing easements. Purchaser shall be responsible for any revenue stamps resulting from this transaction and all recordings fees for the deed and other documents that need to be filed.

6. *Risk of Loss*

Risk of loss as to the Property shall remain with the City of Fayetteville until the Closing date.

7. *Purchaser's Due Diligence*

Purchaser shall have thirty (30) days from the approval of this agreement to enter upon the Property to conduct any surveying, testing or inspection it deems necessary to ensure the Property will be appropriate for the construction and use for its facility. If Purchaser discovers any problems that would adversely impact its development and use of the Property for its facility, Purchaser shall notify the City which is granted sixty (60) days to remediate any problem. The City may also terminate this Agreement without penalty rather than remediating any problem or issue discovered by Purchaser. Likewise, if the City does not remediate the problem, Purchaser may terminate this Agreement without penalty or proceed under this Agreement to accept the property without resolution of the problem.

8. *Notices*

Notices required by this Agreement shall be in writing and shall be delivered to:

Ozarks Electric Cooperative Corporation
3641 W. Wedington Drive
P.O. Box 848
Fayetteville, AR 72702

City of Fayetteville
ATTN: Mayor's Office
113 W. Mountain Street
Fayetteville, AR 72701 72701-6083

9. *Authority*

Each of the undersigned individuals represent and warrant that they are authorized to enter into this Agreement on behalf of their respective entities and that execution hereof will bind the entities to this Agreement.

10. *Counterparts*

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement.

11. *Facsimile*

For purposes of executing this Agreement, a facsimile signature shall be as effective as an actual signature.

12. *Applicable Law*

This Agreement shall be construed and enforced in accordance with the laws and public policies of the State of Arkansas.

13. *Survival*

The representations, warranties, and agreements of the parties contained herein shall survive the Closing and shall not be merged into the Closing, instead surviving as though all warranties, representations, covenants and agreements made in this Agreement were incorporated into the Warranty Deed delivered by the City of Fayetteville to Purchaser as if set out word for word.

14. *No Waivers*

The waiver by either party hereto of any condition or the breach of any term, covenant or conditions herein contained shall not be deemed to be a waiver of any other condition or of any subsequent breach of the same or of any other term, covenant or condition herein contained.

15. *Time of Essence*

Time is of the essence in this Agreement.

16. *Invalidity*

If for any reason any term or provision of this Agreement shall be declared void and unenforceable

by any court, it shall only affect such particular term or provision of this Agreement and the balance of this Agreement shall remain in full force and effect and shall be binding upon the parties hereto.

17. *Complete Agreement*


All understandings and agreements heretofore existing between the parties are merged into this Agreement that alone fully and completely expresses their agreement. This Agreement may be changed only in writing signed by both of the parties hereto and shall apply to and bind the successors and assigns of each of the parties hereto and shall not merge with the deed delivered to Purchaser at closing.

**OZARKS ELECTRIC COOPERATIVE
CORPORATION**

**CITY OF FAYETTEVILLE,
ARKANSAS**

Date: 2/20/2019

Date: _____

By: 
**TROY SCARBROUGH, VP of Engineering
And Operations**

By: _____
LIONELD JORDAN, Mayor

WITNESS:

ATTEST:

