

From: [McWilliams, Katherine](#)
To: [Deardoff, Amy](#)
Subject: FW: Cave Springs WWTP Drip Field Lease
Date: Thursday, September 13, 2018 10:31:08 AM
Attachments: [Cave Springs Drip Field Lease.pdf](#)

4893-WR-3_Drip Field Lease

From: Barret Knutson [mailto:bknutson@mce.us.com]
Sent: Thursday, September 13, 2018 10:25 AM
To: McWilliams, Katherine
Subject: Cave Springs WWTP Drip Field Lease

Katherine,

Please see the attached PDF for Cave Springs' drip field lease with the Creeks Golf Course.

Thanks

Barret R. Knutson, E.I.
Project Designer



1810 N. College Ave. | Fayetteville, AR 72703
P.O. Box 1229 | Fayetteville, AR 72702
479.443.2377 (ex. 1043) Office | 479.443.9241 Fax
bknutson@mce.us.com

DRIP FIELD LEASE

This Lease made and entered into by and between The Creeks Golf Course, L.L.C., hereinafter called "Lessor", and the City of Cave Springs, Arkansas, hereinafter called "Lessee."

WHEREAS, Lessor is the owner of certain real estate more particularly described on Exhibit "A" which is attached hereto ("Premises"); and,

WHEREAS, Lessee acknowledges and agrees that Lessor owns and operates a golf course business on the Premises and may continue to do so notwithstanding this Lease; and,

WHEREAS, Lessee will operate decentralized sewage treatment facilities ("Facilities") in conjunction with Lessee's operation of a Septic Tank Effluent Pumping System ("STEP System"); and,

WHEREAS, Lessee desires to discharge the treated effluent from the Facilities through an underground irrigation system ("Irrigation System") to be constructed by Lessor on Lessor's Premises; and,

WHEREAS, Lessee desires to lease a portion of the Premises.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and the above recitals which are incorporated hereinbelow, the parties do hereby agree as follows:

1. LEASED PREMISES: Lessor does hereby let, lease, and demise unto Lessee, and Lessee does hereby lease from Lessor, that portion of the Premises on and under which the Irrigation System is constructed and placed by Lessor. Upon completion of the construction of the Irrigation System by Lessor, an as-built drawing of the Irrigation System as it lies within the Premises will be attached hereto as Exhibit "B" and will constitute the Leased Premises for purposes of this Lease.

Further, Lessor reserves the right to continue to operate its golf course business on the Premises and Leased Premises as the same exists now or may hereafter be changed in the sole discretion of Lessor; provided, however, that Lessor covenants that the operation of the golf course will be operated in a manner that will not interfere with the operation of the Irrigation System.

Should future federal or state laws, statutes, regulations or binding decisions governing the discharge and treatment of effluent change such that Lessee is required to have more land on which to discharge the effluent contemplated herein, Lessor shall lease additional land on the

Premises to Lessee as such land can qualify for effluent discharge and as is necessary to put Lessee in compliance with such laws, statutes, regulations or binding decisions. The parties recognize and agree that, in the event more land is provided, certain terms of this Lease must be changed, including, but not limited to the amount of rentals to be paid to Lessor by Lessee. Lessor and Lessee shall work together in good faith to arrive at mutually agreeable changes to this Lease in such event.

2. TERM: The initial term of this lease shall commence upon the date that the Cave Springs Municipal Property Owners District No. 3 ("District") and Northwest Development, L.L.C. ("Northwest") close on the sale of certain effluent treatment facilities ("Facilities") from Northwest to District ("Commencement Date") and shall expire on 12:01 a.m. on the fiftieth (50th) anniversary of the Commencement Date unless terminated earlier as provided hereinbelow.

If Lessee shall have fully performed every agreement and covenant on Lessee's part to have been kept and performed under the covenants, terms and conditions of this Lease, and any amendment thereto, at the time of exercise and at the time of renewal, including all renewals or extensions hereof, and if the Facilities and Irrigation System are in continued use on the Leased Premises by Lessee at the end of the lease terms, then upon the expiration of the initial term or the then current renewal term, Lessee shall have the option to renew this Lease for four (4) additional terms of five (5) years each, subject to the following provisions:

- a. Notice of the exercise of the option to renew must be given in writing to Lessor, pursuant to the notice provisions of this Lease, not later than six (6) months prior to the end of the initial term or the then current renewal terms, as applicable.
- b. Should the Lessee exercise the options to renew granted herein, this Lease shall be extended on the same terms and conditions as set forth herein, during each renewal term, with the exception of the monthly rental payments, which shall be adjusted as the parties may agree.

3. IRRIGATION SYSTEM: The parties acknowledge and agree that the District will be paying for the construction of the Irrigation System which will be placed on the Leased Premises and which will be dedicated by the District to Lessee upon Final Completion. For purposes of this Lease, the term "Final Completion" shall mean completion of construction and final approval inspections by engineers, manufacturers, contractors and regulatory agencies, as well as the completion of the start-up period. Lessee will, after such dedication, be responsible at Lessee's cost, for the operation and maintenance of the Irrigation System.

4. RENTAL: As rent for said Leased Premises, Lessee shall pay to Lessor a sum equal to \$15.00 per Living Unit Equivalent ("LUE") which is discharged through the Irrigation

System. An individual residential septic tank connected to the STEP System shall be considered one (1) LUE for purposes of this Agreement. Further, with regard to each individual business septic tank connected to the STEP System, rent shall be calculated on the basis of one (1) LUE per 208 gallons of effluent discharged from such septic tank; provided, however, that the minimum shall be one (1) LUE.

The obligation of Lessee to pay rent to Lessor shall be payable solely out of the income from the user fees, as hereinabove described, charged and collected by Lessee. Rent shall be due and payable to Lessor thirty (30) days after the due date of the monthly sewer bills sent by Lessee to its customers to the extent that the same is collected within such thirty (30) days. In the event that one or more of Lessee's customers pays Lessee beyond the thirty (30) day period, the Lessee will remit to Lessor the appropriate amount of rent for such customers in the month following payment to Lessee.

5. OPERATION AND MAINTENANCE: Lessee, at Lessee's sole cost, shall be responsible for all maintenance and operation of the Irrigation System upon Final Completion. Lessee shall, at all times, fully maintain the Irrigation System and shall make repairs to the same as is necessary from time to time to maintain the Irrigation System in a fully operable condition; provided, however, that any damage to the Irrigation System occasioned by the gross negligence or willful misconduct of Lessor shall be repaired at Lessor's expense. Further, Lessee shall be fully responsible for the operation of the Irrigation System in accordance with industry practices and all laws, rules, ordinances and regulations applicable to treated effluent discharge. Further, Lessee agrees to use its best efforts to coordinate irrigation schedules with Lessor so as to take advantage of maximum irrigation value as it relates to a golf course and so as to minimize disturbance of the operation of Lessor's golf course business.

6. EASEMENT FOR OPERATION AND MAINTENANCE: Lessor hereby grants to Lessee, during the term of this Lease, an easement on, over, under and across the Premises for ingress and egress to the Leased Premises and to perform required maintenance and repairs to the Irrigation System as well as to properly operate the Irrigation System. This easement shall also include the right of Lessee to discharge effluent through the Irrigation System on the Premises. Lessee agrees that it will cooperate in good faith with Lessor to arrange times at which Lessee, or its agents and contractors, will need to access the Leased Premises so as to minimize disturbance to Lessor's golf course business and Lessor will not unreasonably refuse to grant such access.

Further, and to the extent that Lessee, or its agents and contractors, shall cause any damage to the Premises or Leased Premises by way of Lessee's operation, repair or maintenance of the Irrigation System or otherwise, any such damage shall promptly be repaired by Lessee, at Lessee's sole cost, to a state of repair commensurate with the conditions of the golf course existing prior to such damage.

