R-25-149

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A REAL ESTATE SALE AND PURCHASE AGREEMENT TO PURCHASE CERTAIN REAL PROPERTY LOCATED ALONG INTERSTATE 40 IN THE CITY OF NORTH LITTLE ROCK, ARKANSAS, ON BEHALF OF NORTH LITTLE ROCK WASTEWATER UTILITY, FROM THE WOODCREST COMPANY, LLLP; AND FOR OTHER PURPOSES.

WHEREAS, Arkansas Code Ann. § 14-54-302 authorizes the City to purchase real property when authorized by a resolution approved by a majority vote of the City Council present and participating; and

WHEREAS, the Woodcrest Company, LLLP owns and desires to sell real estate property located within the City of North Little Rock located along Interstate 40, more particularly described in the Real Estate Sale and Purchase Agreement attached hereto as Exhibit A; and

WHEREAS, the Woodcrest Company, LLLP has offered to sell the Property to the City, on behalf of North Little Rock Wastewater Utility ("NLRWU"), for the sum of $1,700,000.00, and it is in the best interests of the City and its residents to enter into the Agreement so that the Property may be purchased for NLRWU.

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 execute a Real Estate Sale and Purchase Agreement (substantially similar to Exhibit A attached hereto) and to purchase the property from the Woodcrest Company, LLLP.

SECTION 2: That the Mayor and City Clerk are hereby authorized to execute all documents necessary to effect the completion of the herein stated sale; with all contracts/agreements to be reviewed and approved by the City Attorney prior to execution.

SECTION 3: That the purchase price of the property, together with any incidental expenses associated with the purchase, shall be paid by North Little Rock Wastewater Utility.

SECTION 4: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED: APPROVED:

_____ _____

Mayor Terry C. Hartwick

SPONSOR:

Terry C. Hartwick

Mayor Terry C. Hartwick by AF

ATTEST:

Diane Whitbey, City Clerk

APPROVED AS TO FORM:

Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/ABF

FILED 10:23 A.M. ___ P.M.

By Amy Fields

DATE 9-2-25

Diane Whitbey, City Clerk and Collector
North Little Rock, Arkansas

RECEIVED BY

REAL ESTATE SALE AND PURCHASE AGREEMENT

This Agreement is made and entered into by and between THE WOODCREST COMPANY, LLLP (**"Seller"**), and CITY OF NORTH LITTLE ROCK, ARKANSAS for NORTH LITTLE ROCK WASTEWATER UTILITY (**"Buyer"**). (Buyer and Seller are hereinafter sometimes collectively referred to as the **"Parties"** and individually as a **"Party"**).

W-I-T-N-E-S-S-E-T-H:

1. **THE PROPERTY**. On the terms and conditions hereinafter set forth, Seller hereby agrees to sell, convey and transfer to Buyer and Buyer hereby agrees to purchase, acquire and take possession of the approximately ONE HUNDRED FIFTEEN (115) acres of real property in Pulaski County, Arkansas owned by Seller and further identified in **EXHIBIT "A"** attached hereto, together with any and all improvements located and erected thereon, together with all easements, rights-of-way, common areas, privileges, appurtenances and rights belonging and inuring to the benefit thereof (hereinafter sometimes collectively referred to as the **"Real Property"** or the **"Property"**).

2. **PURCHASE PRICE**. Subject to the terms and provisions hereof, Buyer will pay to Seller in U.S. currency at Closing the sum of ONE MILLION, SEVEN HUNDRED THOUSAND DOLLARS AND ZERO CENTS ($1,700,000.00) as consideration for the Property (the **"Purchase Price"**).

3. **EARNEST MONEY**. No Earnest Money is required.

4. **CONVEYANCE**. The conveyance of the Property shall be made to Buyer or as directed by Buyer, by General Warranty Deed, fully executed and acknowledged by Seller, and all other necessary parties conveying the Real Property subject only to the Permitted Exceptions (hereinafter defined).