By: 
**SANDRA JOHNSON, Administrative
Assistant**

By: _____
**SONDRA E. SMITH
City Clerk-Treasurer**

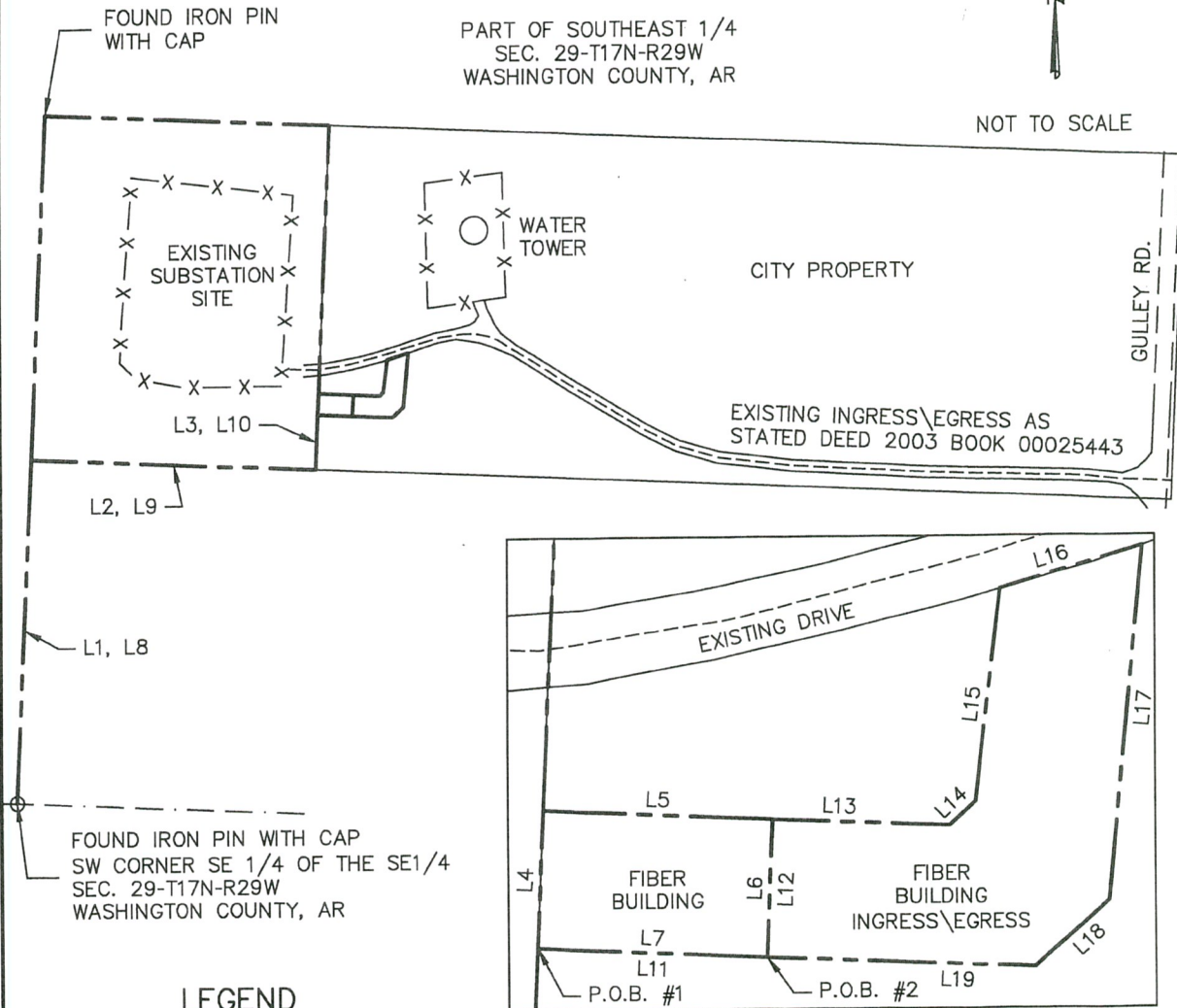
GULLEY ROAD
SUBSTATION
FIBER BUILDING AND
INGRESS\EGRESS

OZARKS ELECTRIC COOPERATIVE CORP. EXHIBIT "A"

1 OF 2

PART OF SOUTHEAST 1/4
SEC. 29-T17N-R29W
WASHINGTON COUNTY, AR

NOT TO SCALE



LEGEND

- FOUND IRON PIN
- X—X— FENCE
- PROPERTY LINE
- - - SECTION LINE
- - - ROAD

THIS EXHIBIT DEPICTS APPARENT OWNERSHIP LINES AND WAS PREPARED EXCLUSIVELY FROM INSTRUMENTS OF RECORD AND IS SUBJECT TO ALL RESTRICTIONS, EASEMENTS OR RIGHT-OF-WAYS, IF ANY.

