

**CONTRACT TO PURCHASE ABOUT ONE HALF ACRE OF PROPERTY FROM THE BANK OF FAYETTEVILLE AND GREG HOUSE FOR THE CITY PUBLIC PARKING DECK SITE ON WEST AVENUE AND TO LEASE-TO-OWN TO GREG HOUSE AND TED BELDEN ABOUT ONE FIFTH OF AN ACRE ON THE NORTH SIDE OF THE CIVIC PLAZA NEAR DICKSON STREET PURSUANT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT**

On this \_\_\_\_ day of December 2020, the date that the Mayor of the City of Fayetteville, the authorized representative of the Bank of Fayetteville, Greg House and Ted Belden have all signed this contract and agreed to all of its terms and conditions, this contract becomes effective and enforceable.

**I**

**CITY OF FAYETTEVILLE'S COMMITMENTS TO THE BANK OF FAYETTEVILLE**

In exchange for all of the commitments, promises, terms and conditions within this contract, the City of Fayetteville hereby agrees and covenants with the Bank of Fayetteville as follows:

- (1) The City will provide up to **Ten Million Dollars (\$10,000,000.00)** in bond funds for its costs associated with the purchase of the land, geotechnical and other preliminary testing and design work, and the design, construction and equipping of the City's public parking deck.
- (2) The City will purchase the portion of property owned by the Bank of Fayetteville (somewhat greater than one quarter of an acre) which is needed for the City's public parking deck's construction for **One Hundred Thousand Dollars (\$100,000.00)**.

**II**

**BANK OF FAYETTEVILLE'S COMMITMENTS TO THE CITY OF FAYETTEVILLE**

**In exchange for the One Hundred Thousand Dollars (\$100,000.00) paid by the City of Fayetteville, the Bank of Fayetteville agrees as follows:**

The Bank of Fayetteville will sell and convey to the City of Fayetteville its property, as further described in Exhibit A to this contract, by general warranty deed free and clear of all easements except the five foot pedestrian ground easement on the north side of its property which shall not intrude upon the property needed for the construction or operation of the City public parking deck.

### III

#### **CITY OF FAYETTEVILLE'S COMMITMENTS TO GREG HOUSE, FAYETTEVILLE DEPOT, LLC AND/OR TED BELDEN**

In exchange for all of the commitments, promises, terms and conditions within this contract, the City of Fayetteville hereby agrees and covenants with Greg House, the Fayetteville Depot LLC, and/or Ted Belden as follows:

- (1) The City will provide up to **Ten Million Dollars (\$10,000,000.00)** in bond funds for its costs associated with the purchase of the land, geotechnical and other preliminary testing and design work, and the design, construction and equipping of the City's public parking deck.
- (2) The City will purchase the portion of the property owned by Greg House and/or the Fayetteville Depot, LLC (somewhat less than one quarter of an acre) also needed for the City's parking deck's construction (as further described in Exhibit B) for **Two Hundred and Fifty Thousand Dollars (\$250,000.00)**; and
- (3) The City will lease-to-own its about one fifth of an acre building site on the north area of the Civic Plaza next to Dickson Street (as further described in Exhibit C) for its appraised value of **Two Hundred and Sixty-Three Thousand Dollars (\$263,000.00)** payable in 36 consecutive monthly payments of Seven Thousand Three Hundred and Five Dollars (\$7,305.00) beginning on the effective date of this contract to Greg House and Ted Belden. The City shall not require these lease-to-own rental payments to be delivered by Greg House or Ted Belden to the City until the end of the three-year period after the beginning of this contract. **The City will forgo this payment and forgive this Two Hundred Sixty-Three Thousand Dollar (\$263,000.00) debt if:**
  - (A) All of the exterior including foundation, walls, windows, door, floors, stairways, elevators, roof and fourth floor rooftop deck of this about 18,000 square foot, three story Food Hall building with its fourth floor rooftop deck (constructed with the materials and in accordance with the design as depicted by Greg House's architect Rob Sharp in his presentation to the City Council and public) has been completed to a "white box" condition by the completion and opening to the public date of the Civic Plaza (the City Council by Resolution may in its sole discretion agree to changes proposed by House and/or Beldon in the original design and materials to be used); and
  - (B) Within twelve (12) months after the completion and opening of the Civic Plaza, the Food Hall building must be completely finished, ready for customers and other tenants and operational to the satisfaction of the City Council in order to justify the City's forbearance and forgiveness of the accumulated rental payment debt of Two Hundred Sixty Three Thousand Dollars (\$263,000.00) in consideration of the sales and HMR taxes and other

