

RESOLUTION NO. R-40-24

A RESOLUTION APPROVING A LEASE AGREEMENT FOR CITY OFFICES AND PARKING SPACES (623 GARRISON) AND AUTHORIZING EXECUTION OF THE LEASE

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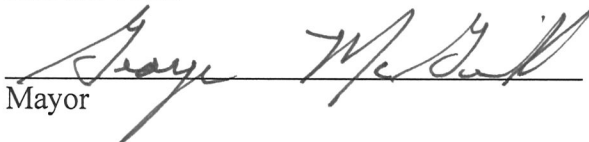
BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, that:

SECTION 1: The attached Lease with Southland Management Group, LLC for office and parking space, including the current space leased which is located at 623 Garrison Avenue, Fort Smith, Arkansas, for an initial five (5) year term, with renewal options, for a monthly rent of \$33,500 per month for the remainder of 2024 is hereby approved.

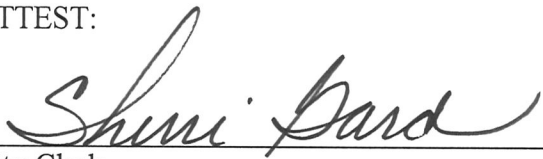
SECTION 2: The Mayor, his signature being attested by the City Clerk, is hereby authorized to execute the Lease.

This Resolution adopted this 5<sup>th</sup> day of March, 2024.

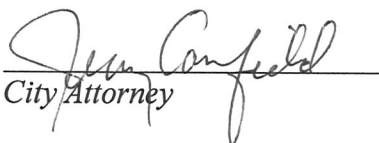
APPROVED:

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

Approved as to form:

  
\_\_\_\_\_  
City Attorney

## ADDENDUM TO LEASE AGREEMENT

This Addendum to the Lease Agreement dated on or about February 3, 2021, a copy of which is attached hereto as Exhibit 1, and later assigned to Southland Management Group, LLC by the Assignment and Assumption of Lease entered into on or about June 1, 2023, a copy of which is attached hereto as Exhibit 2, is entered into on the day and date last written herein, between Southland Management Group, LLC, hereinafter referred to as Lessor, and the City of Fort Smith, Arkansas, referred to as Lessee.

1. **TERM.** The term of this Addendum shall be for a five (5) year period, commencing March 1, 2024, and terminating March 1, 2029. There will not be any early termination rights for this Lease Agreement.

2. **RENT.**

Rent Commencing March 1, 2024: \$33,500.00 Per Month

Rent Commencing March 1, 2025: \$34,500.00 Per Month

Rent Commencing March 1, 2026: \$35,500.00 Per Month

Rent Commencing March 1, 2027: \$36,500.00 Per Month

Rent Commencing March 1, 2028: \$37,500.00 Per Month

3. **PARKING.** 73 parking spaces to be assigned by Lessor on parking lots owned or leased by Lessor. Twenty-three such spaces shall be in lots located on Block 25, Original City, 36 spaces in the lot at the Southeast corner of the intersection of North 8<sup>th</sup> & "A" Streets, and the remaining 14 spaces shall be on lots located within 2 blocks of Block 25.

4. **RIGHT OF FIRST REFUSAL.** If Lessor receives an offer, acceptable to Lessor, from a third party to purchase the leased premises, Lessee shall have the right of first refusal to purchase the leased premises for the exact terms as is being offered by a bona fide buyer. Such offer shall be made in writing to Lessee; thereafter, Lessee must execute a contract to purchase on the same terms as included in the offer from the bona fide buyer within five days (5) of receipt of the offer and Lessee must also close within thirty days (30) of the execution of the contract or else the leased premises may be sold to the bona fide buyer free of this right of first refusal. This lease shall continue in effect if the leased premises are sold to a third party.

**All other terms and conditions of the Lease Agreement dated February 3, 2021 and Assignment and Assumption of Lease dated June 1, 2023 will remain in full force and effect.**

In witness whereof, each party to this Addendum to Lease Agreement has caused it to be executed on the date indicated below.