01-28-2019

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CERTIFICATE OF AUTHORITY
ARKANSAS NO. 126



ALLGEIER, MARTIN and ASSOCIATES, INC.
CONSULTING ENGINEERS
7231 EAST 24TH STREET
JOPLIN, MISSOURI 64804 (417) 680-7200



ERIC S. DURKIN
ARKANSAS P.L.S. #1718
AGENT FOR ALLGEIER, MARTIN and ASSOCIATES, INC.

GULLEY ROAD
SUBSTATION
FIBER BUILDING AND
INGRESS\EGRESS

OZARKS ELECTRIC
COOPERATIVE CORP.
EXHIBIT "A"

2 OF 2

FIBER BUILDING PROPERTY DESCRIPTION:

A TRACT OF LAND BEING LOCATED IN THE SOUTHEAST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SECTION 29 TOWNSHIP 17 NORTH, RANGE 29 WEST, WASHINGTON COUNTY, ARKANSAS, BEING DESCRIBED MORE FULLY AS FOLLOWS:

COMMENCING AT A FOUND IRON PIN WITH ID CAP AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER (1/4) OF THE SOUTHEAST (1/4) OF SAID SECTION 29. THENCE N02°34'16"E ALONG THE WEST LINE OF THE SOUTHEAST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SAID SECTION 29, 396.00 FEET MORE OR LESS TO THE SOUTHWEST CORNER OF AN EXISTING SUBSTATION SITE; THENCE S87°30'11"E ALONG THE SOUTH LINE OF SAID SITE, 330.00 FEET MORE OR LESS TO THE SOUTHEAST CORNER OF SAID SITE; THENCE N02°34'16"E ALONG THE EAST LINE OF SAID SITE, 62.19 FEET MORE OR LESS TO THE POINT OF BEGINNING #1; THENCE CONTINUING N02°34'16"E, 24.00 FEET MORE OR LESS; THENCE S87°25'44"E, 40.00 FEET MORE OR LESS; THENCE S02°34'16"W, 24.00 FEET MORE OR LESS; THENCE N87°25'44"W, 40.00 FEET MORE OR LESS TO THE POINT OF BEGINNING #1.

CONTAINING 0.03 ACRES MORE OR LESS.

SUBJECT TO ALL RESTRICTIONS, EASEMENTS OR RIGHT-OF-WAYS, IF ANY.

INGRESS\EGRESS DESCRIPTION:

COMMENCING AT THE ABOVE SAID POINT OF BEGINNING #1, THENCE S87°25'44"E, 40.00 FEET MORE OR LESS TO THE POINT OF BEGINNING #2; THENCE N02°34'16"E, 24.00 FEET MORE OR LESS; THENCE S87°46'26"E, 30.69 FEET MORE OR LESS; THENCE N47°34'16"E, 6.19 FEET MORE OR LESS; THENCE N07°02'06"E, 36.75 FEET MORE OR LESS; THENCE N73°20'15"E, 25.73 FEET MORE OR LESS; THENCE S05°31'33"W, 61.40 FEET MORE OR LESS; THENCE S47°34'16"W, 17.21 FEET MORE OR LESS; THENCE N87°40'08"W, 46.89 FEET MORE OR LESS TO THE POINT OF BEGINNING #2.

CONTAINING 0.06 ACRES MORE OR LESS.

SUBJECT TO ALL RESTRICTIONS, EASEMENTS OR RIGHT-OF-WAYS, IF ANY.

LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	396.00'	N02°34'16"E
L2	330.00'	S87°30'11"E
L3	62.19'	N02°34'16"E
L4	24.00'	N02°34'16"E
L5	40.00'	S87°25'44"E
L6	24.00'	S02°34'16"W
L7	40.00'	N87°25'44"W
L8	396.00'	N02°34'16"E
L9	330.00'	S87°30'11"E
L10	62.19'	N02°34'16"E
L11	40.00'	S87°25'44"E
L12	24.00'	N02°34'16"E
L13	30.69'	S87°46'26"E
L14	6.19'	N47°34'16"E
L15	36.75'	N07°02'06"E
L16	25.73'	N73°20'15"E
L17	61.40'	S05°31'33"W
L18	17.21'	S47°34'16"W
L19	46.89'	N87°40'08"W

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