benefits that this operating Food Hall and other businesses or offices within this large Food Hall building should generate.

(C) Upon the payment of Two Hundred Sixty-Three Thousand Dollars (\$263,000.00) by Greg House and/or Ted Belden or their complete compliance with the requirements of (A) and (B) above to the City Council's satisfaction, the City agrees it will convey the about one fifth of an acre lot to Greg House and Ted Belden. **Without House's and Belden's complete compliance of the requirements of (A) and (B) or their prompt payment of the full Two Hundred Sixty-Three Thousand Dollars (\$263,000.00), the City may terminate the lease and sell or lease this .2 acre lot to another entity, or renegotiate with House and/or Belden.**

- (4) In further consideration of the slightly less than one quarter acre parcel that Greg House d/b/a Fayetteville Depot, LLC will sell to the City for Two Hundred and Fifty Thousand Dollars (\$250,000.00) and future probable conveyance of the City's one fifth of an acre lot appraised at Two Hundred and Sixty Three Thousand Dollars (\$263,000.00) to Greg House (and possibly also to Ted Belden), the City also will convey condominium type rights to a designated portion of about 14,000 square feet on the ground floor of the City's public parking deck for Greg House's commercial space (which may also be used by Fayetteville Depot LLC as parking until leased or otherwise used as commercial space) subject to House's payment of the construction costs outlined below and within Greg House's, Fayetteville Depot, LLC's and Ted Belden's commitments in IV.
- (5) The City also agrees to pay 50% of costs to provide water/sewer main utility access to the Food Hall site that Greg House d/b/a Fayetteville Depot, LLC and/or Ted Belden plan to build on this .2 acre parcel; and
- (6) The City through its building construction contractor also agrees to pay Greg House d/b/a Fayetteville Depot, LLC \$4,000.00 per month to rent the necessary staging area and construction space on the Depot lot needed for the construction of the City's public parking deck.
- (7) The City will further authorize Greg House and Ted Belden to build now or within ten (10) years of the date of this contract's approval floor six or floors six and seven above the City's public parking deck upon their payment of the full additional expense for the additional design and construction costs, including foundation and supporting walls strengthening and increased capacity; enhanced, enlarged and/or additional stairways and elevators deemed necessary or advisable by the City to serve their potential uses on the 6<sup>th</sup> and/or 6<sup>th</sup> and 7<sup>th</sup> floors; extension and support of utilities needed and advisable by the City to serve the additional floors; exterior facades for these floors which coordinate with and compliment the City's public parking deck exterior façade; and compliance with all Unified Development Code requirements for the design, construction and uses allowed for this building. If Greg House and/or Ted Belden or any other entity constructs the 6<sup>th</sup>

floor or the 7<sup>th</sup> floor after the City's public parking deck has been completed and is operational, they will be strictly liable for any damage occurring to the City's public parking deck during this construction. Any lay down, staging, or construction area needed or used for future construction of floor 6 and/or floor 7 must be on the Fayetteville Depot's property or other private property rather than on City property or right-of-way and shall not impede the City's use and operation of its public parking deck nor of the Fayetteville Police Substation.