LESSOR:

SOUTHLAND MANAGEMENT GROUP, LLC

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

By: \_\_\_\_\_

Aaron B. Littlefield, III  
Manager

LESSEE:

CITY OF FORT SMITH, ARKANSAS

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

By: \_\_\_\_\_

George McGill  
Mayor

ATTEST:

\_\_\_\_\_  
Sherri Gard  
City Clerk

# Exhibit 1

## LEASE

Stephens Production Company, hereinafter called Lessor, does hereby let, lease and demise unto the CITY OF FORT SMITH, ARKANSAS, an Arkansas Municipal Corporation, hereinafter called Lessee, the following described premises, to-wit:

Break room and restroom. facilities on the west wing of the second floor located on the west side of the hallway and all of the third floor, all of the fourth floor, all of the fifth floor and all of the office space and vault on the first floor of the building located on the East or Northeast 22 feet of Lot 11 (being the area formerly occupied by the Trust Department of the Merchants National Bank); and approximately 1,000 square feet of space in the basement of the aforesaid two buildings, together with the use, in common with the other tenants in the building, of the lobby, elevators, stairways, restrooms and hallways; and

73 parking spaces to be assigned by Lessor on parking lots owned or leased by Lessor. Twenty-three such spaces shall be in lots located on Block 25, Original City, 36 spaces in the lot at the Southeast corner of the intersection of North 8th & "A" Streets, and the remaining 14 spaces shall be on lots located within 2 blocks of Block 25.

1. **TERM:** This lease shall commence on March 1, 2021 and shall end on February 28, 2024. Lessee may terminate this lease agreement at any time after February 28, 2023 by providing six (6) months written notice to Lessor.
2. **RENT:** Lessee shall pay as rent for the foregoing office space, vaults, basement space, and parking spaces, a monthly rental of \$30,500.00 for the first year; \$31,500.00 for the second year; and \$32,500.00 for the third year. Even though the money herein payable by Lessee to Lessor covers more than just rent, the same shall be payable, at the option of Lessee, on a pro-rata semi-annual basis in advance. The schedule of payments will be determined by Lessee with the one exception that payments will always be made in advance for whatever pro-rata period is paid for.
3. **IMPROVEMENTS TO THE BUILDING:** Any improvements and/or alterations shall be upon plans submitted to and approved by Lessor in advance and shall remain a part of the building upon termination of this lease.
4. **UTILITIES:** Lessor shall furnish water, heating, air-conditioning and electricity to the leased premises at Lessor's expense. However, Lessor shall not be obligated to install any new or additional facilities except when such existing facilities are not capable providing a comfortable working climate. All other utilities and janitor service used Lessee shall be paid for by Lessee. If Lessee should install data processing or other equipment causing a substantial increase in the amount of utilities used by the City over that being used at the beginning of the term, Lessee shall pay an additional amount sufficient to cover such additional use.

