

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS  
CIVIL DIVISION**

**JAMES FRANK CLARK III**

**PLAINTIFF**

v.

**CASE NO. 60CV-23-\_\_\_\_\_**

**CITY OF LITTLE ROCK,  
a municipal corporation**

**DEFENDANT**

**COMPLAINT**

COMES NOW the Plaintiff, James Frank Clark III, by and through the undersigned counsel, and for his cause of action against the Defendant, City of Little Rock, states:

**Parties, Jurisdiction, and Venue**

1. Plaintiff James Frank Clark III is a citizen and resident of, and taxpayer in, Little Rock, Pulaski County, Arkansas. He is over the age of 18 years.

2. Defendant City of Little Rock is a municipal corporation located in Pulaski County, Arkansas and was formed pursuant to the laws of the State of Arkansas.

3. This Court has subject matter jurisdiction over this matter.

4. Venue is proper in this Court pursuant to Arkansas Code Annotated § 16-111-101, *et. seq.*

5. This is also an action for breach of contract and is also brought pursuant to Act 1003 of 2021, the “Arkansas State Capitol and Historical Monument Protection Act,” which permits residents of the State of Arkansas to petition Arkansas courts to enjoin the unlawful removal of historical monuments.

## **Factual Background**

6. The preceding paragraphs, numbered 1-5, are incorporated by reference herein.

7. The Capitol Guards Monument, more formally known as the Memorial to Company A, Capitol Guards, was a Civil War memorial located at the MacArthur Museum of Arkansas Military History at MacArthur Park in Little Rock, Pulaski County, Arkansas. The MacArthur Museum of Arkansas Military History at MacArthur Park was created to honor our State's military heritage and to preserve the contributions of Arkansas men and women who served in the armed forces. The Monument stood just northeast of the building formerly known as the Tower Building of the Little Rock Arsenal and consisted of a bronze statute which depicted a Confederate Soldier and was mounted on a granite column. This historical monument was installed in 1911 and dedicated during the 1911, United Confederate Veterans Reunion. Over 100,000 people attended the dedication ceremony and reunion. It is part of the history of Arkansas and is considered an historical monument under Act 1003 of 2021 (the "Historical Monuments Protection Act" or which may just be called the "Act" below).

8. The Capitol Guards Monument was originally paid for by the General Robert C. Newton Camp #197, Sons of the Confederate Veterans, and was listed on the National Register of Historic Places until 2021, but was delisted in 2021 after the City of Little Rock illegally ordered the Monument to be removed in the dark of night in violation of the existing easement agreement and listing guidelines.

9. The Capitol Guards Monument (See Exhibit A) was located on public property, as that term is used in the Historical Monuments Protection Act. In this regard, see the Historical Preservation Easement, attached hereto as Exhibit B, and incorporated herein by reference. That easement granted an easement in fee simple in perpetuity of the property where the Capitol Guards

Monument was located from the City of Little Rock (as Grantor) to the State of Arkansas, acting through the Arkansas Historic Preservation Program (as Grantee), an agency of the Arkansas Department of Parks, Heritage, and Tourism (herein “ADPHT”) and is dated September 26, 2017. The easement contains many covenants incorporated herein concerning protection of the property covered by the easement. This easement was granted due to the terms of an ADPHT grant for historical and conservation purposes.

10. On or about June 15, 2020, the base of the Capitol Guards monument was vandalized with a varnish like substance.

11. On or about June 18, 2020 the bronze soldier statute and restoration plaque were removed from the base of the Monument during in the early morning hours in the cover of darkness without notice to the citizens of Little Rock.

12. On or about August 4, 2020, the ADPHP and the City of Little Rock quietly entered into a contract requiring the City of Little Rock to pay \$45,000 as liquidated damages for reasons stated in the contract and related to this claim that ADPHT could raise concerning the removal of the Capitol Guards monument. (See Exhibit C, attached hereto and made a part hereof by reference). That contract contains the following important provision:

“The City agrees that it will seek the input of ADPHT in working cooperatively and collaboratively with ADPHT to have the [Capitol Guards] Monument installed at an appropriate location within a reasonable period of time not to extend past December 31, 2022 unless otherwise mutually agreed to in writing between the parties.”

13. On information and belief, there have been no written extensions or mutual agreements to extend the time period set forth in the immediately preceding paragraph past December 31, 2022 and no agreement has been reached between ADPHT and the City of Little Rock concerning such matter to relocate the Capitol Guards Monument.

14. Act 1003 of 2021, the Historical Monument Protection Act, became effective immediately on its passage, by virtue of an emergency clause, on April 28, 2021.

15. The Act requires a waiver of the Arkansas History Commission to remove a historical monument, as defined within the Act. The Capitol Guards Monument (including both the top and bottom parts) is an historical monument as defined within the Act.

16. The base of the Capitol Guards Monument is a historical monument as defined with Act 1003 of 2021.

17. The base of the Capitol Guards Monument was removed by the Defendant on or about May 3, 2021 after the effective date of the Historical Monument Protection Act and in violation of the Act.

#### **Count One—Breach of Contract**

18. Plaintiff repeats the allegations set forth in paragraphs 1-17 above and incorporates them as if set forth word for word herein.

19. The agreement attached hereto as Exhibit C states:

“WHEREAS, the City and ADPHT, without any admission of liability of wrongdoing, each desire to avoid the time, effort, expense, and uncertainty of litigation and have negotiated between them, without admissions or denials, a compromise to fully settle and resolve any and all claims and counterclaims that could be asserted in litigation in regard to said monument removal[.]”

20. The aforesaid agreement also contained a release of the City of Little Rock upon certain terms and required the City of Little Rock to have the aforesaid Monument installed at an appropriate location within a reasonable period of time not to extend past December 31, 2022 unless other mutually agreed in writing by the parties.

21. Plaintiff is a taxpaying citizen of Little Rock, Arkansas. The agreement constitutes and evidences a clear intention to benefit the taxpaying citizens of Little Rock, by eliminating their liability to pay more taxes if the Defendant did not comply with the agreement.

22. On information and belief, the Defendant is in breach of the agreement as attached hereto as Exhibit C.

23. The Plaintiff has no adequate remedy at law. Specific performance of the agreement, requiring replacement of the entire historical monument (both top and bottom) should be required by the Court.

### **Count Two—Breach of Historical Monument Protection Act**

24. Plaintiff repeats the allegations set forth in paragraphs 1-23 above and incorporates them as if set forth word for word herein.

25. The base of the Capitol Guards monument, being what was left behind after removal of the top part of the monument consisting of a Confederate Soldier, remains a Historical Monument as defined in the Historical Monument Protection Act.

26. On May 3, 2021, after the passage of the Historical Monument Protection Act, the base of the Capitol Guards monument was removed by the Defendant with no authority and no waiver of the Arkansas History Commission, as required by the Act.

27. For these reasons, because of the breach of the Act, the Court should grant a mandatory injunction requiring the restoration of the base of the Capitol Guards Monument.

WHEREFORE, premises considered, the Plaintiff, James Frank Clark III, prays that the Court issue a mandatory injunction to require restoration of both the base and top portions of the Confederate Guards Monument, and for such other relief as is just and proper.

  
Joey McCutchen (#88045)

---

McCutchen Sexton Napurano – The Law Firm  
PO Box 1971  
Fort Smith, AR 72902  
Phone 479-783-0036  
Facsimile 479-783-5168  
[jmccutchen@mccutchenlawfirm.com](mailto:jmccutchen@mccutchenlawfirm.com)

ZETTE, LITTLE ROCK, SUNDAY, APRIL 9, 1911.

*Capital City Guards Monument  
To be Unveiled During Reunion*

9-9-1911



**EXHIBIT**  
**A**



2017064284

PRESENTED: 10-05-2017 09:38:36 AM

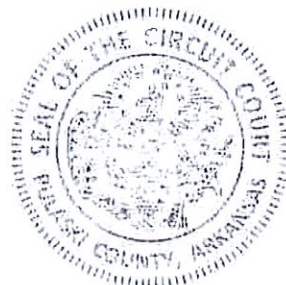
RECORDED: 10-05-2017 09:50:07 AM

In Official Records of Larry Crane Circuit/County Clerk

PULASKI CO, AR FEE \$260.00

Resource Number: (AHPP use only)	PU3150
-------------------------------------	--------

Name of Property:	US Arsenal Building
Physical Address:	MacArthur Park at 9 <sup>th</sup> & Congress Little Rock, AR 72202



**HISTORIC PRESERVATION EASEMENT**

This preservation and conservation easement, made the 26 day of September, 2017, by and between CITY OF LITTLE ROCK ("Grantor") and THE STATE OF ARKANSAS, ACTING BY AND THROUGH THE ARKANSAS HISTORIC PRESERVATION PROGRAM ("Grantee").

**WITNESSETH:**

WHEREAS, the Grantee is a qualifying recipient of qualified conservation contributions under 26 U.S.C. Section 170, being part of the Internal Revenue Code, as amended from time to time (hereinafter the "Code");

WHEREAS, the Grantee is authorized to accept conservation easements for all purposes set forth in Ark. Code Ann. § 15-20-401 (the "Act") to retain and protect property having significant architectural, archeological, historical, or cultural aspects;

WHEREAS, the Grantor is owner in fee simple of certain real property in **Pulaski** County, Arkansas (hereinafter the "Property"), said Property including **one** structure commonly known as **U.S. Arsenal Building** (hereinafter the "Building"), and is more particularly described below;

WHEREAS, the Property or Building was listed in the National Register of Historic Places on **July 28, 1970**, and is warranted by Grantor to be a certified historic structure;

WHEREAS, the Grantor and Grantee recognize the historical, cultural, architectural or archaeological value and significance of the, and have the common purpose of conserving and preserving the aforesaid value and significance of the Property;





WHEREAS, the grant of a preservation and conservation easement by Grantor to Grantee on the real property referred to herein will assist in preserving and maintaining the Property and its architectural, archaeological, historical and cultural features;

WHEREAS, the grant of a preservation and conservation easement by Grantor to Grantee on the Property will assist in preserving and maintaining the aforesaid value and significance of the Property both to Grantor and Grantee;

WHEREAS, to that end, Grantor desires to grant to Grantee, and Grantee desires to accept, a conservation easement on the portion of the Property that includes the building;

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor does hereby irrevocably grant, bargain, sell and convey unto the Grantee, TO HAVE AND TO HOLD the same unto Grantee, an easement in gross in perpetuity (which easement is more particularly described below and will hereafter be referred to as the "Easement") in and to that certain real property and the exterior surfaces of the Building located thereon ("the Property"), owned by the Grantor, and more particularly described as:

#### LEGAL PROPERTY DESCRIPTION

##### MACARTHUR MILITARY MUSEUM EASEMENT:

A PART OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 1 NORTH , RANGE 12 WEST AND A PART OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 1 NORTH, RANGE 12 WEST, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A SET R4/CAP 1401, SAID POINT BEING AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF 9TH STREET (60') AND THE QUAPAW LINE, SAID POINT ALSO BEING NORTH 01°59'52" EAST A DISTANCE OF 1246.55 FEET FROM A FOUND AHTD BRASS MONUMENT ACCEPTED AS BEING ON THE QUAPAW LINE AND THE NORTH RIGHT OF WAY LINE OF I630; THENCE SOUTH 88°52'45" EAST ALONG THE SOUTH RIGHT OF WAY LINE OF 9TH STREET, A DISTANCE OF 438.41 FEET TO A SET R4/CAP 1401, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUING ALONG THE SOUTH RIGHT OF WAY OF 9TH STREET A BEARING OF SOUTH 88°52'45" EAST A DISTANCE OF 195.22 FEET TO A SET R4/CAP 1401; THENCE LEAVING SAID SOUTH RIGHT OF WAY, SOUTH 01°06'43" WEST A DISTANCE OF 447.50 FEET TO A SET R4/CAP 1401; THENCE NORTH 88°51'27" WEST A DISTANCE OF 47.57 FEET TO A SET R4/CAP 1401; THENCE SOUTH 01°13'54" WEST A DISTANCE OF 259.40 FEET TO A SET R4/CAP 1401; THENCE NORTH 88° 56'30" WEST A DISTANCE OF 147.13 FEET TO A SET R4/CAP 1401; THENCE NORTH 01°06'51" EAST A DISTANCE OF 707.04 FEET TO THE POINT OF BEGINNING, CONTAINING 125607.06 SQ. FT. OR 2.88 ACRES MORE OR LESS. The Easement, to be of the nature and character hereinafter further expressed, shall constitute a binding servitude upon

said Property of the Grantor, and to that end Grantor covenants on behalf of itself, its successors and assigns, with Grantee, its successors and assigns, including that such covenants shall run as a binding servitude, in perpetuity, upon the Property, each of the following covenants and stipulations, which contribute to the public purpose in that they aid significantly in the preservation of the Buildings and surrounding land area, and which help maintain and assure the present and future integrity of the Buildings:

1. Description of Facades. In order to make more certain the full extent of Grantor's obligations and the restrictions on the Property and the Building, and in order to document the external nature of the Building as of the date hereof, attached hereto as Exhibit "A" and incorporated herein by this reference are a set of photographs depicting the exterior surfaces of the Building and surrounding property and an affidavit specifying certain technical and locational information relative to said photographs satisfactory to Grantee, attached hereto as Exhibit "B". It is stipulated by the between Grantor and Grantee that the external nature of the Building as shown in Exhibit "A" is deemed to be the external nature of the Building as of the date hereof and as of the date this instrument is first recorded in the real estate records of the county wherein the Premises is located. The external nature of the Building as shown in Exhibit "A" is hereinafter referred to as the "Facades."

2. GRANTOR'S COVENANTS. In furtherance of the easement herein granted, Grantor undertakes, of itself, to do (and to refrain from doing as the case may be) upon the Property each of the following, which contribute to the public purpose of significantly protecting and preserving the Premises:

(a) Grantor shall not demolish, remove or raze the Building or the Facades except as provided in Paragraphs 6 and 7.

(b) Without the prior express written permission and approval of the Grantee (which shall be granted or withheld solely in the discretion of Grantee), signed by a duly authorized representative thereof, it being understood and agreed by Grantor that such authorization may not be obtained orally, by estoppel or waiver, or in any other manner other than as expressly set forth above (the "Approval"), Grantor shall not undertake any of the following actions:

(i) increase or decrease the height of the Facades or the Building;

(ii) adversely affect the structural soundness of the Facades;

(iii) make any changes in the Facades including the alteration, partial removal, construction, remodeling or other physical or structural change including any change in surfacing, with respect to the appearance or construction of the Facades, with the exception of ordinary maintenance pursuant to Paragraph 2(c) below;

(iv) erect anything on the Premises or on the Facades which would

prohibit them from being visible from street level, except for a temporary structure during any period of approved alteration or restoration;

(v) permit any significant reconstruction, repair, repainting or refinishing of the Facades that alters their state from the existing condition. This subsection (v) shall not include ordinary maintenance pursuant to Paragraph 2(c) below; and

(vi) erect, construct or move anything on the Premises that would encroach on the open land area surrounding the Buildings and interfere with a view of the Facades or be incompatible with the historic or architectural character of the Buildings or the Facades.

(c) Grantor agrees at all times to maintain the Buildings in a good and sound state of repair and to maintain the Facades and the structural soundness and safety of the Buildings and to undertake the minimum maintenance program attached as Exhibit "C" so as to prevent deterioration of the Facades. Subject to the casualty provisions of Paragraphs 5, 6 and 7, this obligation to maintain shall require replacement, rebuilding, repair and reconstruction whenever necessary to have the external nature of the Buildings at all times appear to be and actually be the same as the Facades.

(d) No buildings or structures, including satellite receiving dishes, camping accommodations or mobile homes not presently on the Property shall be erected or placed on the Property hereafter, except for temporary structures required for the maintenance or rehabilitation of the property, such as construction trailers, without the express written consent of Grantee.

(e) No signs, billboards, awnings or advertisements shall be displayed or placed on the Property or Building; provided, however, that Grantee may, with an Approval, erect such signs or awnings as are compatible with the preservation and conservation purposes of this Easement and appropriate to identify the Premises and Buildings and any activities on the or in the Building.

(f) There shall be no removal, destruction or cutting down of large trees or landscaping integral to the preservation and conservation purposes of this Easement; provided, however, that Grantor may, with an Approval, undertake such landscaping of the Property as is compatible with the preservation and conservation purposes of this Easement and which may involve removal or alteration of present landscaping, including trees, shrubs or other vegetation.

(g) No dumping of ashes, trash, rubbish or any other unsightly or offensive materials shall be permitted on the Property.

(h) The Property shall be used only for purposes consistent with the preservation and conservation purposes of this Easement.

(i) After the date the Easement is recorded, the Property (or any part thereof or interest therein) shall not be subdivided, re-platted, or subjected to change in allowed land uses including without limitation action to change the allowed land uses or land use classification and the Property shall not be leased, mortgaged, sold, devised or conveyed (including without limitation conveyance of an easement or restrictive covenant) except as a unit.

(j) No utility transmission lines, except those reasonably necessary for the existing Buildings, may be created on the Property, subject to utility easements recorded as of the date this Easement is recorded.

3. (a) Public View. Grantor agrees not to obstruct the substantial and regular opportunity of the public to view the exterior architectural features of any building, structure or improvements of the Property, including the Building, from adjacent publicly accessible areas such as public streets.

-or-

(b) Public Access. Grantor shall make the Property accessible to the public on a minimum of two (2) days per year from 10:00 a.m. to 4:00 p.m. and at other times by appointment, to permit persons affiliated with educational organizations, professional architectural associations and historical societies to study the Property and the Buildings. Any such public admission may be subject to restrictions having an Approval as reasonably designed for the protection and maintenance of the Property and the Building. Grantee, on request of the Grantor, shall furnish such guides and/or guardians as may reasonably be necessary or desirable for such restrictions. Such admission may also be subject to a reasonable fee, if any, having an Approval. The Grantee may make photographs, drawings or other representations documenting the significant historical, cultural or architectural character and features of the property and distribute them to magazines, newsletters or other publicly available publications, or use them to further its stated purposes.

(c) Archeology

(i) Any and all ground disturbing activities or earth removal on the Property, may require archeological survey and/or investigation if, in the opinion of Grantee, such ground disturbing activity or earth removal may impact the historic battlefield landscape, existing historic buildings, structures, amenities and/or features or archeologically significant deposits, sites or features on the Property, whether known or unknown as of the Effective Date. Additional or more intensive archaeological survey and/or investigation may be required if, in the opinion of Grantee, such survey or investigation is necessary to identify, protect, preserve or recover archeologically significant deposits, sites or features. Such additional archeological survey or investigation shall be completed prior to the commencement of the proposed ground disturbing activity.

(ii) Archeological survey and/or investigation may be undertaken on the Property only if a scope of work for such survey or investigation is reviewed and approved in writing in advance by Grantee and only if said survey or investigation is performed in accordance

with the Secretary's Standards and under the supervision of a professionally qualified archeologist meeting or exceeding the Secretary of the Interior's Professional Qualifications Standards. Any such survey or investigation shall be designed to protect, preserve, and/or recover archeologically significant deposits, sites, or features in the area of the proposed ground disturbing activity. Any such additional archeological survey or investigation shall be completed prior to the commencement of the proposed ground disturbing activity.

(iii) Artifacts, both prehistoric and historic, recovered from the Property after the Effective Date shall remain the personal property of Grantor, unless otherwise provided by law. Grantor may choose to donate any or all artifacts to Grantee or to another educational or museum organization with the prior written approval of Grantee. All artifacts professionally excavated from archeological deposits, sites, or features on the Property shall be treated, curated, and preserved according to the State Plan for the Conservation of Archeological Resources in Arkansas 1982 (as amended 1994, Appendix G) (iv) Grantor shall take all reasonable precautions to protect archeological deposits, sites or features on the Property, whether known or unknown as of the Effective Date, from looting, vandalism, erosion, mutilation, or destruction from any cause. Grantor shall notify Grantee as soon as practicable but within thirty (30) calendar days following discovery or knowledge of any looting, vandalism, erosion, mutilation, or destruction of archeological deposits, sites, or features on the Property.

(v) No archeological activities of any kind, including but not limited to the use of non-invasive technologies, may take place on the Property without the express written consent of Grantee. Relic hunting of any kind on the Property is expressly prohibited.

4. Standards for Review. In exercising any authority created by the Easement to inspect the Property, the Building or the Facades; to review any construction, alteration, repair or maintenance; or to review casualty damage or to reconstruct or approve reconstruction of the Building following casualty damage, Grantee shall apply the Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; issued and as may be amended from time to time by the Secretary of the United States Department of the Interior (hereinafter the "Standards") and state or local standards considered appropriate by Grantee for review of work affecting historically or architecturally significant structures or for construction of new structures within historically, architecturally or culturally significant areas. Grantor agrees to abide by the Standards in performing all ordinary repair and maintenance work and the minimum maintenance program described in paragraph 2(c) and contained in Exhibit "C". In the event the Standards are abandoned or materially altered or otherwise become, in the sole judgment and discretion of the Grantee, inappropriate for the purposes set forth above, the Grantee may apply reasonable alternative standards and notify Grantor of the substituted standards.

5. Casualty Damage or Destruction. In the event that the Property or any part thereof shall be damaged or destroyed by casualty, the Grantor shall notify the Grantee in writing within one (1) day of the damage or destruction, such notification including what, if any, emergency work has already been completed. For purposes of this instrument, the term "casualty" is defined as such sudden damage or loss as would qualify for a loss deduction pursuant to Section 165(c)(3) of the Code (construed without regard to legal status, trade or business of the Grantor or any applicable dollar limitation). No repairs or reconstruction of any type, other than

temporary emergency work to prevent further damage to the Property and to protect public safety, shall be undertaken by Grantor without an Approval. Within four (4) weeks of the date of damage or destruction, the Grantor shall submit to the Grantee a written report prepared by a qualified restoration architect and/or an engineer, if required, acceptable to the Grantor and the Grantee which shall include the following:

- (a) An assessment of the nature and extent of the damage;
- (b) A determination of the feasibility of the restoration of the Facades and reconstruction of damaged or destroyed portions of the Property; and
- (c) A report of all work necessary to return the Property to the condition existing at the time this Easement was recorded or to the condition to which the Property may have been altered only where alterations are done, pursuant to an Approval as set forth in paragraph 2 of the Easement (the "Prior Condition"). If, in the opinion of the Grantee, after reviewing such report, the purpose and intent of the Easement will be served by restoration and reconstruction of the Property to the Prior Condition, the Grantor shall, within eighteen (18) months after the date of such change or destruction, complete the restoration and construction of the Property in accordance with plans and specifications having an Approval up to at least the total of the casualty insurance proceeds as may be necessary to restore the appearance of the Facades to the Prior Condition, and additional cost of work not performed or monies advanced (Grantee having no obligation to advance funds) by Grantee shall constitute a lien on the Property until repaid by Grantor.

6. Grantee's Remedies Following Casualty Damage. The foregoing notwithstanding, in the event of damage resulting from casualty, as defined at paragraph 5, which is of such magnitude and extent as to defeat the purposes of this Easement, as determined by Grantee acting with sole discretion, then:

- (a) Grantee may elect to reconstruct the Building using insurance proceeds, donations or other funds received by Grantor or Grantee on account of such casualty, but otherwise at its own expense (such expense of Grantee to constitute a lien on the Property until repaid in full); or
- (b) Grantee may elect to choose any salvageable portion of the Facades and remove them from the Property, extinguish the Easement pursuant to paragraph 26, and this Easement shall thereupon be of no further force and effect, and Grantee shall execute and deliver to Grantor acknowledged evidence of such fact suitable for recording in the land records of the county wherein the Property is located, and Grantor shall deliver to Grantee a good and sufficient Bill of Sale for such salvaged portions of the Facade.

7. Review after Casualty Loss. If, in the opinion of the Grantee, restoration and reconstruction would not serve the purpose and intent of the Easement, then the Grantor shall continue to comply with the provisions of the Easement and seek an Approval altering

demolishing, removing or razing the Buildings and constructing new improvements on the Premises.

8. GRANTEE'S COVENANTS. The Grantee covenants that:

(a) Grantee is and will remain a qualified organization for purposes of Section 170(h) of the Code. In the event that the Grantee's status as a qualified organization is successfully challenged, then the Grantee shall promptly select another qualified organization and transfer all of its rights and obligations under the Easement to it, which shall be the sole and exclusive remedy of Grantor.

(b) In the event that the Grantee shall at any time in the future become the fee simple owner of the Property, Grantee for itself, its successors and assigns, covenants and agrees, in the event of a subsequent conveyance of the same to another, to create a new preservation and conservation easement either to retain such easement in itself or to convey such easement to a similar unit of federal, state or local government or local, state or national organization whose purposes, inter alia, are to promote preservation or conservation of historical, cultural or architectural resources, and which is a qualified organization under Section 170(h)(3) of the Code.

(c) Grantee may, at its discretion and without prior notice to Grantor, convey, assign or transfer this Easement to a unit of federal, state or local government or to a similar local, state or national organization whose purposes, inter alia, are to promote preservation or conservation of historical, cultural or architectural resources, and which at the time of the conveyance, assignment or transfer, is a qualified organization under Section 17(h)(3) of the Code, provided that any such conveyance, assignment or transfer requires that the preservation and conservation purposes for which the Easement was granted will continue to be carried out.

9. Inspection. Grantor hereby agrees that representatives of Grantee shall be permitted at all reasonable times to inspect the Property, including the Facades and the Buildings. Grantor agrees that representatives of Grantee shall be permitted to enter and inspect the interior of the Buildings to determine compliance with this Easement and maintenance of structural soundness and safety; inspection of the interior will not, in the absence of evidence of deterioration, take place more often than annually, and may involve reasonable testing of interior structural condition. Inspection of the interior will be made at a time mutually agreed upon by Grantor and Grantee, and Grantor covenants not to unreasonably withhold its consent in determining a date and time for such inspection.

10. Grantee's Remedies. Grantee has the following legal remedies to correct any violation of any covenant, stipulation or restriction herein, in addition to any remedies now or hereafter provided by law:

(a) Grantee may, following thirty (30) days written notice to Grantor, institute

suit to enjoin such violation by ex parte, temporary, preliminary and permanent injunction, including prohibitory and mandatory injunctive relief, and to require the restoration of the Property to the condition and appearance required by this Easement.

(b) Representatives of the Grantee may, following reasonable notice to Grantor, enter upon the Property, correct any such violation, and hold Grantor, its heirs, personal administrators, executors, successors and assigns responsible for the cost thereof.

(i) Such cost until repaid shall constitute a lien on the Property.

(ii) Grantee shall exercise reasonable care in selecting independent contractors if it chooses to retain such contractors to correct any such violations, including making reasonable inquiry as to whether any such contractor is properly licensed and has adequate liability insurance and worker's compensation coverage.

(c) Grantee shall also have available all other legal and equitable remedies to enforce Grantor's obligations hereunder.

(d) In the event Grantor is found to have violated any of its obligations, Grantor shall reimburse Grantee for any costs or expenses incurred in connection therewith, including all reasonable court costs and attorneys', architectural, engineering and expert witness fees.

(e) Exercise by Grantee of one remedy hereunder shall not have the affect of waiving or limiting any other remedy, and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

11. Notice from Government Authorities. Grantor shall deliver to Grantee copies of any notice, demand, letter or bill received by Grantor from any government authority within five (5) days of receipt by Grantor. Upon request by Grantee, Grantor shall promptly furnish Grantee with evidence of Grantor's compliance with such notice, demand, letter to bill, where compliance is required by law.

12. Notice of Proposed Sale. Grantor shall promptly notify Grantee in writing of any proposed sale of the Property and provide the opportunity for Grantee to explain the terms of the Easement to potential new owners prior to sale closing.

13. Runs with the Land. The obligations imposed by this Easement shall be effective in perpetuity and shall be deemed to run as a binding servitude with the Property. This Easement shall extend to and be binding upon Grantor and Grantee, their respective successors in interest and all persons hereafter claiming under or through Grantor and Grantee, and the words "Grantor" and "Grantee" when used herein shall include all such persons. Anything contained herein to the contrary notwithstanding, a person shall have no obligation pursuant to this



instrument where such person shall cease to have any interest in the Property by reason by a bona fide transfer, solely except for violations in existence at the time of transfer, for which Grantor and all successors to Grantor shall be jointly and severally responsible, except that Grantee may seek enforcement against any person deemed responsible without necessity of joining all such responsible persons.

14. Recording. Grantee shall do and perform all acts necessary to prompt recording of this instrument in the real estate records of the county wherein the Property is located, and Grantor shall pay for the expense of recording. . Proof of ownership is provided as Attachment "2."

15. Existing Liens. Except for those matters shown in Exhibit "D" hereto, Grantor warrants to Grantee that no lien or encumbrance exists on the Property as of the date hereof. Grantor shall immediately cause to be satisfied or released any lien or claim of lien that may hereafter come to exist against the Property which may have priority over any of the rights, title or interest of Grantee in the Property.

16. Subordination of Mortgages. Grantor warrants and represents to Grantee that all mortgages, liens, charges and encumbrances (solely except for ad valorem and other county or municipal taxes) and other rights in the Property held by all persons or entities other than Grantee (the "Lienholder(s)") are subject and subordinate at all times to the rights of the Grantee pursuant to this Easement. Grantor warrants and represents that there are no Lienholders, and the agreement of any future Lienholder to subordinate all of their interest in the Property to the Easement is attached as Exhibit "E". The following provisions apply to all Lienholders now existing or hereafter claiming an interest in the Property:

(a) If a Lienholder has the right to receive the proceeds of condemnation proceedings arising from any exercise of the power of eminent domain as to all or any part of the Property or the right to receive insurance proceeds as a result of any casualty, hazard or accident occurring to or about the Property, the Lienholder shall have a prior claim to the insurance and condemnation proceeds and shall be entitled to same in preference to Grantee until the debt owed to such Lienholder is paid off and discharged, notwithstanding that the interest of the Lienholder is subordinate to the Easement.

(b) If a Lienholder has received an assignment of the leases, rents and profits of the Premises as security or additional security for a loan, then the Lienholder shall have a prior claim to the leases, rents and profits of the Property and shall be entitled to receive same in preference to Grantee until the debt owed to such Lienholder is paid off, notwithstanding that the interest of the Lienholder is subordinate to the Easement.

(c) Until a Lienholder or purchaser at foreclosure obtains ownership of the Property, the Lienholder or purchaser shall have no obligation, debt or liability under the Easement.

(d) Before exercising any right or remedy due to breach of the Easement except the right to enjoin a violation hereof, Grantee shall give all Lienholder of record written notice describing the default, and the Mortgagee shall have sixty (60) days thereafter to cure or cause a cure of the default.

(e) Nothing contained in the above paragraphs or in the Easement shall be construed to give any Mortgage the right to extinguish this Easement by taking title to the Property by foreclosure or otherwise.

17. Plaques. Grantee agrees that Grantor may provide and maintain a plaque on the Facades or the Building, which plaque shall not exceed 18 by 24 inches in size, giving notice of the significance of the Building or the Property and the existence of this Easement.

18. Indemnification; Immunity. The Grantor hereby agrees to pay, protect, indemnify, hold harmless and defend at its own cost and expense, the Grantee, its agents, directors and employees or independent contractors from and against any and all claims, liabilities, expenses, costs, damages, losses and expenses (including reasonable attorneys' fees and disbursements hereafter incurred) arising out of or in any way relating to the administration, performed in good faith, of this Easement, including but not limited to the granting or denial of consents hereunder, the reporting on or advising as to any condition on the Property, and the execution of work on the Property. In the event that the Grantor is required to indemnify the Grantee pursuant to the terms of the Easement, the amount of such indemnify, until discharged, shall constitute a lien on the Premises. In addition, Grantor (and all other persons or entities claiming rights hereunder) acknowledges and agrees that nothing contained in this Easement, or otherwise, shall defeat, affect or act to waive the sovereign and governmental immunity enjoyed and inuring in favor of Grantee. The Grantee acknowledges and accepts the fact that entry into this Historic Preservation Easement by Grantor and Grantee in no way reduces, diminishes, or waives all statutory and other immunities that the Grantor enjoys by virtue of Grantor's status as a municipal corporation and governmental entity. In addition, Grantor (and all other persons or entities claiming rights hereunder) acknowledges and agrees that nothing contained in this Easement, or otherwise, shall defeat, affect or act to waive the sovereign and governmental immunity enjoyed and inuring in favor of Grantee.

19. Taxes. Grantor shall pay immediately, when first due and owing, all general taxes, special taxes, special assessments, water charges, sewer service charges and other charges which may become a lien on the Property. Grantee is hereby authorized, but in no event required or expected, to make or advance, upon three (3) days prior written notice to Grantor, in the place of Grantor, any payment relating to taxes, assessments, water rates, sewer rentals and other governmental or municipality charge, fine, imposition or lien asserted against the Property and may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or assessment or into the validity of such tax, assessment, sale or forfeiture.

20. Insurance. The Grantor shall keep the Property insured by an insurance company

having a size of Class XIV or better and having a rating of "A+" or better by Best's Insurance Reports for the full replacement value, if such policy is available, and, if not, for the full appraised value, against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death and property damage of a type and in such amounts as would, in the opinion of Grantee, normally be carried on a property such as the Property protected by a preservation and conservation easement. Such insurance shall include Grantee's interest and name Grantee as an additional insured and shall provide for at least thirty (30) days notice to Grantee before cancellation and that the act or omission of one insured will not invalidate the policy as to the other insured party. Furthermore, the Grantor shall deliver to the Grantee certificates evidencing the aforesaid insurance coverage at the commencement of this grant and copies of new or renewed policies at least ten (10) days prior to the expiration of such policy. The Grantee shall have the right to provide insurance at the Grantor's cost and expense, should the Grantor fail to obtain same. In the event the Grantee obtains such insurance, the cost of such insurance shall be a lien on the Property until repaid by Grantor.

21. Liens. No lien shall be filed against the Property by Grantee, but the obligations under this Agreement are enforceable pursuant to all methods available to Grantee under law and this Agreement, Any lien on the property created pursuant to any paragraph of the Easement may be enforced by all available means, methods and remedies provided by this Easement and bylaw.

22. Written Notice. Any notice which either Grantor or Grantee may desire or be required to give to the other party shall be in writing and shall be mailed postage prepaid by first class mail, or hand delivered; if to Grantor, then at City of Little Rock, c/o City Manager, 500 W. Markham, Little Rock, Arkansas 72201, and if to Grantee, then to Arkansas Historic Preservation Program, 323 Center Street, Suite 1600, Little Rock, Arkansas 72201, Attention: Conservation Easement Officer. Each party may change its address set forth herein by a notice to such effect to the other party.

23. Evidence of Compliance. Upon request by Grantee, Grantor shall promptly furnish Grantee with evidence of Grantor's compliance with any obligation of Grantor contained in this Easement.

24. Stipulated Value of Grantee's Interest. Grantor acknowledges that upon execution and recording of the Easement, Grantee shall be immediately vested with a real property interest in the Property and that such interest of Grantee shall have a stipulated fair market value, for purposes of allocating net proceeds in an extinguishment pursuant to paragraph 26, equal to the ratio between the fair market value of the Easement and the fair market value of the Property prior to considering the impact of the Easement (hereinafter the "Easement Percentage"). In the event Grantor does not claim a charitable gift deduction for purposes of calculating federal income taxes and submit a Qualified Appraisal, the Easement Percentage shall be zero percent (0%).

25. Qualified Appraisal. In the event Grantor claims a federal income tax deduction for donation of a "qualified real property interest" as that term is defined in Section 170(h) of the Internal Revenue Code, Grantor shall provide Grantee with a copy of all appraisals (hereinafter, the "Qualified Appraisal" as that term is defined in P.L. 98-369, 155(a), 98 Stat. 691 (1983), and by reference of the Easement. Upon receipt of the Qualified Appraisal, this fully executed Easement, and any endowment requested hereunder by Grantee (if any), Grantee shall sign any appraisal summary form prepared by the Internal Revenue Service and submitted to the Grantee by Grantor.

26. Extinguishment. Grantor and Grantee hereby recognize that an unexpected change in the conditions surrounding the Property may make impossible the continued ownership or use of the Property for the preservation and conservation purposes and necessitate extinguishment of the Easement. Such a change in conditions includes but it not limited to partial or total destruction of the Buildings or the Facades resulting from a casualty of such magnitude that Grantee approves demolition as explained in paragraphs 5,6, and 7, or condemnation or loss of title of all or a portion of the Property, the Building or the Facades. Such an extinguishment must be either the result of a final judicial proceeding or have an Approval. Grantor shall be solely responsible for determining, reporting and paying any taxes, penalties or other sums, in addition to the legal, taxes and other effects of any extinguishment of the Easement.

27. Interpretation and Enforcement. The following provisions shall govern the effectiveness, interpretation and duration of the Easement.

(a) Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of property shall not apply in the construction or interpretation of this Easement, and this Easement shall be interpreted broadly to affect its preservation and conservation purposes and the transfer of rights and the restrictions on use herein contained as provided in the Act.

(b) This Easement shall extend to and be binding upon Grantor and all persons hereafter claiming under or through Grantor and the word "Grantor" when used herein shall include all such persons, whether or not such persons have signed this Easement or then have an interest in the Premises. Anything contained herein to the contrary notwithstanding, a person shall have no obligation pursuant to this Easement where such person shall cease to have any interest (present, partial, contingent, collateral or future) in the Property by reason of a bona fide transfer for full value, solely except for violations in existence at the time of transfer, for which Grantor and all successors to Grantor shall be jointly and severally responsible without necessity of joining all such responsible persons. Any right, title or interest herein granted to Grantee also shall be deemed granted to each successor and assign of Grantee and each such following successor and assign thereof, and the word "Grantee" shall include all such successors and assigns.

(c) This Easement is executed in counterparts, each page of which (including exhibits) has been initialed by Grantor and Grantee for purposes of identification. In the event of

any disparity between the counterparts produced, the recorded counterpart shall constitute the agreement of the parties.

(d) Except as expressly provided herein, nothing contained in this Easement grants, nor shall be interpreted to grant, to the public any right to enter on the Property or into the Building.

(e) To the extent that Grantor owns or is entitled to development rights which may exist now or at some time hereafter by reason of the fact that under any applicable zoning or similar ordinance the Property may be developed to use more intensive (in terms of height, bulk or other objective criteria regulated by such ordinances) than the Premises are devoted as of the date hereof, such development rights shall not be exercisable on, above or below the Property during the term of the Easement, nor shall they be transferred to any adjacent parcel and exercised in a manner that would interfere with the preservation and conservation purposes of the Easement.

(f) For purposes of furthering the preservation of the Property and Building and of furthering the other purposes of this Easement, and to meet changing conditions, Grantor and Grantee are free to amend jointly the terms of this instrument in writing without notice to any party; provided, however, that no such amendment shall limit the perpetual duration or interfere with the preservation and conservation purposes of this Easement. Such amendment shall become effective upon recording among the real estate records of the county where the Property is located.

(g) The invalidity of any statute providing authority for Grantee to enter into this Easement or any part of this Easement shall not affect the validity and enforceability of the remaining portions of this Easement according to its terms, it being the intent of the parties to agree and to bind themselves, their successors and their assigns in perpetuity to each term of this Easement whether this Easement be enforceable by reason of a statute, common law or private agreement either in existence now or at any time subsequent hereto.

(h) Nothing contained in this Easement shall be interpreted to authorize or permit Grantor to violate any ordinance or regulation relating to building materials, construction methods or use. In the event of any conflict between any such ordinance or regulation and the terms hereof, Grantor promptly shall notify Grantee of such conflict and shall cooperate with Grantee and the applicable governmental entity to accommodate the purposes of both this instrument and such ordinance or regulation.

(i) This Easement reflects the entire agreement of Grantor and Grantee. Any prior or simultaneous correspondence, undertakings, agreements and representations are null and void upon execution hereof, unless set out in this instrument.

**GRANTEE:**

STATE OF ARKANSAS Acting by and through the  
Arkansas Historic Preservation  
Program

Stacy Hurst  
Printed name

Signature

Director and State Historic Preservation Officer (SHPO)  
Title

10-4-17  
Date

**GRANTOR Notary Public**

STATE OF ARKANSAS            )  
  ) ss. ACKNOWLEDGMENT  
COUNTY OF PULASKI         )

On this 26<sup>th</sup> day of September, 2017, before me, a notary public, personally appeared Bruce T. Moore, who acknowledged himself to be the City Manager of the City of Little Rock, AR, a municipality, and that he, as such being authorized to do so by Resolution No. 14,268 executed the foregoing instrument for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.



Notary Public  
*Deborah Ann Baldwin*

05/20/2025  
My commission expires:  
(SEAL)

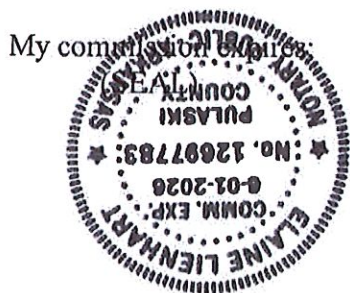
**GRANTEE Notary Public**

STATE OF ARKANSAS         )  
  ) ss. ACKNOWLEDGMENT  
COUNTY OF PULASKI         )

On this 4<sup>th</sup> day of September, 2017, before me, a notary public, personally appeared Stacy Hurst, who acknowledged herself to be the Director and State Historic Preservation Officer (SHPO) of the Department of Arkansas Heritage, a state agency, and that she, as such director and SHPO, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Notary Public  
*Elaine Linnhart*

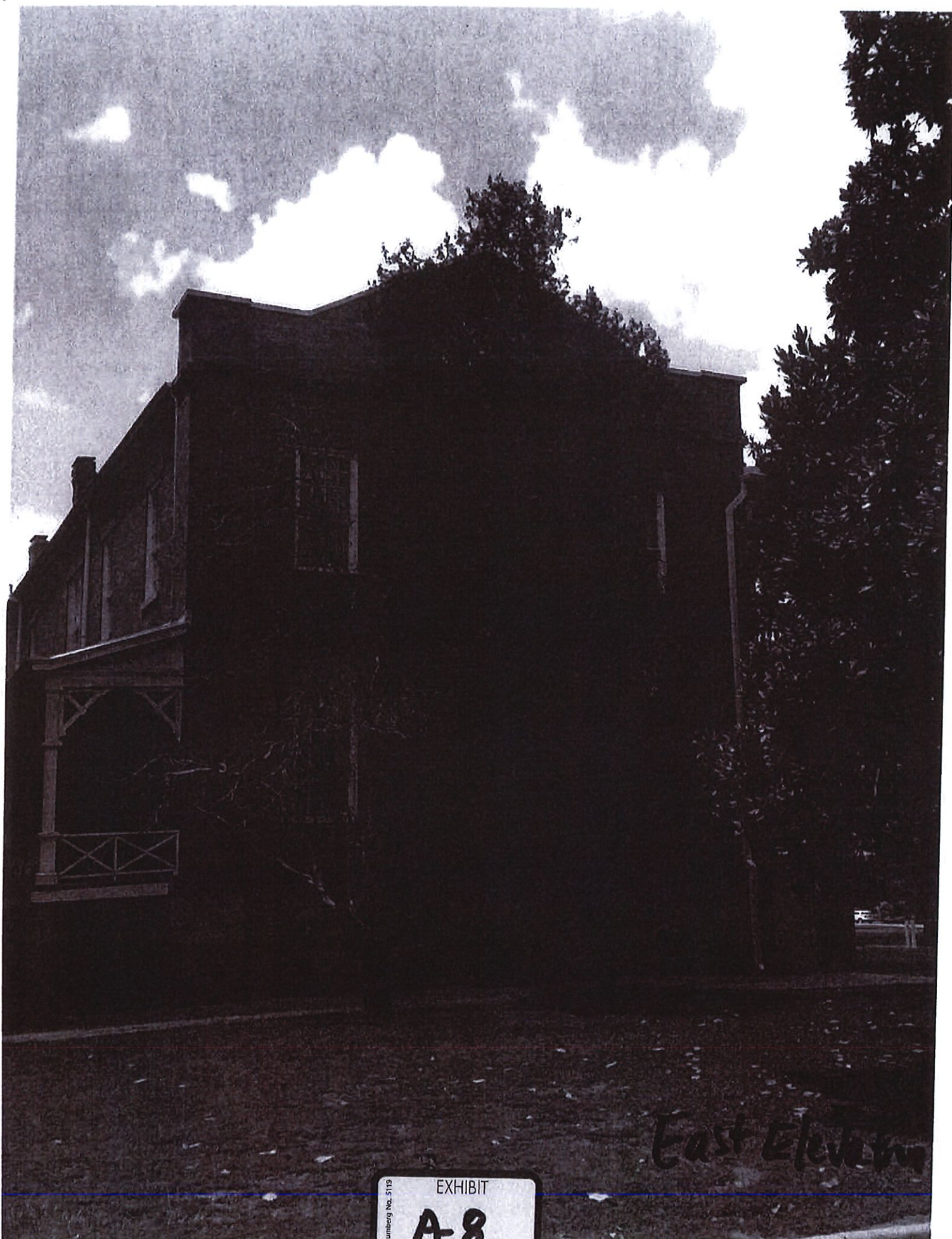




**EXHIBIT "A"**

**PHOTOGRAPHS OF PROTECTED PROPERTY**

**(BASELINE DOCUMENTATION)  
(EACH PHOTOGRAPH MUST BE LABELED)**



Lumber No. 5119  
EXHIBIT  
**A-8**

*East Elevation*

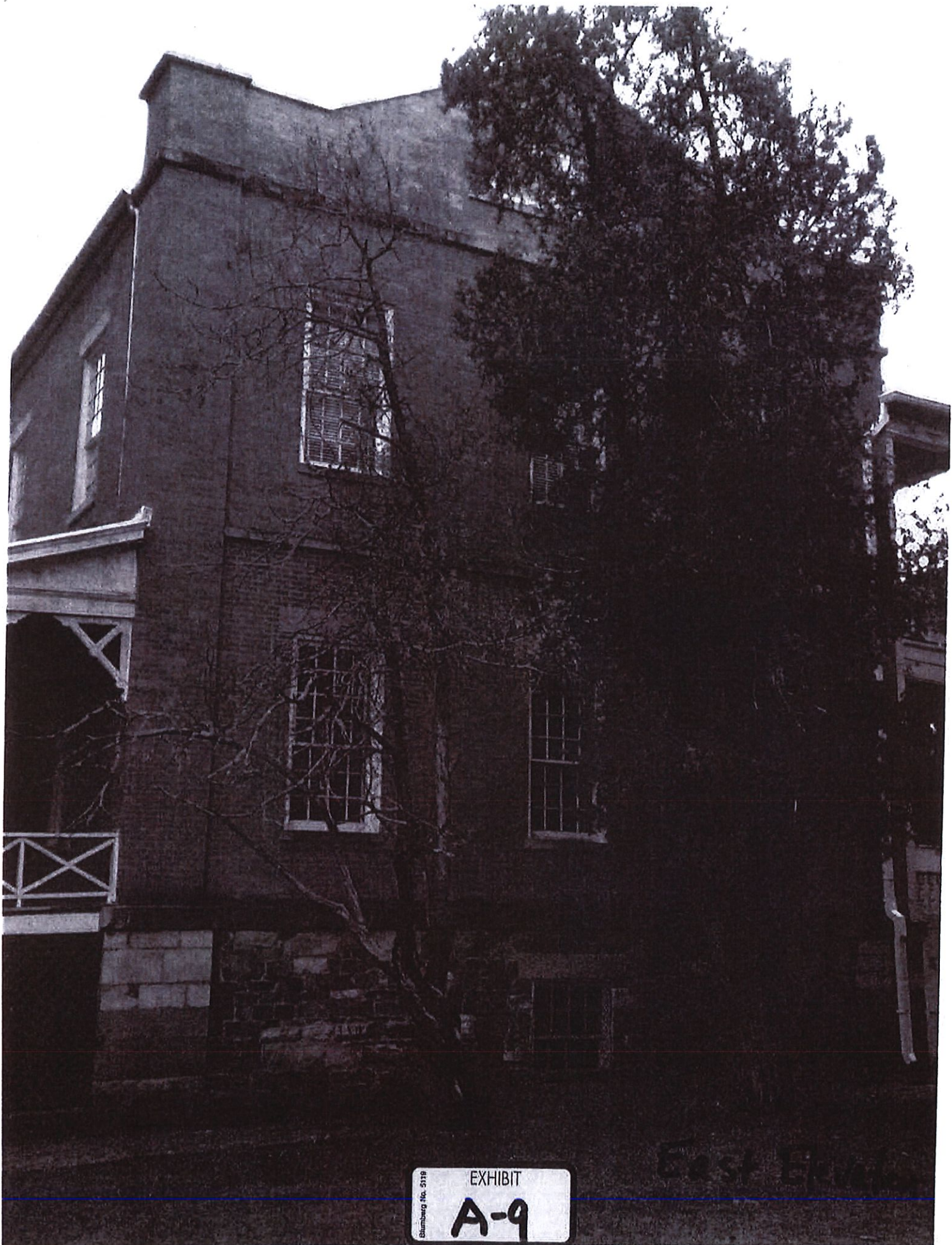


EXHIBIT  
A-9

Shimberg No. 5119



West Elevation

EXHIBIT  
A-7  
Blumberg No. 5119



South  
Elevation

EXHIBIT  
A-3  
Humborg No. 6119



North  
Elevation

EXHIBIT  
**A-4**  
Blumberg No. 5119

# North Elevation



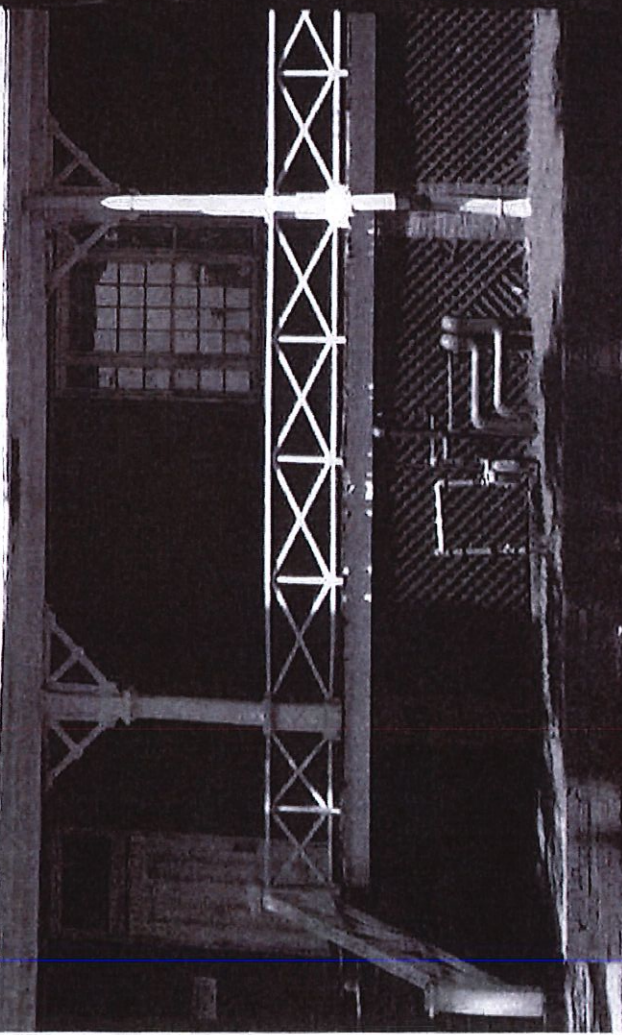
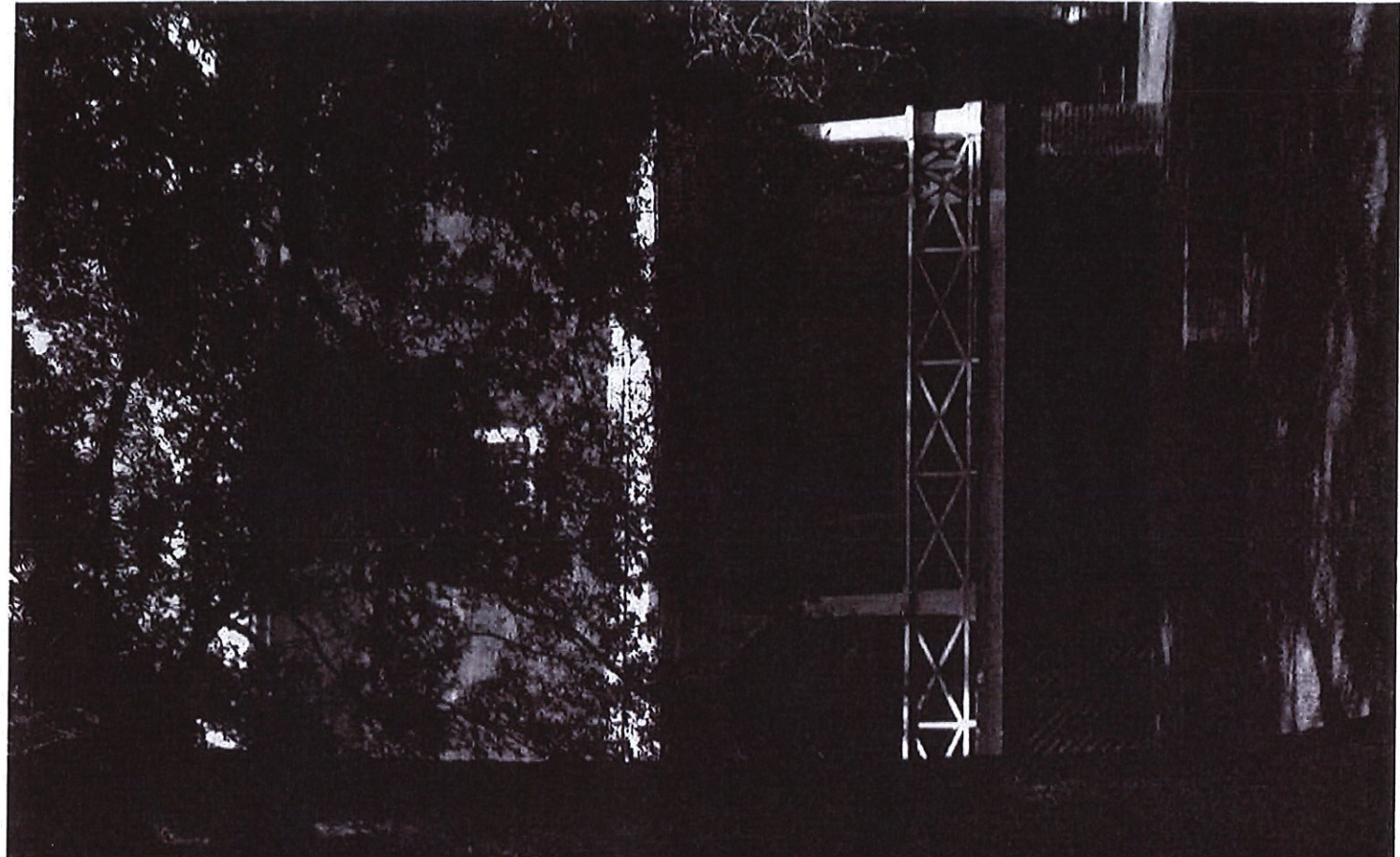


EXHIBIT  
**A-6**  
Dunberg No. 5118



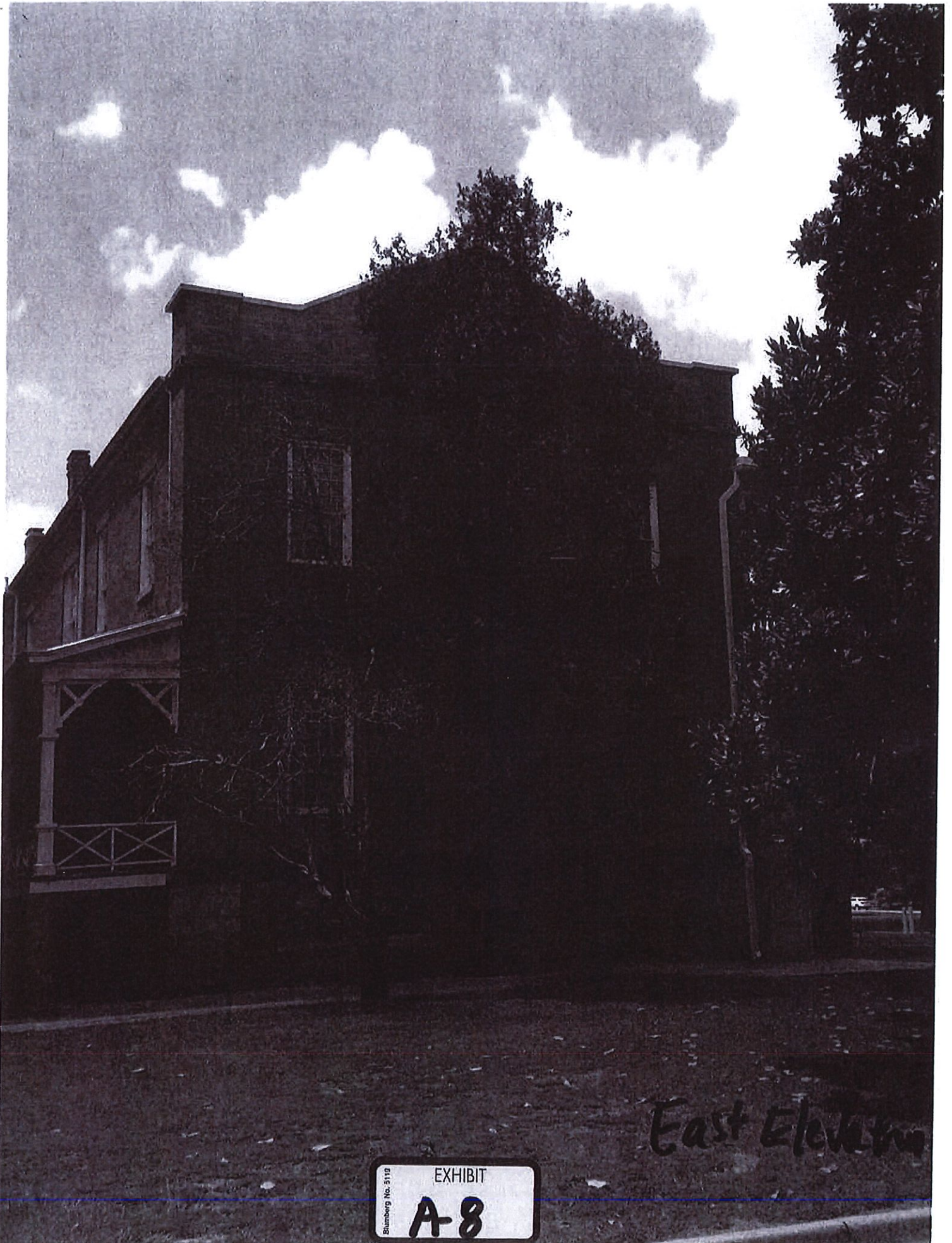


North  
Elevation

EXHIBIT  
A-7  
Blumberg No. 6118

MUSEUM

Free Admission /  
More Openly



Blumberg No. 3119  
EXHIBIT  
A-8

East Elevation



Blumberg No. 5179

EXHIBIT

A-9

East Elevation

EXHIBIT "B"

VERIFICATION AFFIDAVIT

I verify that I took the photographs of U.S. Arsenal Building  
Name of property  
on July 10, 2017 Stephan McAttee  
Date Signature

EXHIBIT "C"

**MINIMUM MAINTENANCE STANDARDS**

The property will be maintained in accordance with the U.S. Secretary of the Interior's Standards for Rehabilitation.

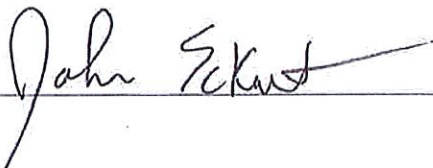
**The Secretary of the Interior's Standards for Rehabilitation**

<http://www.nps.gov/history/hps/tps/tax/rhb/stand.htm>

The Standards (Department of Interior regulations, 36 CFR 67) pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior, related landscape features and the building's site and environment as well as attached, adjacent, or related new construction. The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Signature



Date

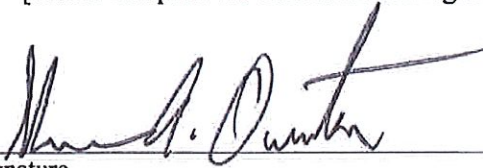
9-13-17

**EXHIBIT "D"**

**AFFIDAVIT OF EXISTING LIENS OR ENCUMBRANCES**

There are no liens or encumbrances on this property.

There are liens or encumbrances on this property.  
[Please complete the Subordination Agreement]

  
\_\_\_\_\_  
Signature

9/25/2017  
Date



SCOX

**EVIDENCE OF PROPERTY INSURANCE**DATE (MM/DD/YYYY)  
06/30/2017

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

AGENCY BancorpSouth Insurance Services, Inc. P. O. Box 251510 Little Rock, AR 72225	PHONE (A/C, No, Ext): (501) 664-7705	COMPANY Affiliated FM Insurance Company P. O. Box 7500 Johnston, RI 02919
FAX (A/C, No): (501) 664-8052	E-MAIL ADDRESS:	
CODE: AGENCY CUSTOMER ID #: CITYOFL-02	SUB CODE:	
INSURED City of Little Rock 500 West Markham Little Rock, AR 72201	LOAN NUMBER	POLICY NUMBER GN938
	EFFECTIVE DATE 11/01/2016	EXPIRATION DATE 11/01/2017
		CONTINUED UNTIL TERMINATED IF CHECKED
THIS REPLACES PRIOR EVIDENCE DATED:		

**PROPERTY INFORMATION**

LOCATION/DESCRIPTION  
MacArthur Museum of Military History - 503 E 9th St, Little Rock, AR  
Oakland Fraternal Cemetery -2102 Barber St. Little Rock, AR

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

**COVERAGE INFORMATION**

PERILS INSURED BASIC BROAD SPECIAL

COVERAGE / PERILS / FORMS	AMOUNT OF INSURANCE	DEDUCTIBLE
Building Special (Including theft), Replacement Cost	\$8,527,200	\$25,000
Contents Special (Including theft), Replacement Cost	\$738,000	\$25,000
Buildings Special (Including theft), Replacement Cost	\$2,177,000	\$25,000
Contents Special (Including theft), Replacement Cost	\$64,610	\$25,000

**REMARKS (Including Special Conditions)****CANCELLATION**

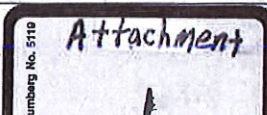
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

**ADDITIONAL INTEREST**

NAME AND ADDRESS	ADDITIONAL INSURED :	LENDER'S LOSS PAYABLE	LOSS PAYEE
	MORTGAGEE		
	LOAN #		
	AUTHORIZED REPRESENTATIVE		
The State of Arkansas, Acting By and Through The Arkansas Historic Preservation Program	<i>Shirley Cox</i>		

ACORD 27 (2016/03)

The ACORD name a

993-2015 ACORD CORPORATION. All rights reserved.  
of ACORD

MACARTHUR MILITARY MUSEUM EASEMENT:

A PART OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 1 NORTH , RANGE 12 WEST AND A PART OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 1 NORTH, RANGE 12 WEST, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A SET R4/CAP 1401, SAID POINT BEING AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF 9TH STREET (60') AND THE QUAPAW LINE, SAID POINT ALSO BEING NORTH 01°59'52" EAST A DISTANCE OF 1246.55 FEET FROM A FOUND AHTD BRASS MONUMENT ACCEPTED AS BEING ON THE QUAPAW LINE AND THE NORTH RIGHT OF WAY LINE OF I630; THENCE SOUTH 88°52'45" EAST ALONG THE SOUTH RIGHT OF WAY LINE OF 9TH STREET, A DISTANCE OF 438.41 FEET TO A SET R4/CAP 1401, SAID POINT BEING THE POINT OF BEGINNING: THENCE CONTINUING ALONG THE SOUTH RIGHT OF WAY OF 9TH STREET A BEARING OF SOUTH 88°52'45" EAST A DISTANCE OF 195.22 FEET TO A SET R4/CAP 1401; THENCE LEAVING SAID SOUTH RIGHT OF WAY, SOUTH 01°06'43" WEST A DISTANCE OF 447.50 FEET TO A SET R4/CAP 1401; THENCE NORTH 88°51'27" WEST A DISTANCE OF 47.57 FEET TO A SET R4/CAP 1401; THENCE SOUTH 01°13'54" WEST A DISTANCE OF 259.40 FEET TO A SET R4/CAP 1401; THENCE NORTH 88° 56'30" WEST A DISTANCE OF 147.13 FEET TO A SET R4/CAP 1401; THENCE NORTH 01°06'51" EAST A DISTANCE OF 707.04 FEET TO THE POINT OF BEGINNING, CONTAINING 125607.06 SQ. FT. OR 2.88 ACRES MORE OR LESS.

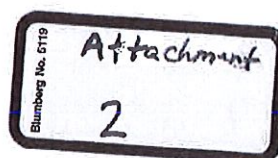
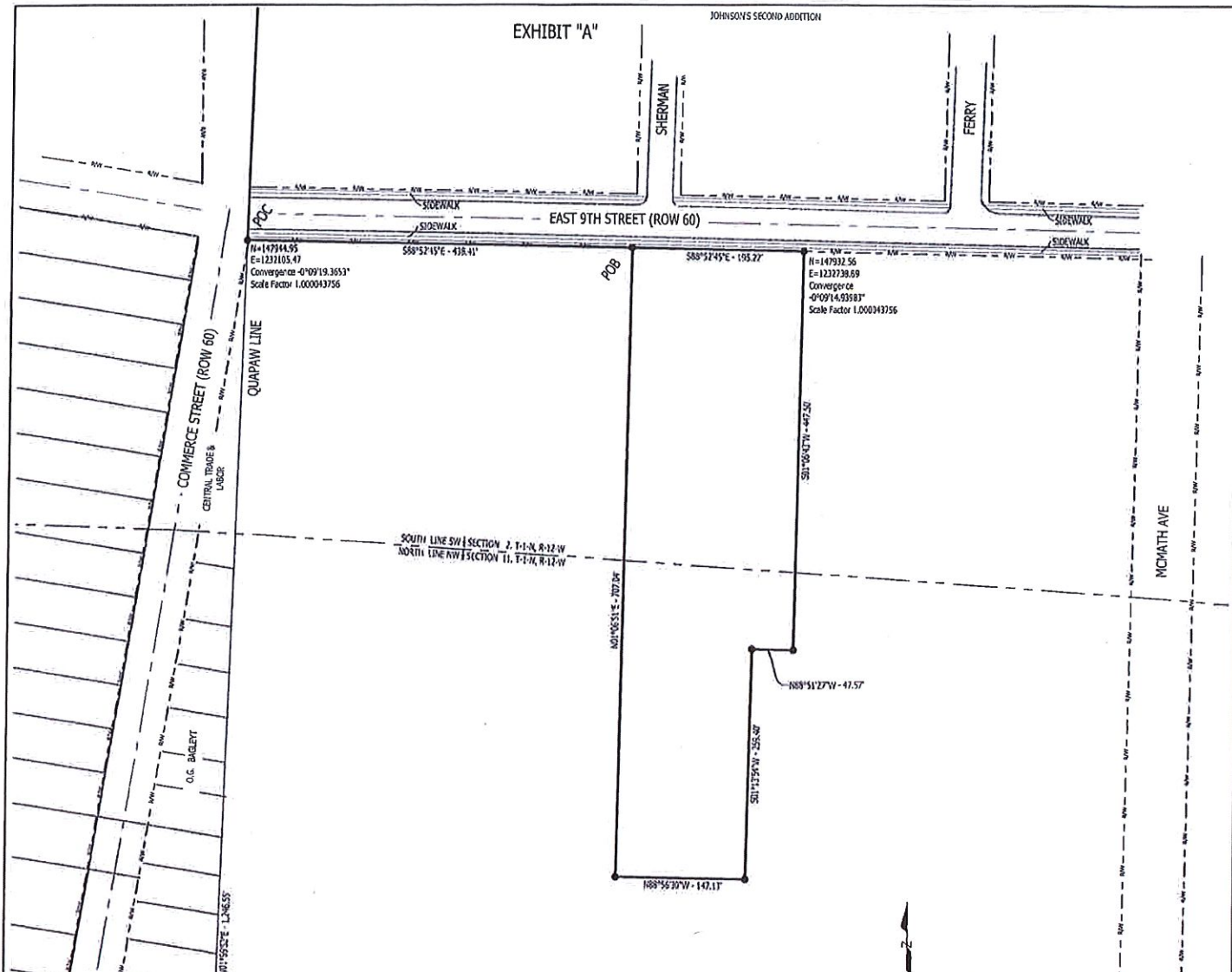




EXHIBIT "A"

JOHNSON'S SECOND ADDITION



**MACARTHUR MILITARY MUSEUM EASEMENT:**  
 A PART OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 1 NORTH, RANGE 12 WEST AND A PART OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 1 NORTH, RANGE 12 WEST, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A SET R4/CAP 1401, SAID POINT BEING AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF 9TH STREET (60') AND THE QUAPAW LINE, SAID POINT ALSO BEING NORTH 01°59'52" EAST A DISTANCE OF 1246.55 FEET FROM A FOUND AHTD BRASS MONUMENT ACCEPTED AS BEING ON THE QUAPAW LINE AND THE NORTH RIGHT OF WAY LINE OF 1630; THENCE SOUTH 88°52'45" EAST ALONG THE SOUTH RIGHT OF WAY LINE OF 9TH STREET, A DISTANCE OF 438.41 FEET TO A SET R4/CAP 1401, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUING ALONG THE SOUTH RIGHT OF WAY OF 9TH STREET A BEARING OF SOUTH 88°52'45" EAST A DISTANCE OF 195.22 FEET TO A SET R4/CAP 1401; THENCE LEAVING SAID SOUTH RIGHT OF WAY, SOUTH 01°06'43" WEST A DISTANCE OF 447.50 FEET TO A SET R4/CAP 1401; THENCE NORTH 88°51'27" WEST A DISTANCE OF 47.57 FEET TO A SET R4/CAP 1401; THENCE SOUTH 01°13'54" WEST A DISTANCE OF 259.40 FEET TO A SET R4/CAP 1401; THENCE NORTH 68°56'30" WEST A DISTANCE OF 147.13 FEET TO A SET R4/CAP 1401; THENCE NORTH 01°06'51" EAST A DISTANCE OF 707.04 FEET TO THE POINT OF BEGINNING, CONTAINING 125607.06 SQ. FT. OR 2.88 ACRES MORE OR LESS.

**GENERAL NOTES**

- BASIS OF BEARING FOR THIS SURVEY IS BASED ON ARKANSAS STATE PLANE GRID COORDINATES (NAD83 DATUM). MEASURED DISTANCES ARE GRID DISTANCES. ELEVATIONS SHOWN ARE ABOVE MEAN SEA LEVEL (NAVD83 DATUM).
- REFERENCES:
  - A. Rec. Misc. Vol. 12 pages 143 to 145 Dated June 18, 1896.
  - B. Briggs 2nd Addition
  - C. Johnson's Add, Book A3 p 183
  - D. Central Trade & Labor Addition Book 2 Page 123
  - E. E.O. Bagley's Addition Book 2 Page 131
  - F. Duval's Addition

**OWNER OF RECORD CLIENT NAME**

CITY OF LITTLE ROCK CITY OF LITTLE ROCK PARKS DEPARTMENT

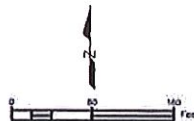
**CERTIFICATION**

I HEREBY CERTIFY THAT THE ABOVE PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY SUPERVISION ON THIS DAY AND THAT ALL CORNERS ARE SET AS SHOWN. NO INDEPENDENT SEARCH FOR EASEMENTS, COVENANTS, ENCUMBRANCES, OR ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE WAS PERFORMED.

*Raymond Hickey*  
 RAYMOND HICKEY, AR PLS #1401

**FLOOD STATEMENT**

BY GRAPHIC PLOTTING ALONE, ACCORDING TO FEMA FIRM #05119C0457G, DATED JULY 6, 2015, THIS PROPERTY LIES IN ZONE "X", WHICH HAS BEEN DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.



LEGEND	
●	SET 1/2" REBAR W/ CAP
○	FOUND MONUMENT
△	COMPUTED CORNER (NOT SET)
---	RIGHT-OF-WAY
---	OVERHEAD UTILITIES
---	FENCE
---	ROADWAY CENTERLINE
---	POWER/LIGHT POLE
(M)	MEASURED
(P)	PER PLAT
(D)	PER DEED
---	BUILDING SETBACK LINE
---	UTILITY EASEMENT

STATE CODE : 500-01M-12W-0-11-10-60-1401  
 500-01M-12W-0-11-10-60-1401

**AHPP FACADE EASEMENT  
 MACARTHUR MILITARY MUSEUM  
 LITTLE ROCK, ARKANSAS**  
**EAST 9TH STREET  
 PULASKI COUNTY  
 LITTLE ROCK, ARKANSAS**

Blumberg No. 5119  
*Attachment*  
*2-1*

**CENTRAL ARKANSAS ENGINEERING**  
 A PROFESSIONAL ENGINEERING COMPANY

CIVIL ENGINEERING | SURVEYING | GIS

1020 N. UNIVERSITY BLVD., SUITE 200, LITTLE ROCK, AR 72202  
 501-782-1111  
 www.centralarkansasengineering.com

PAGE	1 OF 1
SHEET	1
PROJECT No.	2017280
SCALE	1"=80'
DATE	02/21/2017
DESIGNED BY	BN
DRAWN BY	ZS

DATE REVISIONS

**ATTACHMENT "2"**

**[LEGAL TITLE OR DEED TO PROPERTY]**

MacArthur

The United States of America.

To all to whom these presents shall come, Greeting:

Whereas, By the Act of Congress approved April 23, 1892, entitled "An Act to establish a military post near Little Rock, Arkansas," it is provided as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That upon the city of Little Rock, conveying or causing to be conveyed to the United States, the fee simple title to not less than one thousand acres of land, situated within ten miles of said city, and on or near a railroad, and constituting an eligible and suitable site for an army post, and to be approved and accepted by the Secretary of War for that purpose, there and thereupon there shall be established and located on said lands an army post of such character and capacity as the Secretary of War shall direct and approve; and upon the approval and acceptance of said lands by the Secretary of War for an army post, and in consideration of the conveyance to the

United States of said lands, all the right, title, and interest of the United States in and to the parcel of land situated in said city, and commonly known as the "Arsenal Grounds" and bounded on the north by Ninth street, and on the east by N. Almont street, and on the west by the Quassaw line, containing thirty six acres, more or less, shall become vested in the City of Little Rock, upon the express trust and condition that said grounds shall be forever exclusively devoted to the uses and purposes of a public park for said city.

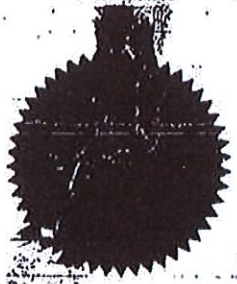
And Whereas, It appears from evidence on file in the General Land Office, that the said City of Little Rock, in pursuance of said Act of Congress has caused to be conveyed to the United States the fee simple title to more than one thousand acres of land situated in the County of Pulaski and State of Arkansas, and within ten miles of said city and near a Railroad for the said purpose of a military post near

Little Rock, and Whereas  
The said lands constitute  
an eligible and suitable  
site for an Army  
Post and have been  
~~approved and accepted~~  
by the Secretary of War  
for that purpose.

Therefore know ye  
That by virtue of said  
Act of Congress, and  
in consideration of  
these premises, all the  
right, title, and interest  
of the said City of Little  
Rock, in and to said  
tract of land known as  
the "Arsenal grounds"  
bounded as above set  
forth, are hereby con-  
firmed, and all right,  
title, and interest of the  
United States to the said  
land, are hereby granted  
and relinquished by the  
said United States unto  
the said City of Little  
Rock, To Have and  
To Hold the said prem-  
ises together with all  
the rights, privileges, im-  
munities, and appurten-  
ances of whatsoever  
nature thereunto belong-  
ing, or in anywise ap-  
pertaining unto the said  
City of Little Rock.  
Provided that said  
"grounds" shall be for-

ever exclusively devoted  
to the uses and pur-  
poses of a public park  
for said City.

In testimony whereof, I  
Grover Cleveland, President  
of the United States of  
America, have caused  
these letters to be made  
Patent, and the Seal of  
the General Land Office  
to be hereunto affixed.

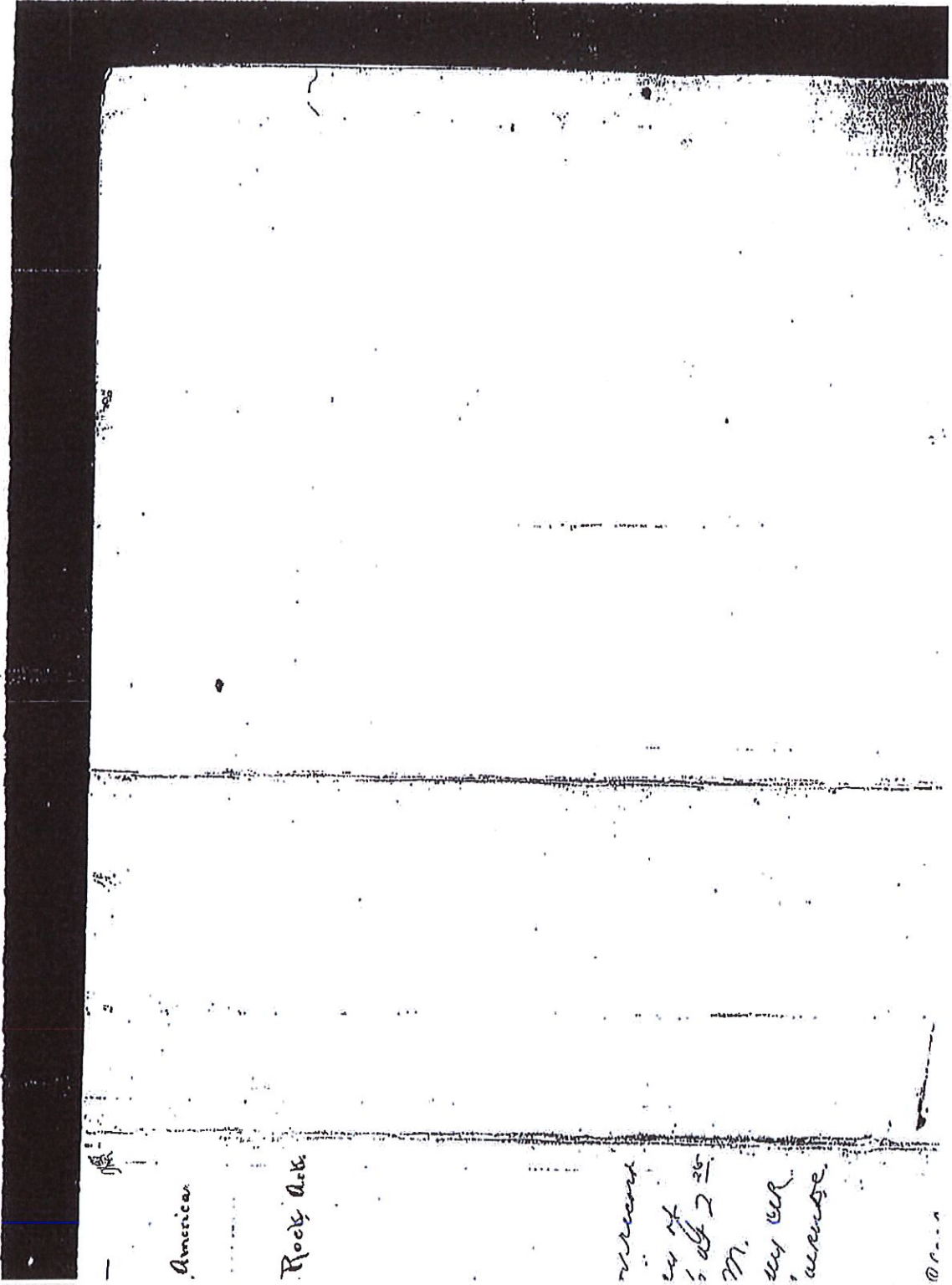


Given under my  
hand at the City  
of Washington the  
eighteenth day of  
June in the  
year of our Lord  
one thousand  
eight hundred  
and ninety six,  
and of the Inde-  
pendence of the  
United States the  
one hundred and  
twentieth.

By the President Grover Cleveland

By M. M. Beau Secretary

L. L. C. Langer  
Recorder of the General Land Office



10

America

Rock Art

recent  
is at  
5 1/2 2 26  
M.  
my car  
across

10-1-1

**ATTACHMENT "3"**

**[AUTHORIZATION TO CONVEY EASEMENT]**

**-If necessary-  
Usually only  
included for  
AHPP Grant  
recipients**

**(QUORUM COURT RESOLUTION, BOARD OF TRUSTEES LETTER, CITY  
COUNCIL, ETC.)**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33

**RESOLUTION NO. 14,628**

**A RESOLUTION TO AUTHORIZE THE EXECUTION OF A HISTORIC PRESERVATION EASEMENT FOR THE U.S. ARSENAL BUILDING AND SURROUNDING GROUNDS; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Little Rock, Arkansas, was awarded an Historic Preservation Restoration Grant from the Department of Arkansas Heritage in the amount of One Hundred Thousand Dollars (\$100,000.00) to restore the north and south porch decks and work on compliance with the Americans with Disabilities Act on a lift, at the U.S. Arsenal Building in MacArthur Park – the home of the Museum of Arkansas Military History; and,

**WHEREAS**, the Arkansas Historic Preservation Program (AHPP) has requested an Historic Preservation Easement as a condition of the grant and such an interest in property must be approved by the Board of Directors of the City of Little Rock by resolution;

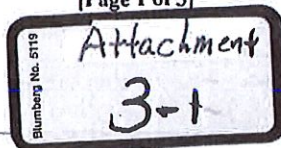
**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF LITTLE ROCK, ARKANSAS:**

**Section 1.** The Mayor, City Manager, and City Clerk, are authorized to execute a Historic Façade Easement between the City and AHPP for the U.S. Arsenal Building in MacArthur Park as a condition of receipt of a One Hundred Thousand Dollar (\$100,000.00) grant to restore the porches and a lift and the grounds surrounding the structure.

**Section 2.** The terms of the Façade Easement approved shall be in a form which sets forth the following terms as to archeological excavation and relic hunting:

(a) Any and all ground disturbing activities or earth removal on the property may require archeological survey, or investigation, or both, if in the opinion of AHPP such activity may impact the historic battlefield landscape, existing historic buildings, structures, or archeologically significant deposits, sites, or features of the property. More intensive investigation may be required by AHPP if such survey or investigation is necessary to identify, protect, preserve or recover archeologically significant deposits, sites or features. Such survey or investigation shall be completed prior to the commencement of the proposed ground disturbing activity;

(b) Archeological investigation may be undertaken on the property only if a scope of work for such is approved in writing in advance by AHPP and of if it is performed in accordance with the Standards of the Secretary of the Interior and under the supervision of a



1 professional qualified archeologist. Any investigation shall be designed to protect,  
2 preserve, recover, or any combination of these activities, archeologically significant  
3 deposits, sites, or features in the area of the proposed ground disturbing activity. It shall  
4 be completed prior to the commencement of the proposed ground disturbing activity;

5 (c) Artifacts, both prehistoric and historic, recovered from the property after the effective  
6 date of the Historic Façade Easement shall remain the personal property of the City of  
7 Little Rock, Arkansas, unless otherwise provided by law. The Department of Arkansas  
8 Heritage may choose to donate any or all artifacts to AHPP or to another educational or  
9 museum organization with the prior written approval of AHPP. All artifacts professionally  
10 excavated from archeological deposits, sites, or features on the property shall be preserved  
11 according to the State Plan for the Conversation of Archeological Resources, as it may be  
12 amended;

13 (d) The Department of Arkansas Heritage shall take all reasonable precautions to protect  
14 archeological deposits, sites or features on the property from looting, vandalism, erosion,  
15 mutilation, or destruction from any cause. The Department of Arkansas Heritage shall  
16 notify AHPP as soon as practicable but within thirty (30) calendar days following  
17 discovery or knowledge of any looting, vandalism, erosion, mutilation, or destruction of  
18 archeological deposits, sites, or features on the property.

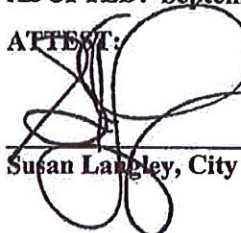
19 (e) No archeological activities of any kind, including but not limited to the use of  
20 non-invasive technologies, may take place on the property without the express written  
21 consent of AHPP. Relic hunting of any kind on the property is expressly forbidden.

22 **Section 3. Severability.** In the event any title, section, paragraph, item, sentence, clause, phrase, or  
23 word of this resolution is declared or adjudged to be invalid or unconstitutional, such declaration or  
24 adjudication shall not affect the remaining portions of the resolution which shall remain in full force and  
25 effect as if the portion so declared or adjudged invalid or unconstitutional were not originally a part of the  
26 resolution.

27 **Section 4. Repealer.** All laws, ordinances, resolutions, or parts of the same, that are inconsistent with  
28 the provisions of this resolution, are hereby repealed to the extent of such inconsistency.

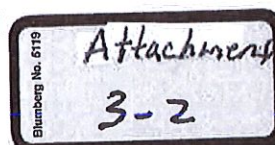
29 **ADOPTED: September 5, 2017**

30 **ATTEST:**

31   
32 \_\_\_\_\_  
33 Susan Langley, City Clerk

30 **APPROVED:**

31   
32 \_\_\_\_\_  
33 Mark Stodola, Mayor



1 APPROVED AS TO LEGAL FORM:

2  
3   
4 Thomas M. Carpenter, City Attorney

5 //

6 //

7 //

8 //

9 //

10 //

11 //

12 //

13 //

14 //

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

29 //

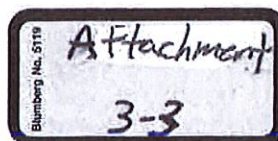
30 //

31 //

32 //

33 //

34 //



**SETTLEMENT AGREEMENT**

**by and between**

**THE STATE OF ARKANSAS ACTING BY AND THROUGH THE ARKANSAS  
HISTORIC PRESERVATION PROGRAM, AN AGENCY OF THE ARKANSAS  
DEPARTMENT OF PARKS, HERITAGE, AND TOURISM**

**and**

**THE CITY OF LITTLE ROCK, ARKANSAS**

WHEREAS, in 2017 the City of Little Rock, Arkansas (hereafter “the City”) applied for, received, and utilized a \$100,000 grant from the State of Arkansas acting by and through the Arkansas Historic Preservation Program, an agency of the Arkansas Department of Parks, Heritage, and Tourism (hereafter “ADPHT”) to repair and preserve the historical integrity of the facades at the former U.S. Arsenal building at MacArthur Park in Little Rock, Arkansas; and,

WHEREAS, said grant was awarded on July 14, 2017 through an Arkansas Historic Preservation Restoration Grant (contract # 18-HPRG-05) (hereafter “MacArthur Façade Easement”), administered through the Arkansas Historic Preservation Program, which was created by the Arkansas General Assembly in 1969 to identify, preserve, and protect the cultural heritage of the State of Arkansas; and,

WHEREAS, as a condition of, and exchanged consideration for, said grant money, the City, as Grantor, granted and delivered a historic preservation and conservation easement to the State of Arkansas acting by and through ADPHT, as Grantee pursuant to Little Rock, Ark., Resolution No. 14,628 (September 17, 2017) (“the Resolution”);

WHEREAS, said historic preservation and conservation easement was duly recorded as a matter of public record in the Office of the Circuit/County Clerk of Pulaski County, Arkansas on October 5, 2017 as record number 2017064284; and,

WHEREAS, the express terms of said recorded MacArthur Façade Easement contained certain covenants to the ADPHT that restricted the City in regard to making changes to, among

\_\_\_\_\_  
CITY  
*SJH*  
ADPHT



other things, the premises and landscaping as therein described, however this term was not defined within the document; and,

WHEREAS, on or about June 18, 2020, the City -- for imminent public safety purposes -- removed a monument to "Company A, Capitol Guards" erected on the MacArthur Park premises in 1911 (hereafter "the Monument"), which through the Arkansas Historic Preservation Program was listed on the National Register of Historic Places (register reference number 96000451) on April 26, 1996 and within the MacArthur Park Historic District, which was also listed on the National Historic Register Places (register reference number 77000269) on July 25, 1977; and,

WHEREAS, the City and ADPHT disagree that the temporary removal of the Monument was a violation of the City's covenants, or of ADPHT's rights as contracted in the MacArthur Façade Easement, as well as contrary to the historic preservation interests of the State of Arkansas; and,

WHEREAS, the City and ADPHT, without any admission of liability or wrongdoing, each desire to avoid the time, effort, expense, and uncertainty of litigation and have negotiated between them, without admissions or denials, a compromise to fully settle and resolve any and all claims and counterclaims that could be asserted in litigation in regard to said monument removal;

WHEREAS, the City and ADPHT hereby wish to memorialize the terms of their compromise as herein provided;

NOW THEREFORE, be it remembered the City and ADPHT have agreed as follows:

1. No later than September 30, 2020, the City shall cause to be paid, by way of settlement of any and all claims the City or ADPHT may raise in an action for damages, costs, fees, and injunctive relief, or other remedy of any nature whatsoever, the sum of Forty-five Thousand Dollars (\$45,000.00);
2. The City and ADPHT understand these funds will be provided to the Arkansas Heritage and History Foundation, Inc., for the specific purpose of funding the creation and

placement of a statue of Daisy Lee Gatson Bates, an historic citizen of Little Rock, Arkansas, who brought honor to the cause of justice during the 1957 integration crisis at Little Rock Central High School, in Statuary Hall of the U.S. Capitol pursuant to Arkansas General Assembly Act 1068 of 2019;

3. Upon the full payment of the settlement amount to the State of Arkansas on behalf of ADPHT, the State of Arkansas acting by and through the ADPHT, and the City, shall be deemed to have released, waived, and have settled any and all claims raised, or that could be raised, each against the other, in regard to the movement of the Monument from its position in MacArthur Park on the date of the Resolution;
4. The mutual release set forth in paragraph 3 does not serve to release, waive, discharge, nullify, or abrogate any other provision of the MacArthur Façade Easement;
5. The City agrees that it will seek the input of ADPHT in working cooperatively and collaboratively with ADPHT to have the Monument installed at an appropriate location within a reasonable period of time not to extend past December 31, 2022 unless otherwise mutually agreed to in writing by the parties;
6. This document contains the final, complete and exclusive statement of the agreement between the parties with respect to the transactions contemplated herein and all prior or contemporaneous written or oral agreements with respect to the subject matter hereof are herein merged;
7. This document shall become effective only upon the full execution by all signatories as herein designated. By executing this document, the signatories hereto warrant that they are vested with full authority to execute on behalf of their respective principals and such shall be bound thereby;
8. This document may be executed by written or electronic signatures in any number of counterparts each of which taken together shall constitute one in the same instrument.

**SIGNATURES ARE ON THE FOLLOWING PAGE**

**CITY OF LITTLE ROCK, ARKANSAS**

Name: 

**Bruce T. Moore**

Title: **City Manager**

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

**APPROVED AS TO LEGAL FORM:**

Name: 

**Thomas M. Carpenter**  
City Attorney

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

ATTEST: 

**Susan Langley**  
City Clerk

Date: 

**STATE OF ARKANSAS  
ACTING BY AND THROUGH THE  
ARKANSAS HISTORIC PRESERATION PROGRAM**

**BY: Stacy Hurst**

**Titles: Secretary, Arkansas Department of Parks, Heritage, and Tourism  
State Historic Preservation Officer**

Signature: 

Date: 8-11-20