#### IV

#### **GREG HOUSE'S, FAYETTEVILLE DEPOT, LLC'S AND TED BELDEN'S COMMITMENTS TO THE CITY OF FAYETTEVILLE**

In exchange for **Two Hundred and Fifty Thousand Dollars (\$250,000.00)**, the lease-to-own and likely conveyance of the .2 acre building site appraised at **Two Hundred and Sixty Three Thousand Dollars (\$263,000.00)**, the free use of the about **14,000 square feet of ground level commercial space** in the City's public parking deck, and all of the other commitments, promises, terms and conditions within this contract, Greg House, Fayetteville Depot, LLC and Ted Belden agree and covenant as follows:

- (1) Greg House, the Fayetteville Depot, LLC and Ted Belden promise and agree to sell and convey to the City of Fayetteville their property (somewhat less than one quarter of an acre) as described in Exhibit C to this contract by general warranty deed free and clear of all easements or title impairments. If Ted Belden does not claim any ownership rights to this parcel at the time of conveyance, he may satisfy his part of this conveyance duty by means of a separate quit claim deed to the City.
- (2) Greg House, the Fayetteville Depot, LLC and Ted Belden agree to the current general design of the City's public parking deck and agree to a condominium-type conveyance of the approximate 14,000 square foot ground floor commercial area designated in the plans of the City's public parking deck. Greg House and/or Ted Belden agree to pay for all associated costs to construct this 14,000 square foot commercial space (which includes the increased costs to construct the top 14,000 square feet of the City's public parking deck necessitated by Greg House's use of the ground floor commercial space). Greg House and Ted Belden agree to finish the exterior of this ground story 14,000 square foot commercial space to commercial standards as shown in the Lack and Hoffman presentation of the arcade and main building. The City agrees to pay for exterior finishing to those standards for the approximate 2,000 square foot area on the ground floor for the Fayetteville Police Substation and the second floor of the arcade façade facing West Avenue.
- (3) Greg House, Fayetteville Depot, LLC and Ted Belden agree to all of the requirements of paragraph III (7) regarding their duties and responsibilities if they wish to exercise their right to construct and use floor six and/or floors six and seven of the City's public parking deck. Failure of Greg House, Fayetteville Depot, LLC or Ted Belden to fully

pay for these additional design and construction costs needed to support and serve floors six and/or six and seven prior to construction of the foundation for the City's public parking deck terminates their rights to later construct these upper floors.

- (4) All parties agree that the City's main public parking deck building will abut the building now occupied by Arsaga's and be fifteen feet (15') from the West Avenue right-of-way, and that a two story "arcade" section shall fill that fifteen-foot (15') area up to the right-of-way with a finished exterior as shown in the Lack/Hoffman presentation. Greg House, Fayetteville Depot, LLC and Ted Belden shall be responsible to pay to finish their ground floor section of the arcade and main building to commercial standards as depicted in the Lack/Hoffman presentation. The City shall pay to finish the Fayetteville Police Substation and the second floor of the arcade to that same standard.
- (5) Greg House, Fayetteville Depot, LLC, and/or Ted Belden further agree to pay all utility costs (initial construction and future use) necessitated by his 14,000 square feet of commercial space on the ground floor and any necessary utilities on floors 6 and/or seven if constructed. Utility costs necessary to serve the Fayetteville Police Department substation (about 2,000 square foot office on the ground floor) will be paid by the City.
- (6) Greg House, Fayetteville Depot, LLC and/or Ted Belden further agree, promise, and covenant as follows:
  - (A) to provide access of the Transit Hub bus stops for both Dickson Street and West Avenue as illustrated on the MillerBoskus plan.
  - (B) To provide an option to purchase for seven (7) years from the date of this contract for the ground floor area up to a height of fifteen feet (15') between the historic train depot and the freight building now occupied by Arsaga's from the railroad right-of-way to the eastern side of these building for use as a Transit Hub or other public use for the then current fair market value as determined by a qualified, professional, independent appraiser paid for by the City.
  - (C) to convey to the City a permanent conservation easement for the historic depot train station building and all area from the railroad right-of-way to the eastern side of the depot building and from northern side of the historic depot to Dickson Street which will preserve the historic depot building in its current historic condition and prevent any construction above the historic depot building. This conservation easement shall also prohibit any construction upon or the parking of any large vehicles (such as food trucks) on the parking area south of the depot for the area between the railroad right-of-way to the eastern side of the depot building which could obstruct the public view of the historic train depot building from Dickson Street.
  - (D) to refrain from substantially changing or building over the freight building or Hookah Bar space for seven years from the date of this contract, except that Greg House, Fayetteville Depot, LLC, and/or Ted Belden retain the right at their sole