5. **TITLE INSURANCE, SURVEY, AND CURING DEFECTS.**

(a) Within twenty (20) calendar days from the Effective Date (hereinafter defined), Seller shall procure, at its expense, a Commitment for an Owner's Title Insurance Policy, together with tax, judgment and lien searches on Seller (the **"Title Commitment"**) to be issued by a national title insurance company approved by Buyer (the **"Title Company"**) through Beach Abstract (the **"Closing Agent"**), dated on or after the date hereof, describing the Real Property described on **EXHIBIT "A"** attached hereto, reflecting Buyer as the proposed insured, showing as the policy amount thereon the amount of the Purchase Price, and attaching copies of all documents referred to as exceptions therein. The Title Commitment shall assure to Buyer that, at Closing, the Title Company will issue to Buyer an ALTA Owner's Policy of Title Insurance, reflecting fee simple absolute title in Buyer subject only to any exceptions to or conditions of title approved and accepted by Buyer (hereinafter referred to as the **"Permitted Exceptions"**). The Title Company shall confirm in writing to Buyer that the Owner's Policy of Title Insurance to be issued pursuant to the Title Commitment shall contain (i) extended coverage over all so-called general (or standard) exceptions customarily contained therein (including, without limitation, the exceptions pertaining to matters of survey and mechanics' and materialmen's liens), (ii) an access endorsement insuring

EXHIBIT
tabbies
A

that there is direct and unencumbered access for automobiles and commercial vehicles from the Real Property to and from public rights-of-way, streets or roads adjoining the Real Property, (iii) an address endorsement, (iv) an endorsement or affirmative coverage insuring against the violation of any restrictive covenants affecting the Real Property (*i.e.,* a comprehensive coverage endorsement) or that no forfeiture of reversion of title will occur as a result thereof, (v) if the Real Property is comprised of more than one (1) parcel, a contiguity endorsement insuring contiguity of all parcels comprising the Real Property, (vi) a separate tax parcel endorsement, and (vii) such other endorsements as Buyer may reasonably require. The Title Commitment shall be updated to reflect the proper legal description and any other material matters reflected in the survey described herein.

(b) Within ten (10) calendar days from the Effective Date, Seller shall deliver to Buyer a copy of all existing surveys and plats of the Property and Seller shall order, at Seller's cost, a new ALTA survey of the Property by a surveyor acceptable to Buyer, to be certified to Seller, Buyer, and the Title Company **(collectively, the "Survey").**

(c) In the event that the Title Commitment or Survey discloses any claim, lien, encumbrance, encroachment, matter, requirement, and/or exception to or condition of title which, in Buyer's opinion, does (or could in the future) interfere with the use, operation or financing of the Real Property, or if the Title Company indicates to Buyer that it cannot provide the endorsements required in Section 5 (a) above, such matter(s) shall be considered a **"Title Defect(s)"** hereunder; Buyer shall then have ten (10) calendar days of Buyer's receipt of the Title Commitment or Survey, whichever is received later, evidencing said Title Defect(s) to notify Seller in writing of the exact Title Defect(s) to which Buyer objects. Failure by Buyer to so notify Seller in writing within such time period shall be conclusively deemed to be approval of and acceptance by Buyer of all items, exceptions, conditions and matters shown in the Title Commitment. If Buyer timely notifies Seller of any Title Defect(s), Seller may, but shall not be obligated to, prior to the Closing Date, cause such Title Defects to be removed or insured over by the Title Company. If any Title Defect(s) is (are) not so removed or insured over by the Title Company to the satisfaction of Buyer prior to the Closing Date, Buyer may, at its sole option and discretion, either (i) terminate this Agreement by written notice to Seller, and neither Party shall have further liability or obligation hereunder or (ii) proceed to close and accept the title subject to the objectionable Defects.

6. **ADDITIONAL BUYER INSPECTIONS AND EXAMINATIONS**. Buyer and its contractors shall have the right to enter the property for inspections, including such soil analysis, environmental assessments and other examinations as Buyer deems appropriate. Such examinations and assessments shall be at Buyer's sole cost and expense. Notwithstanding anything to the contrary set forth herein, Buyer's obligation to close shall be contingent upon its approval, at its sole discretion, of the results of all such examinations and assessments prior to the closing date.

7. REPRESENTATIONS AND WARRANTIES OF SELLER.

7.1 In order to induce Buyer to enter into this Agreement Seller represents and warrants to Buyer that as of the date of this Agreement and on the Closing Date:

(a) To the best of Seller's knowledge, there is no pending or threatened litigation, condemnation or similar proceeding affecting the Property or any part thereof, nor, to the best of Seller's knowledge, is any such proceeding or assessment contemplated by any governmental authority having jurisdiction;

(b) Seller has not received any notice of any violation of any ordinance, regulation, law or statute of any governmental agency pertaining to the Real Property or any part thereof;

(c) Seller is fully authorized to sell the Property, and has good and marketable and insurable fee simple title thereto, free of any liens or encumbrances (or the Property will be free of all liens or encumbrances at the Closing), exceptions, conditions or encumbrances.