5. **UPKEEP:** Lessor agrees to keep the stairs in the main part of the building vacuumed and cleaned as necessary. Lessee agrees to keep the halls, carpets and floors that it occupies, cleaned and vacuumed.
6. **ASSIGNMENT AND SUBLETTING:** Lessee shall not assign this lease nor sublet the leased premises, nor any portion thereof, without the express written consent of Lessor obtained in advance, which consent will not be unreasonably withheld.
7. **REPAIRS:** The Lessee shall take good care of the leased premises and fixtures and be responsible for any repairs necessitated by any act of negligence of the Lessee or the agents, employees or visitors of Lessee. Unless the same is covered by Lessor's insurance, Lessee shall also make repairs to the leased premises at its expense for any damage from vandalism including, but not limited to, burglary or attempted burglary, and for any damage to any non-leased premises in the building which is a direct result of visitors to the leased premises.
8. **INSURANCE HAZARDS:** The Lessee shall not do, nor permit to be done, anything in or about the leased premises that causes the premises to become uninsurable. If Lessee's activities on the leased premises should result in increased rates for fire and extended coverage insurance, Lessee agrees to pay the amount of such increase addition to the rent.
9. **ACTIVITIES:** The Lessee shall not do, nor permit to be done, anything in or about the leased premises that is illegal, or interferes with the rights of other tenants of the Lessor; that conflicts with State or Municipal law or the regulations of the Fire Department or Board of Health; that created a nuisance; or that is dangerous to persons or property.
10. **ALTERATIONS:** Lessee may make alterations, at its expense, to the building or the leased premises which are necessary for Lessee to receive or qualify for State, local or Federal funds, provided such alterations do not reduce the value of the building.
11. **CONDITIONAL TERMINATION:** Upon termination of this lease, the Lessee shall surrender possession of the leased premises to the Lessor in as good condition as when possession was taken by the Lessee, or in the highest state of repair in which the same may be put during this lease, ordinary wear and tear and actions of the natural elements excepted. Further, Lessee shall remove all of its property from the leased premises upon such termination and shall clean the premises, removing all trash and/or rubbish and all other items or material not forming a part of the premises, and shall leave the premises in a clean and tenantable condition.
12. **LESSOR'S INSPECTION:** The Lessor shall have the right to enter the leased premises at any reasonable time for inspection purposes or to make such repairs or alterations as it shall deem necessary for the safety, preservation, cleanliness or improvement of the premises.
13. **PROSPECTIVE TENANTS:** The Lessor shall have the right to show the leased premises to prospective tenants after notification of termination or during the last one hundred eighty days (180) days of the term of this lease.

14. **DAMAGE TO PREMISES:** In the event the leased premises should be damaged or destroyed by fire or other cause or casualty so as to be rendered wholly or partially untenable, other than by reason of the negligence of the Lessee, the parties shall have the following rights and options:

- (a) If the amount required to repair and restore the demised premises is \$10,000.00 or less, then Lessor shall cause, at no expense to Lessee, the demised premises to be promptly repaired and restored to substantially the same condition as it was immediately preceding such loss, and from the date of such casualty until the premises are so repaired and restored, rental payments shall abate in such proportion as that part of the said premises thus damaged or destroyed bears to the total premises herein leased;
- (b) If the amount required to repair and restore the demised premises is more than \$10,000.00, Lessor shall have the option to repair and restore the demised premises provided such repairs or restoration can be completed within ninety (90) days and provided Lessor notify Lessee in writing fifteen (15) days after the happening of the casualty that the premises will be repaired or restored (rental payments will abate as provided in (1) above); or
- (c) If the premises cannot be repaired or restored within ninety (90) days, Lessee shall have the option to terminate the lease or to give Lessor additional time in which to repair or restore the building.

The amount of such cost to repair and restore the demised premises, in the event of damage as hereinbefore provided in this paragraph, shall be determined as follows:

Lessor's and Lessee's architects, who shall be licensed architects, shall furnish an estimate of the cost of such repair and restoration. If, as to the estimate of these architects, Lessor and Lessee still cannot arrive at a cost satisfactory to each of them, then the two shall agree upon a third licensed architect to arrive at a cost estimate, which estimate shall be final and binding upon Lessor and Lessee, and the expense of such third architect shall be borne equally by Lessor and Lessee.

In the event of a termination of the lease under the above provisions, Lessor will return to Lessee any rental previously paid and not yet earned as of the date of the casualty.

15. **TAXES:** Lessor agrees to cause all ad valorem and other property taxes applicable to the demised premises to be paid promptly when due, but any taxes attributable to any use by the Lessee of the demised premises shall be the responsibility of Lessee. In the event Lessor fails to cause such taxes to be paid when due, Lessee shall have the right to advance such taxes and withhold the amount thereof from any future payment of rentals or, at the option of the Lessee, to maintain an action to recover same from Lessor if same cannot be recovered by withholding from rentals.

16. **MAINTENANCE:** Lessor will maintain the electrical (other than replacement of bulbs), plumbing, heating and air-conditioning facilities, and will repair the facilities as necessary.


17. **TRASH:** At the request of Lessee, Lessor will make available in the basement or some other part of the building, a place for Lessee to keep trash temporarily between the time it is collected and the time it is picked up by the City Sanitation Service.

18. **SEVERABILITY:** The invalidity or unenforceability of any provision of this Lease shall not affect or impair any other provision. It is agreed that any prior agreements, representations, understandings, promises or warranties are merged herein and are superseded by this agreement. This agreement may not be altered, varied or contradicted except in writing signed by both parties.


19. **CONSERVATION:** Inasmuch as Lessor pays for utilities, Lessee agrees to use good conservation practices and will, upon notice by Lessor to Lessee of any waste, promptly remedy, cease or change said wasteful practices.

IN TESTIMONY WHEREOF, the parties hereto have hereunto set their hands and seals this the 3<sup>rd</sup> day of February, 2021.

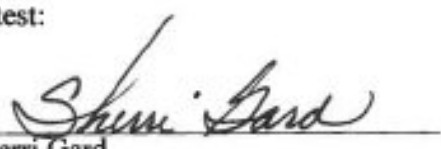
**LESSOR:                    STEPHENS PRODUCTION COMPANY**

  
\_\_\_\_\_  
William S. Walker  
Manager

**LESSEE:                    CITY OF FORT SMITH, ARKANSAS**  
An Arkansas Municipal Corporation

  
\_\_\_\_\_  
George McGinn  
Mayor

Attest:

  
\_\_\_\_\_  
Sherri Gard  
City Clerk

## Exhibit 2

### ASSIGNMENT AND ASSUMPTION OF LEASE

This Assignment and Assumption of Lease is entered into as of the 1<sup>st</sup> day of June, 2023, by between Stephens Land Holdings, LLC (“Assignor”), and Southland management Group, LLC (“Assignee”).

#### WITNESSETH:

WHEREAS, pursuant to that certain Real Estate Lease Agreement dated March 1, 2021 (collectively, the “Lease”) by and between Assignor and the City of Fort Smith, Arkansas regarding the property located at 623 Garrison Avenue, Fort Smith, Arkansas 72901, and associated parking lots attached hereto as Exhibit “A”.

WHEREAS, subject to the terms and conditions of the Lease, the Assignor desires to assign to the Assignee all of the Assignor’s interest in the Lease and the Property, and the Assignee desires to assume all the obligations of the Assignor under the Lease on the terms and conditions set forth in this Agreement;

NOW, THEREFORE, Assignor and Assignee agree as follows:

1. **Assignment.** Effective as of June 1, 2023 (the “Effective Date”), Assignor assigns, conveys, and transfers under Assignee, its successors and assigns, all right, title and interest of Assignor in and to the Lease, including all interest of Assignor in and to the Property and all other rights therein.
2. **Assumption.** Effective as of the Effective Date, Assignee assumes all future obligations, liabilities and responsibilities as lessee under the Lease, and will perform all obligations, liabilities and responsibilities as lessee thereunder.
3. **Governing Law.** This Agreement is subject to and controlled by the laws of the State of Arkansas, and any claim or dispute between Assignor and Assignee with respect to the terms of this Agreement shall be instituted in a court of competent jurisdiction in the State of Arkansas.
4. **Counterparts.** This Agreement may be executed in multiple original counterparts, and all such counterparts shall be considered one agreement.
5. **Entire Agreement, Waiver.** This Agreement constitutes the final, complete, and exclusive understanding between the parties to this Agreement with respect to the subject matter hereof.

[SIGNATURE PAGE TO FOLLOW]



IN WITNESS WHEREOF, the undersigned have executed this Assignment and Assumption of Lease as of the day and year first above written.

ASSIGNOR:

ASSIGNEE:

STEPHENS LAND HOLDINGS, LLC

SOUTHLAND MANAGEMENT  
GROUP, LLC

BY:

  
William S. Walker, Manager

BY:

  
Aaron Littlefield, Manager