expense to construct a roof properly and safely attached on an agreed location on the rear of the City's public parking deck over the freight building to create a one story outdoor covered space.

V

**GENERAL COMMITMENTS FOR ALL PARTIES WHO AGREE AS FOLLOWS:**

- (1) Access to Entire Property. Cross easements for all property currently owned by any party or the subject of this contract shall be provided by all parties to facilitate access and development throughout this site.
- (2) Closing Date and Place. Closing shall occur within 60 days following the date this Contract has been approved by all parties. The Closing shall occur at 113 West Mountain Street, Fayetteville, Arkansas in a room supplied by the City of Fayetteville or at another location agreed upon by the parties. The Closing Date may be extended upon the mutual agreement of the parties.
- (3) Date of Possession. Possession of the building site described in Exhibit A and Exhibit B shall be delivered to the City of Fayetteville on the Closing Date free of any tenancies or other third party possessory rights.
- (4) Possession of Lease Site. Possession through the lease-to-own of the .2 acre site on the Civic Plaza will be delivered to Greg House, Fayetteville Depot, LLC, and/or Ted Belden upon the City's public parking deck completion, and the start of the City's full construction of the West Avenue Parking Lot into the Civic Plaza.
- (5) Title Insurance.
  - (a) The Bank of Fayetteville shall order a title commitment for its property described in Exhibit A as soon as practicable following the full execution of this contract through Bronson Abstract. If the report on title, binder or commitment discloses any defects in title (other than liens or encumbrances of a definite or ascertainable amount which may be paid at closing), The Bank shall have thirty (30) days from the date of the City notice of such defects to make a good faith effort to cure such defects and to furnish a report showing the defects cured or removed. If such defects are not cured within thirty (30) days, the City may terminate this agreement or may, at its election, take title subject to any such defects. The cost of the title commitment and the cost of the owner's title policy shall be borne by the Bank.
  - (b) Greg House, Fayetteville Depot, LLC and/or Ted Belden shall order a title commitment for its property described in Exhibit B as soon as practicable following the full execution of this contract through Bronson Abstract. If the report on title, binder or commitment discloses any defects in title (other than liens or encumbrances of a definite or ascertainable amount which may be paid at closing), Greg House and

Fayetteville Depot, LLC shall have thirty (30) days from the date of the City notice of such defects to make a good faith effort to cure such defects and to furnish a report showing the defects cured or removed. If such defects are not cured within thirty (30) days, the City may terminate this agreement or may, at its election, take title subject to any such defects. The cost of the title commitment and the cost of the owner's title policy shall be borne by Greg House, Fayetteville Depot, LLC and/or Ted Belden.

(6) Deed, Taxes, Closing Costs and Other Documents.

(a) On the Closing date, The Bank of Fayetteville shall convey marketable and insurable title to the property described in Exhibit A by general warranty deed, free and clear of all liens, restriction, and encumbrances except easements and rights-of-way of record, or as provided in this contract.

(b) On the Closing date, Greg House and the Fayetteville Depot, LLC (and Ted Belden if applicable) shall convey marketable and insurable title to the property described in Exhibit B by general warranty deed, free and clear of all liens, restriction, and encumbrances except easements and rights-of-way of record, or as provided in this Contract.

(7) Taxes and Special Assessments. Taxes and special assessments due for the parcels on or before the date of closing shall be paid by the party selling the parcel. Ad valorem taxes shall be prorated as of the date of closing. All parties shall share equally the cost of a reasonable closing fee imposed by Bronson Abstract and the sellers shall be responsible for any revenue stamps resulting from this transaction. All recordings fees for the deeds and other documents that need to be filed shall be the responsibility of the benefited party.

(8) Risk of Loss. Risk of loss as to all property to be conveyed shall remain with the party who owns the tract until the Closing date.

(9) All Parties' Due Diligence. All parties may enter upon the property to be conveyed or leased to conduct any surveying, testing or inspection it deems necessary to ensure the property will be appropriate and safe. If any party discovers any problems that would adversely impact its development and use of the property, that party shall notify all other parties within thirty (30) days of the date of this contract and shall be granted thirty (30) days to remediate any problem. Any party may also terminate this contract without penalty rather than remediating any problem or issue discovered.

(10) Notices required by this Contract shall be in writing and shall be delivered to:

City of Fayetteville  
ATTN: Mayor's Office  
113 W. Mountain Street  
Fayetteville, AR 72701  
[Mayor@fayetteville-ar.gov](mailto:Mayor@fayetteville-ar.gov)

Greg House and Fayetteville Depot, LLC    Ted Belden

\_\_\_\_\_  
mailing address

\_\_\_\_\_  
mailing address

\_\_\_\_\_  
email address

\_\_\_\_\_  
email address

- (11) Authority. Each of the undersigned individuals represents and warrants that they are authorized to enter into this contract on behalf of themselves or their respective entities and that execution hereof will bind all parties to this contract.
- (12) Counterparts. This contract 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.
- (13) Scanned Signature. For purposes of executing this contract, a scanned signature shall be as effective as an actual signature.
- (14) Applicable Law. This contract shall be construed and enforced in accordance with the laws of the State of Arkansas with venue in Washington County, Arkansas.
- (15) Survival. The representations, commitments, and agreements of the parties contained herein shall survive the closing date.
- (16) No Waivers. The waiver by any party hereto of any commitment, condition, or the breach of any term, covenant or commitment 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.
- (17) Time of Essence. Time is of the essence in this contract.
- (18) Complete Agreement. All understandings and agreements heretofore existing between the parties are merged into this contract that alone fully and completely expresses their agreement. This contract may be changed only in writing signed by all of the affected parties hereto and shall apply to and bind the successors and assigns of each of the parties hereto and shall not merge with the deeds delivered to the City at closing.

**IN AGREEMENT WITH ALL OF THE TERMS AND CONDITIONS** of this contract and after being properly authorized by the Fayetteville City Council, the Mayor and City-Clerk Treasurer of the City of Fayetteville, Arkansas, sign their names below:

**CITY OF FAYETTEVILLE,  
ARKANSAS**

**ATTEST:**

By: \_\_\_\_\_  
Lioneld Jordan, Mayor

By: \_\_\_\_\_  
Kara Paxton, City Clerk-Treasurer

Date: \_\_\_\_\_



**IN AGREEMENT WITH ALL OF THE TERMS AND CONDITIONS** of this contract, after being properly authorized to sign for Fayetteville Depot, LLC and any other entity, we sign their names below:

**Greg House for himself individually and as proper legal representative or managing partner or agent of Fayetteville Depot, LLC.**

\_\_\_\_\_ **Date:** \_\_\_\_\_  
**Greg House**

**Ted Belden, for himself individually, and for any entity for which he has legal authority to approve this contract**

\_\_\_\_\_ **Date:** \_\_\_\_\_  
**Ted Belden**

**IN AGREEMENT WITH ALL OF THE TERMS AND COMMITMENTS** within Sections **I, II** and **V** of this contract, after being properly authorized by the Bank of Fayetteville and its parent company, I sign below:

**BANK OF FAYETTEVILLE**

\_\_\_\_\_ **Date:** \_\_\_\_\_  
Signature of responsible officer

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Title