(d) To the best of Seller's knowledge, there are no unpaid charges, costs or expenses for improvements in, on or upon the Property which might form the basis for a claim for or affixation of any type of mechanic's, materialmen's, laborer's, artisan's or other statutory lien;

(e) There are no leases, agreements or contracts affecting or encumbering the Property, nor are there any outstanding options to purchase, or rights of first refusal to purchase, the Property, or any portion of the Property, and Seller shall not enter into any other agreement or contract for the sale of the Property;

(f) The Property is not subject to assessment or collection of additional taxes for prior years based upon a change in land usage or ownership, and all taxes for years prior to the year of Closing have been paid in full. If such assessments are made or such additional taxes levied after Closing for the period of time prior to Closing, Seller shall pay such assessments and/or such additional taxes;

(g) there are no attachments, executions or assignments for the benefit of creditors, or voluntary or involuntary proceedings in bankruptcy or under any other debtor relief laws contemplated by or pending or, to the best of Seller's knowledge, threatened by or against Seller;

(h) There is no fact known to Seller pertaining to the environmental condition of, or environmental factors affecting, the Property, except as may be set forth in **EXHIBIT "B"** hereto. To the best of Seller's knowledge, (i) neither the Property nor the operation thereof in accordance with the activities previously conducted thereon by Seller violates, or violated, any applicable laws, ordinances, codes, directives or regulations (including, without limitation, any zoning, building, fire, health code or environmental control laws, ordinances, codes

or regulations) or any other restrictions affecting the use of the Property imposed by any governmental or quasi-governmental authority having jurisdiction over the Property, and (ii) any improvements on the Property have been constructed in accordance with building permits issued by the appropriate authorities and final certificates of occupancy have been issued for such improvements;

(i) To the best of Seller's knowledge, no activity has been undertaken on the Property which would cause (i) the Property or any portion thereof to become a hazardous waste treatment, storage or disposal facility within the meaning of federal environmental statutes including CERCLA and RCRA, (ii) a release or threaten release of hazardous material from the Property within the meaning of CERCLA or RCRA, or (iii) the discharge of hazardous material from the Property into any watercourse, body of surface or subsurface water or wetland, or the discharge into the atmosphere of any hazardous material which require a permit under any hazardous material law and for which a permit was not obtained.

(j) To the best of Seller's knowledge, no underground storage tanks or underground hazardous material deposits are or were located on the Property or any portion thereof.

7.2 All of the representations and warranties contained herein shall be deemed to be restated as of the Closing Date with the same effect as though such representations and warranties had been made on the Closing Date and shall survive the Closing. The representations and warranties of Seller in this Agreement, and the information contained in the Exhibits hereto, are true, accurate and complete and do not contain any untrue statements of material fact or fail to state a material fact necessary to make representations or warranties not misleading, to the best of Seller's knowledge and belief.

8. OBLIGATIONS AT CLOSING. At or prior to the Closing, Seller shall deliver to Buyer, or Buyer shall deliver to Seller, as appropriate, the following documents:

(a) A duly executed and acknowledged General Warranty Deed in recordable form conveying good, insurable and marketable title to the Real Property to Buyer, or Buyer's designee, subject only to any permitted exceptions.

(b) To the extent accessible, as-built drawings, if any, of any and all improvements to the Property and of underground utilities (including sewers, water, irrigation systems and telephone and electric service cables) located under the Property.

(c) Such affidavits and instruments as may be required by the issuer of the Title Commitment to issue an Owner's Policy of Title Insurance to Buyer and otherwise required to close.

9. CLOSING. The terms **"Closing," "Closing Date," "Date of Closing"** and/or day of closing shall mean and be November 15, 2025 or such earlier or later date as mutually agreed upon in writing by both Buyer and Seller; provided, however, that unless Closing occurs by November

15, 2025, this Agreement shall automatically terminate unless extended in a writing signed by both Seller and Buyer. The Closing shall be held at the offices of the Closing Agent or at such other location mutually agreed to by Seller and Buyer.

All closing fees, expenses and costs herein mentioned (Closing Agent's closing fees, real estate transfer taxes and recording fees) shall be equally divided between the Buyer and Seller. