

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A LEASE AGREEMENT WITH SOUTHEAST MANAGEMENT, LLC TO LEASE PROPERTY LOCATED AT 9906 EAST U.S. HWY 165, NORTH LITTLE ROCK, ARKANSAS; APPROPRIATING FUNDS; AND FOR OTHER PURPOSES.**

WHEREAS, the City of North Little Rock (“the City”) desires to locate a fire station on the eastern side of the City in order to provide enhanced fire protection and emergency services to the citizens of the City; and

WHEREAS, Southeast Financial Management, L.L.C. (“SFM”) manages a parcel of property located at 9906 East Highway 165, North Little Rock, Arkansas that is suitable for conversion into a fire station and available for lease; and

WHEREAS, the City and SFM have negotiated a lease agreement (attached hereto as Exhibit “A”) that is agreeable to both parties and that both parties wish to execute; and

WHEREAS, the first year’s rental payment and related expenses are approximately Eighteen Thousand Seven Hundred Dollars (\$18,700.00) and need to be paid upon execution of the lease agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That the Mayor and City Clerk are hereby authorized to enter into a Lease Agreement between the City and SFM (substantially similar to Exhibit “A” attached hereto) for the premises located at 9906 East Highway 165 in North Little Rock, Arkansas for the purpose of establishing a fire station at that location.

SECTION2: That Eighteen Thousand Seven Hundred Dollars (\$18,700.00) is hereby appropriated from the General Fund to pay the first years lease payment on property located at 9906 East Highway 165 in North Little Rock, Arkansas, to SFM and costs related thereto.

SECTION 2: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED:

APPROVED:

\_\_\_\_\_

\_\_\_\_\_

Mayor Joe A. Smith

SPONSOR:

Joe A. Smith  
Mayor Joe A. Smith

ATTEST:

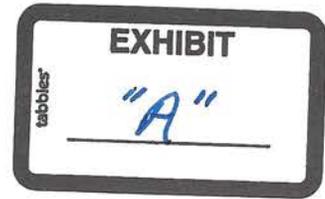
\_\_\_\_\_  
Diane Whitbey, City Clerk

APPROVED AS TO FORM:

C. Jason Carter  
C. Jason Carter, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/mf

FILED _____ A.M. _____ P.M.
By _____
DATE _____
<b>Diane Whitbey, City Clerk and Collector North Little Rock, Arkansas</b>
RECEIVED BY _____



## AGREEMENT OF LEASE

Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between **Southeast Financial Management, LLC**, LESSOR and the **City of North Little Rock**, LESSEE.

### WITNESSETH:

Lessor leases to Lessee the following described premises in the City of Little Rock, County of Pulaski, State of Arkansas, To-Wit:

9906 E Highway 165, North Little Rock, AR

containing a 1920 +/- SF office and a storage building behind the office on approximately 1.03 acre of land. Said acre of land has 274 feet of frontage on Highway 165 and 175 feet of depth from the right of way on the western boundary & will follow the existing fence line on the West & South sides of the property. (As shown on Exhibit A)

The term of this Lease shall commence on March 1, 2015 and expire on February 28, 2018 Lessee agrees to pay the Lessor the following rental To-Wit:

<b>Primary Term</b>	<b>Cash Monthly</b>
March 1, 2015 - February 29, 2016	\$1,500.00
March 1, 2016 – February 28, 2017	\$1,650.00
March 1, 2017 – February 28, 2018	\$1,725.00
<b>Renewal Option</b>	
March 1, 2018 – February 28, 2019	\$1,811.25
March 1, 2019 – February 28, 2020	\$1,905.00
March 1, 2020 – February 28, 2021	\$2,000.00

Should the Term commence on a day before the first day of March 2015, Lessee shall pay Lessor \$53.57 as rental for every day prior to the Commencement Date.

Lessee shall have one (1) option to renew the lease, with the renewal term to be for a period of three (3) years. Lessee shall provide a one hundred twenty (120) day notice of any intent to renew the lease. In the event Lessee chooses not to renew this lease at its expiration, then Lessee will be considered a Lessee at will, will pay rental at the original schedule on a month to month basis, at 125% of the last

month's rent of the preceding term, with either party having the right to terminate this lease with thirty (30) calendar days notice to the other party.

Payments will be made in advance on the 1<sup>st</sup> day of each month to Lessor at the following address: 5840 Citation Drive, Scott, AR 72142 or to such other person and at such other place as the Lessor may designate. Any installment of rent which is not paid when due, shall bear interest at the highest rate allowed by Arkansas law, per annum, from the due date until paid. The burden of proof of payment of rent in case of controversy shall be upon the Lessee

The parties hereto covenant as follows:

1. Lessee will promptly pay the stipulated rental at the place designated.
2. The leased properties will be used by the Lessee only for the following purpose, To-Wit: Operation of a Fire Station and related uses.
3. The Lessee will not do, or permit anything to be done, upon or about the leased premises that increases the fire hazard beyond that which exists by reason of the ordinary use of occupancy of the premises for the purpose specified in Paragraph 2 above. Lessee agrees to pay to Lessor, on demand, any increase in fire and/or liability insurance premiums on the building and improvements which Lessor may have to pay because of Lessee's use or occupancy of the premises. Lessee will not do or permit to be done anything which will make uninsurable the leased premises or any part thereof.
4. Lessee will not do or permit to be done anything in, about, or upon the leased premises that interferes with the rights of, or tends to annoy, other tenants of the Lessor; that conflicts with the state or municipal laws, or the regulations of the fire department or board of health; that creates a nuisance, or that is dangerous to persons or property.
5. This Lease shall not be assigned or any part of the leased premises sublet without the written consent of the Lessor first endorsed hereon. If Lessor consents to an assignment or subletting, the Lessee shall remain liable for payment of the specified rental and the due performance of all the agreements and conditions herein.

6. Lessor's interest in this Lease shall pass to and vest in Lessor's heirs, devisees, successors and assigns.
7. Lessee will not make any alterations, changes or improvements without Lessor's prior written consent. If consent is given, then the cost of such alterations, additions, or improvements, shall be paid by the Lessee. Upon the termination of this Lease, Lessor shall have the right to retain the premises as altered, changed or improved by Lessee; or Lessor, at his option may require the Lessee to restore the premises to the conditions existing as of the date Lessee went into possession of the leased premises under the terms of this Lease. The Attached Plans, Exhibit B, show the Lessee's intended improvements to the property; and by signature below, these improvements are accepted by the Lessor. The Structure that will be built to house the Fire trucks/engines may be removed upon the termination of this lease; however if removed, the Lessor will shall have the right to use the pad for construction of a building and may need to utilize the anchoring bolts/system for the new building. If Lessor elects not to construct a building on the pad, then all anchoring bolts/systems shall be removed by the Lessee.
8. The Lessee will pay the taxes assessed against the real property and the improvements thereon. Lessor shall present the tax bill to Lessee and Lessee, within sixty (60) days of receipt of tax bill presentation, shall pay Lessor the full amount due for real property.
9. Lessee will keep the leased premises including, but not limited to: Plumbing, heating and air conditioning units, sewer lines, water pipes, gas pipes, electric wiring, fixtures, floors, plaster, all doors, plate glass and other glass in good repair, and will do all necessary painting through the term of this Lease. Lessee will keep the outside walls and the roof in repair and the Lessor will never be held liable for damages for failure of the roof or outside walls. In the event the walls should so deteriorate as to require rebuilding, or if the cost of repairing the outside walls or the roof should exceed the sum of \$25,000, the Lessor shall have the right to terminate the Lease on giving thirty (30) days notice to the Lessee. Upon the expiration of this Lease, in course or by breach of any of its provisions, the Lessee will restore the leased premises to Lessor in as good a condition as when possession was taken by Lessee, ordinary wear and tear excepted.
10. Building and grounds maintenance and services shall be provided by and paid by the parties as follows:

SERVICE	N/A	LESSOR	LESSEE
Gas			x
Electricity			x
Water/Sewer			x
Elevator Services	x		
Alarm Services			x
Outside Building Maintenance			x
Landscape			x
Waste Disposal			x
Inside Building Maintenance & Repair			x
Janitorial Supplies and Service			x

11. No sign, picture, advertisement, or notice, except on the glass of the doors or windows shall be displayed on any part of the outside of said building or on or about the premises hereby demised without the previous consent, in writing, of the Lessor. Such sign shall be approved by and a permit shall be obtained from the city authorities prior to its installation. Upon termination of this Lease, Lessee will remove any signs, advertisements or notices painted on or affixed to the leased premises and restore the area it occupies to the original condition as existed before its installation. Any signage required by Lessee shall be furnished and installed by Lessee at Lessee's expense, and subject to the Lessor's approval. The Attached Exhibit C - Signage, show the Lessee's intentions for installation of signs at the property; and by signature below, this signage is accepted by the Lessor.
  
12. Lessee assumes all risk of any liability for damages to persons or property arising during the term of this Lease from the present or future condition of the leased premises including walls and roof, both latent and manifest.
  
13. In the event of substantial destruction (substantial destruction as herein used means destruction which will cost 25% or more of the value of the improvements prior to the destruction to restore such improvements) of the leased premises by fire, cyclone, or act of God, this lease may be terminated on notice from Lessor to the Lessee, or Lessee to Lessor. In the event the parties elect to rebuild for the use of the Lessee, Lessee will be responsible for construction to start

within sixty (60) days after said destruction and shall then proceed with all reasonable diligence, delay due to adjustment of insurance loss and other unavoidable delays excepted, to restore the said premises: and this lease shall continue in full force and effect, except that, as the sole and exclusive remedy of the Lessee, there shall be a proportionate abatement of the rent payable by the Lessee during the time the said premises are untenable or in part untenable. In the event of a partial destruction that will cost less than 25% of the value of the improvements prior to destruction to restore such improvements) of the leased premises by fire, cyclone, or act of God, the Lessee will be responsible for construction to start within thirty (30) days after said destruction and shall then proceed with all reasonable diligence repair said leased premises for the use of the Lessee, and this lease shall continue in full force and effect, except that, as sole and exclusive remedy of the Lessee, there shall be a proportionate abatement in the rent payable by the Lessee during the time the leased premises are untenable.

14. This lease shall not be renewable except by written agreement between Lessor and Lessee, should Lessee be allowed to remain in possession after termination of the lease, either in course or by reason of the breach of any of its provisions by the Lessee, or should Lessor accept any rent after such termination, the status of the Lessee shall be deemed that of a tenant at will, and the Lessee will within thirty (30) days vacate the premises upon being notified to do so by the Lessor.
15. Lessee will not permit the leased premises to remain vacant or unused for he purposes for which leased for more than thirty (30) consecutive days without the written consent of the Lessor.
16. The Lessor hereby subordinates this lease to any mortgage, deed of trust, or encumbrance which the Lessor may have placed, or may hereafter place on the premises. Lessee agrees to execute, on demand, any instrument which may be deemed necessary or desirable to render such mortgage, deed of trust, or encumbrance, whenever made, superior and prior to this lease.
17. In the event of a breach of any of the terms or conditions hereof by Lessee, Lessor may: (a) take possession of the leased premises and lease the same for the account of the Lessee upon such terms as may be acceptable to Lessor, and apply the proceeds received from such leasing, after paying the expenses thereof, toward the payment of the rent which the Lessee herein is obligated to pay and collect the balance thereof from the Lessee; or (b) take

possession of the leased premises and collect from the Lessee all damages sustained by reason of breach; or (c) pursue any remedy or remedies which may be available at law or in equity.

18. Should bankruptcy, insolvency or receivership proceedings of any kind be instituted against Lessee or any one of the Lessees, if more than one be included in the designation "Lessee" herein, or should Lessee's interest in this lease or in the interest of any one of the Lessees, if more than one is included under the designation "Lessee" herein, devolve or pass by operation of law to any other person or corporation, then that shall be considered a breach of the terms and conditions of this lease, and Lessor may pursue the remedies provided for in paragraph 17 hereof.
19. On termination of this lease in course Lessee agrees to surrender possession of the leased premises without demand. Failing to do so Lessee will, in addition to the damages generally recoverable, be liable to Lessor for all damages Lessor may sustain including claims made by any succeeding tenant against Lessor which have founded upon delay or a failure in delivering possession of the leased premises to the succeeding tenant.
20. As security for the rent herein provided for, and as security for the payment of all damages which may be sustained by the Lessor in the event there is a breach of any of the terms hereof by Lessee, the Lessor shall have a lien on all of the furniture, fixtures, and other property, excepting merchandise carried in stock for sale, which may be brought into or upon the leased premises. The Lessor shall have the power to sell such furniture, fixtures and other property at public sale and to apply all amounts realized therefrom to the payment of the accrued rentals or to the claim or claims of Lessor for damages. Before making such sale, Lessor shall publish a five (5) day notice thereof by one insertion in a daily newspaper published in the City of Little Rock, Arkansas; such sale is to be for cash, and Lessee may bid thereat as any third person might do. Lessee hereby waives any and all rights of redemption granted by the laws of Arkansas.
21. Time is of the essence in each of the agreements and conditions herein to be performed by the Lessee and Lessor. The failure of either Lessor or Lessee to insist upon performance of any of the agreements and conditions herein in any one of more instances shall not be a waiver of the right thereafter to insist upon full and complete performance of such agreements and conditions.

Receipt by the Lessor of rent with knowledge of the Lessee's breach of any of the agreements and conditions hereof shall not be deemed a waiver of such breach.

22. Any notice provided for herein will be deemed to have been given Lessee when deposited in registered mail addressed to Lessee, or any Lessee if more than one are included under the designation "Lessee" herein, at Fire Chief, North Little Rock Fire Department, 723 N. Maple Street, North Little Rock, AR 72114.
23. Upon the termination of the lease in course or for breach of any of its terms or conditions, Lessee agrees to restore the leased premises to Lessor in as good a condition as when possession is delivered to Lessee, ordinary wear and tear excepted.
24. Lessor may place a "For Rent" sign or signs on the leased premises during the last ninety (90) days this lease is in force.
25. In the event any changes, alterations or additions are required by any laws, ordinance, or regulations of the fire department or Board of Health, then the cost of such change, alterations or additions shall be paid by Lessee.
26. If the leased premises shall be subject to any eminent domain proceedings, the lease shall terminate if all of the leased premises are taken or if the portion taken is so extensive that the residual is wholly inadequate for Lessee's purposes, as set out in Paragraph 2 above. If the taking shall be partial, then Lessee's rentals shall be reduced in the proportion which the space taken bears to the space originally leased. In such condemnation proceedings Lessee may claim compensation for the taking of any removable installations which, by the terms of this lease, Lessee would be permitted to remove at the expiration of this lease, but Lessee shall be entitled to no additional award, it being agreed that all damages allocable to full fee simple ownership of the entire leased premises shall in any event be payable to the Lessor.
27. Lessor may, with prior notice, enter the leased premises for inspection purposes.
28. Lessee shall have the right of first refusal to purchase the property during the term of its lease. Any acceptable offer presented to the Lessor by a third party shall be presented to Lessee within five (5) days of Lessor's acceptance of said contract. Acceptance of said contract shall

include the condition of Lessee's waiving its right of first refusal. Lessee shall have seven (7) days to exercise its right to purchase the property at the same price, terms and conditions provided for in the third party offer or waive that right. This right shall be ongoing throughout the term and shall not be limited in number.

29. Lessee agrees to facilitate and expedite any site plan review, Planning Commission hearing, and/or any commercial building plan review required by the City of North Little Rock for placement of a modular office on the remaining property immediately to the east of the subject property owned by the Lessor.

30. Lessee has examined the premises herein leased and accepts them in the condition in which they are at present, except that Lessor authorizes the Lessee to remove the concrete fuel containment structure in lieu of the April lease payment. Lessee agrees that no representation of warranty or agreement has been made by the Lessor or any agent of the Lessor, which is not herein expressed.

31. Coldwell Banker Commercial Hathaway Group represents the Lessor in this transaction. Lessor shall pay Coldwell Banker Commercial Hathaway Group a fee for professional services related to this Lease.

LESSOR:  
**Southeast Financial Management, LLC**

LESSEE:  
**City of North Little Rock**

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Contact Info

Contact Info

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

Exhibit A

# Site Plan



Exhibit B

## **Lessee's Improvements**

- a. Install a stand-alone tornado shelter that will be removed upon termination of lease.
- b. Install a chain link fenced area at the back of the property for secure property that will be left or removed at the termination of the lease at Lessor's option.
- c. Install a metal frame building approximately 22 feet by 46 feet as referred to in Paragraph 7.

Exhibit C

## **Signage**

- a. Install a low profile sign not to exceed 4 feet by 8 feet near the driveway to the property identifying the property as North Little Rock Fire Station.