7. UTILITIES: Lessee shall be responsible for the prompt and full payment, as and when due, of all charges for water, electricity, gas, telephone and other utilities as may be necessary for the operation and maintenance of the Irrigation System on the Leased Premises.

8. TAXES: Lessor shall pay all ad valorem taxes and assessments due to improvement districts or governmental bodies which may be levied, assessed or charged against the Premises and Leased Premises by reason of the real property and premises leased hereunder. Lessee shall be responsible for all taxes attributable to the property of Lessee on the Leased Premises, if any, and for all license, privilege, and occupation taxes levied, assessed, or charged against Lessee on account of the operation of the Irrigation System carried on from the Leased Premises, if any.

9. CONTINGENCIES: The performance by either party to this Lease is expressly contingent on the following:

a. Northwest and District entering into a separate mutually agreeable contract upon the terms and conditions as agreed to by and between them for the purchase by the District from Northwest of certain real property and sewage treatment and disposal facilities to be used in conjunction with the Irrigation System.

b. The District obtaining the necessary financing to pay for the Irrigation System, Facilities, real estate and other infrastructure appurtenant to and necessary for the proper operation of the STEP System.

c. The Lessor obtaining the necessary approvals for the construction of the Facilities and Irrigation System from the appropriate governmental entities, including, but not limited to, the Arkansas Department of Health and obtaining such approvals as are necessary to their operation.

d. The Lessee receiving from the District, by dedication, the Facilities and Irrigation System upon Final Completion.

10. WARRANTIES OF TITLE. Lessor hereby warrants and covenants with and unto Lessee that it has an absolute and indefeasible title to the Premises and Leased Premises, and that Lessor will, during the term hereof and the full performance by Lessee of Lessee's obligations and covenants hereunder, defend the same and hold harmless the Lessee against the lawful claims of any and all persons whomsoever.

11. ENVIRONMENTAL COMPLIANCE: Lessee warrants and agrees that with respect to its use of the Premises and Leased Premises, Lessee will be in compliance with all federal, state and local laws, ordinances, regulations, concerning hazardous substances,

hazardous waste, toxic substances, "air and/or water" emissions or pollution, and/or "health hazards" as those are broadly defined and recognized by any laws, regulations or ordinances, which are collectively referred to herein as "pollutants", and no notice, request, investigation, administrative order, consent order, agreement, litigation, or settlement (collectively herein referred to as "action") is proposed, threatened, anticipated, or in existence with respect to any operation of the Lessee on the Premises or Leased Premises or any anticipated operation of Lessee on the Premises or Leased Premises. Further, Lessee will maintain any and all necessary permits for the operation of the Facilities and Irrigation System including but not limited to permits from federal, state and local governmental authorities, and upon request, Lessee will provide copies of such permits, if any, to Lessor.

12. **DEFAULT:** Lessee shall be in default under the provisions of this Lease upon the happening of any of the following events or conditions:

- a. Failure to pay the rentals provided herein at the times, in the amounts and in the manner set forth or within thirty (30) days after the date the same become due as such due date is set forth in Paragraph 4 above;
- b. Failure to keep or perform any of the covenants on the part of the Lessee herein to be kept or performed;
- c. Should the Lessee become insolvent, or become bankrupt, either voluntarily or involuntarily, or make any assignment for the benefit of creditors, or if a receiver be appointed for the benefit of Lessee's creditors, or if a receiver be appointed for Lessee to take charge of and manage Lessee's affairs, or if any levy of execution against the Lessee remains unsatisfied for a period of ten days from and after the levy of the same.
- d. Failure to abide by any federal, state or local statute, law, ordinance or regulation.
- e. Abandonment by Lessee of the entire Irrigation System.
- f. Failure to keep or perform any of the covenants on the part of the Lessee undertaken by Lessee in a certain Agreement for reimbursement of expenses, which agreement is between Northwest Services, LLC and the Lessee.

13. **REMEDIES IN THE EVENT OF DEFAULT:** In the event of a default by Lessee hereunder (default other than the payment of rental amounts when due), Lessor shall give notice of such default to Lessee and Lessee shall have sixty (60) days after receipt of said notice to cure such default. If such default is not cured within such time period or Lessee is not making substantial progress toward curing such default, Lessor may, at Lessor's option, declare this

lease thereupon terminated, and Lessor shall have the right to enter upon and take possession of the Leased Premises, either with or without notice, and to evict and expel Lessee and any or all of Lessee's property, belongings, and effects therefrom, without legal process and without thereby being guilty of any manner of trespass either at law or in equity which remedy is in addition to any other remedies of Lessor either at law or in equity, including, without limitation, the collection of delinquent rents, possession of the Leased Premises, damages for breach of this agreement by Lessee, or otherwise. No delay in or failure to exercise any of the options herein granted to Lessor by reason of a default shall be a waiver thereof, and the waiver of one occasion of a default shall not be deemed a waiver of Lessor's right to exercise its remedies by reason of the same or a similar default at any later occasion.

14. **CONDUCT OF BUSINESS AND USE:** The Leased Premises are leased to Lessee for the purpose of operating and maintaining the Irrigation System in conjunction with Lessee's STEP System, and Lessee covenants and agrees with the Lessor that the Leased Premises will be used for those purposes and those related to them and no other. Lessee agrees that Lessee will not commit waste nor permit waste to be committed or done upon the Premises or Leased Premises.

15. **INSURANCE:**

a. Personal Injury and Damage Liability Insurance: Lessee shall, at Lessee's cost, during the term of this lease, maintain public liability insurance, covering injuries at the Premises and/or Leased Premises, which insurance shall have limits of not less than \$1,000,000.00 for damages resulting to one person and \$1,000,000.00 for damages resulting from one casualty, and to keep such insurance in force during the term of this Agreement. It is expressly agreed that said insurance policy shall name Lessor as co-insured and shall not be cancelable without thirty (30) days advanced written notice to Lessor by said insurance company. A copy of said policy shall be delivered by Lessee to Lessor upon the Commencement Date and, subsequently, upon request by Lessor for such policy from Lessee.

b. Environmental Insurance: Lessee shall, from and after the time that there are 200 LUEs discharging into the system and at Lessee's cost, maintain a pollution legal liability insurance policy ("PLL Policy") with respect to the Premises. The scope of the coverage of the PLL Policy shall include, but not be limited to, pollution legal liability (including all defense costs) arising from or related to adverse environmental conditions arising out of or related to the maintenance and operation of the Irrigation System by Lessee.

The PLL Policy shall name Lessor as an additional insured and shall contain such endorsements pertaining to treated sewage effluent as Lessor may require. The PLL Policy shall have a per occurrence limit of liability of no less than \$1,000,000 and an aggregate limit of liability of no less than \$5,000,000.00 and shall not be cancelable without thirty (30) days advanced written

notice to Lessor by said insurance company. A copy of said policy shall be delivered by Lessee to Lessor upon the Commencement Date and, subsequently, upon request by Lessor for such policy from Lessee.

The parties acknowledge that at the time of execution hereof, Lessee is not able to estimate the cost of the premiums for the PLL Policy due to various circumstances inherent in these types of policies. If the premiums for the coverages set forth above are extraordinarily expensive due to unique characteristics of the Irrigation System or because of an unknown condition of the Leased Premises which is not known by the parties at the time of the execution hereof, the parties will work together to arrive at mutually agreeable terms which the PLL Policy should contain.

Further, should, in the future, the Lessee contract with a person or entity to operate and maintain the Irrigation System for Lessee, Lessee may require such person or entity to acquire and maintain the PLL Policy in accordance with the terms hereof and, so long as and for only such time as such person or entity maintains the PLL Policy, Lessee shall be relieved of the obligations created in this paragraph. Should such person or entity fail to obtain or maintain at any time the PLL Policy at any time, Lessee shall be obligated to obtain the required coverage.

16. **INSURANCE ON LESSEE'S PROPERTY:** Lessee shall be solely responsible for maintaining insurance on its property which is on the Leased Premises.

17. **ASSIGNMENT AND SUBLETTING:** Lessee shall not assign this lease, nor sublet the Leased Premises or any part thereof, without the prior consent in writing of Lessor.

18. **CONDEMNATION:** In the event all or any part of the Premises or Leased Premises should be subject to eminent domain proceedings, and if pursuant thereto an amount of the Premises or Leased Premises shall be condemned so as to render the residue inadequate for Lessee's purposes as herein set forth, Lessee shall have the option to terminate and cancel this lease by giving written notice of such intention to Lessor. In any such condemnation proceeding, all damages allocable to full fee simple ownership of the Premises shall be payable to Lessor, and any damages for loss of leasehold interest shall be payable to Lessee.

19. **SURRENDER OF POSSESSION:**

- a. At the end of the term of this lease, or upon earlier termination by Lessor or Lessee in accordance with the options herein reserved, Lessee agrees to surrender possession of the Leased Premises without demand. Should Lessee fail to do so, Lessee shall be responsible in addition to the damages generally recoverable by Lessor by reason of any breach by Lessee, for all damages Lessor may sustain, including claims made by any succeeding tenant against Lessor which are founded upon delay or failure in delivering possession of the Leased Premises to such

succeeding tenant. Lessee hereby waives any and all notice to which Lessee may otherwise be entitled under the laws of the State of Arkansas as a prerequisite to a suit against Lessee for the unlawful detention of the Premises.

- b. Lessee shall surrender and return the Leased Premises to the Lessor in substantially the same condition as existed at the inception of this Lease. The Irrigation System and any permanently attached fixtures on the Leased Premises at the termination or expiration of this Lease shall remain with the Leased Premises and become the property of Lessor upon the termination or expiration of this Lease.

20. **BINDING EFFECT:** This agreement shall inure to the benefit of and be binding upon the parties hereto, their respective successors and permitted assigns, except as expressly limited otherwise herein.

21. **TIME OF ESSENCE:** The time of the making of the payments and of the keeping of the covenants herein are of the essence of this Lease and the parties hereto so agree.

22. **NOTICES:** Any notice hereunder shall be given in writing to the party for whom it is intended, in person, by reputable overnight courier service, or by certified mail or fax at the following addresses and fax numbers, or such future addresses or fax numbers as may be designated in writing:

IF TO LESSOR:

Brett Hash
4825 N. Shiloh Ave., Suite 205
Fayetteville, AR 72703
Phone: (479) 601-5687
Fax: (479) 248-2244

With Copies To:

Marcus W. Van Pelt
Cypert, Crouch, Clark & Harwell
P.O. Box 1400
111 Holcomb Street
Springdale, AR 74765
Phone: (479) 751-5222
Fax: (479) 751-5777

IF TO LESSEE:

Mayor
City of Cave Springs, Arkansas
137 North Main Street
Cave Springs, Arkansas

With Copies To:

Justin Eichmann
Harrington, Miller, Neihouse & Kieklak, P.A.
P.O. Box 687
Springdale, AR 72765
Phone: (479) 751-6464
Fax: (479) 751-3715

23. COMPLETE AGREEMENT: It is agreed that neither party is relying upon any oral or written information or representation made by the other prior to the signing of this contract unless expressly provided herein, and that this contract constitutes the entire agreement between the parties and same shall not be hereafter amended or modified unless reduced to writing and signed by the parties hereto.

24. JOINT PREPARATION: Each party to this Agreement and their respective counsel have reviewed and revised this Agreement. The normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

25. NUMBER AND GENDER: Whenever necessary in this agreement and where the context admits, the singular term and the related pronoun shall include the plural and the appropriate gender.

26. AUTHORITY: The undersigned, for each of the parties represented, have all legal right and authority from their respective entities to bind their respective entity and to effectuate the consummation of this transaction for their respective entity.

27. GOVERNING LAW: This Agreement shall be governed by the laws of the State of Arkansas.

28. BINDING EFFECT: This Agreement, when executed by all parties, shall become a binding agreement which shall inure to the benefit of the parties hereto, their successors and permitted assigns.

29. SEVERABILITY: If any covenant or provision of this Agreement is determined to be void or unenforceable in whole or in part, it shall not be deemed to affect or impair the enforceability and validity of any other covenant or provision herein contained.

IN WITNESS WHEREOF, Lessor and Lessee have executed this lease this 13 day of December 2006.

THE CREEKS GOLF COURSE, L.L.C.
Lessor

By: 
Brett Hash, Managing Member

THE CITY OF CAVE SPRINGS, ARKANSAS
Lessee

By: Shekela Wallis

Title: Mayor

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PREMISES

EXHIBIT "B"

AS BUILT DRAWING CONSTITUTING LEASED PREMISES

A part of the E½ of the SE¼ and a part of the SE¼ of the NE¼ of Section 11; and a part of the W½ of the SW¼ and a part of the SW¼ of the NE¼ of Section 12; and a part of the NW¼ of the NW¼ of Section 13; and a part of the NE¼ of the NE¼ of Section 14, all in T-18-N, R-31-W, Benton County, Arkansas, being more particularly described as beginning at the NW corner of the SW¼ of the NE¼ of said Section 12; thence N 89 17'34" E, 1048.29 feet to a point S 89 17'34" W, 280.50 feet from the NE corner of the SW¼ of the NE¼ of said Section 12; thence S 12 56'30" W, 247.50 feet to a point S 00 00'50" W, 330.00 feet from the NE corner of the SW¼ of the NE¼ of said Section 12; thence S 00 00'50" W, 216.38 feet to an existing fence line; thence along said fence line S 07 34'46" W, 173.16 feet; thence continuing along and beyond said fence line S 00 54'30" E, 1882.22 feet to a point on the West Right-of-Way line of Arkansas Highway 112; thence along said Right-of-Way Southwesterly along a curve to

THE CREEKS GOLF COURSE LLC

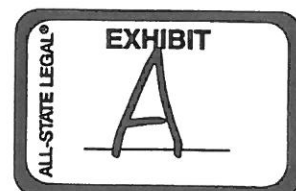
Arkansas Mortgage

AR/4Iritchie00985400005309020121306Y

©1996 Bankers Systems, Inc., St. Cloud, MN *Express*

Initials _____

Page 1



the left 26.25 feet, said curve has a delta angle of 1 14'49", a tangent of 13.12 feet, and a radius of 1205.92 feet to a point on the North line of the SW¼ of the SW¼ of said Section 12; thence leaving said Right-of-Way line and along said North line S 88 45'36" W, 40.54 feet; thence S 0 40'20" W, 32.02 feet; thence N 88 45'36" E, 25.00 feet to the West Right-of-Way line of Arkansas Highway 112; thence along said Right-of-Way line Southwesterly along a curve to the left, 713.21 feet, said curve has delta angle of 33 53'10", a tangent of 367.38 feet, and a radius of 1205.92 feet; thence S 11 46'18" E, 350.60 feet; thence S 8 30'18" E, 200.50 feet to a point on the east line of the NW¼ of the NW¼ of said Section 13; thence leaving said Right-of-Way line and along said East line S 00 22'57" W, 584.11 feet to the centerline of County Road No. 202; thence along the centerline of said County Road 202 the following bearings and distances: N 82 27'45" W, 72.28 feet; thence N 87 30'11" W, 218.05 feet; thence S 72 27'09" W, 123.99 feet; thence S 69 44'21" W, 85.03 feet; thence S 74 04'44" W, 75.28 feet; thence S 78 31'13" W, 269.97 feet; thence N 70 21'40" W, 188.00 feet; thence N 58 52'38" W, 518.70 feet; thence N 68 42'23" W, 232.45 feet; thence S 89 21'53" W, 177.30 feet; thence S 73 13'25" W, 837.18 feet; thence leaving the centerline of said County Road 202 N 00 20'34" E, 538.71 feet to the SW corner of the E½ of the SE¼ of said Section 11; thence N 00 17'14" E, 610.55 feet to a point 3333 feet South of the NW corner of the SE¼ of the NE¼ of said Section 11; thence N 39 09'00" E, 622.20 feet; thence along an existing fence line N 36 09'30" W, 576.00 feet; thence along an existing fence line N 17 27'19" E, 408.71 feet; thence along an existing fence line N 30 55'00" E, 377.53 feet; thence N 45 37'50" W, 502.84 feet to an existing fence corner; thence N 89 00'35" E, 1109.19 feet to a point S 89 30'35" W, 197.63 feet from the SE corner of the SE¼ of said Section 11; thence N 59 17'00" E, 229.95 feet to a point N 0 01'45" E, 115.76 feet from the SE corner of the SE¼ of the NE¼ of said Section 11; thence N 0 01'45" E, 1204.24 feet to the point of beginning, containing 216.84 acres, more or less, Benton County, Arkansas. Subject to any easements and/or Rights-of-Way of record or fact.

Less & Except:

(Parcel Number 05-10213-000)

A part of the S½ of the NW¼ and a part of the N½ of the SW¼ all in Section 12, T-18-N, R-31-W, Benton County, Arkansas, more particularly described as follows: Commencing at the center of Section 12; thence N 88 33'13" W, 228.18 feet to a point on the Westerly Right-of-Way of Arkansas State Highway 112; thence Northeasterly along said Right-of-Way the following: N 19 04'05" E, 8.37 feet; N 14 40'29" E, 839.78; thence leaving said Right-of-Way N 77 01'34" W, 1253.58 feet to a point at a fence in the centerline of an abandoned Railroad Right-of-Way and the Point of Beginning; thence along said centerline and fence line S 13 22'49" W, 326.65 feet; thence along said centerline and fence line S 08 59'36" W, 173.14; thence along said centerline and fence line S 00 30'15" W, 1882.19 feet returning to the Westerly Right-of-Way of Arkansas State Highway 112; thence N 03 53'57" E, 1908.18 feet; thence N 09 08'28" E, 314.84 feet; thence N 46 28'16" E, 263.52 feet, more or less, to the point of beginning.

Less & Except:

(Parcel Number 05-10212-001)

A part of the SW¼ of the SW¼ of Section 12, T-18-N, R-31-W, Benton County, Arkansas, being more particularly described as follows, to-wit: From the NE corner of the NE¼ of the SW¼ of said Section 12, run West 1406.92 feet; thence South 2053.55 feet to the Point of Beginning; thence S 55 13'02" W, 472.87 feet; thence S 15 19'38" E, 150.36 feet; thence S 86 24'51" E, 437.30 feet to the Right-of-Way the following: N 08 31'54" W, 100.36 feet; N 12 00'27" W, 350.54 feet, to the Point of Beginning, containing 2.98 acres, more or less. Subject to any easements and/or Rights-of-Way of record or fact.

Less & Except:

(Parcel Number 05-10212-003)

A part of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 12, T-18-N, R-31-W, Benton County, Arkansas, being more particularly described as follows, to-wit: From the NE corner of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 12, run West 1406.92 feet; thence South 2053.55 feet; thence S 55 13'02" W, 472.87 feet to the Point of Beginning; thence N 15 19'38" W, 36.62 feet; thence N 84 10'59" W, 183.65 feet; thence N 66 44'05" W, 174.74 feet; thence S 00 04'47" E, 293.48 feet; thence S 86 24'48" E, 404.57 feet; thence N 12 46'28" W, 52.11 feet; thence N 15 19'38" W, 150.36 feet to the Point of Beginning and containing 2.10 acres, more or less. Subject to any easements and/or Rights-of-Way of record or fact.

Less & Except:

(Parcel Numbers 05-10212-002 & 18-08365-001)

A part of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 13 (3.19 ac) and a part of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 12 (1.71 ac), T-18-N, R-31-W, Benton County, Arkansas, being more particularly described as beginning at the SE corner of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 13; thence N 0 22'57" E, 697.31 feet to the centerline of County Road 202; thence N 0 22'57" E, 30.00 feet to a found iron pin; thence N 0 22'57" E, 166.95 feet to a set iron pin and the point of beginning; thence N 68 19'36" W, 378.03 feet; thence N 25 55'56" W, 150.01 feet; thence N 8 01'39" E, 133.23 feet; thence N 29 05'51" W, 51.12 feet; thence N 12 46'28" W, 180.25 feet; thence S 86 24'51" E, 437.30 feet; thence S 8 30'18" E, 100.31 feet; thence S 10 14'18" E, 84.48 feet; thence S 0 22'57" W, 417.16 feet to the Point of Beginning, containing 5.01 acres, more or less, described as Tract 1, pas per recorded survey. Subject to any easements and/or Rights-of-Way of record.

Less & Except:

Tract 9B, Creekside Estates, a Subdivision to the City of Cave Springs, as shown on plat of survey recorded February 23, 2005 in plat book 2005 at page 247, and being more particularly described as follows: A part of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 12, and part of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 11, and a part of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 13, all in T-18-N, R-31-W, Benton County, Arkansas, and being more particularly described as Commencing at the SW corner of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 11; thence S 00 20'34" W, 187.65 feet; thence N 70 08'26" E, 126.22 feet; thence N 57 00'58" E, 237.81 feet; thence N 67 14'59" E, 345.09 feet; thence N 50 56'55" E, 433.10 feet; thence N 72 35'26" E, 18.50 feet; thence S 00 50'28" E, 369.38 feet; thence East, 511.64 feet to the Point of Beginning; thence N 05 09'47" W, 490.28 feet; thence N 40 20'52" E, 45.32 feet; thence N 01 06'26" W, 74.91 feet; thence N 61 25'32" W, 165.17 feet; thence N 54 31'34" W, 120.17 feet; thence N 25 35'04" W, 86.17 feet; thence N 79 24'47" E, 350.82 feet; thence S 86 34'39" E, 136.47 feet; thence S 17 55'57" E, 296.69 feet; thence S 64 55'58" W, 46.75 feet; thence S 17 46'44" E, 453.58 feet; thence S 17 45'49" E, 77.21 feet; thence S 06 20'48" E, 119.25 feet; thence N 89 42'04" W, 405.04 feet; thence N 05 10'16" W, 43.62 feet to the Point of Beginning, containing 7.84 acres, more or less, and subject to easements, Right-of-Way, and/or restrictions of record, if any and those easements as shown on the plat for Creekside Estates.

Less & Except:

All of Creekside Estates, a subdivision to the City of Cave Springs, Arkansas, as shown on plats of record in plat book P1 at page 934 & plat book P4, at page 550, plat records of Benton County, Arkansas.

The property is located in BENTON County at 1499 S. MAIN ST, CAVE SPRINGS, Arkansas 72718.

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, wells, ditches and water stock, crops, timber, all diversion payments or third party payments made to crop producers and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described (all referred to as Property). The term Property also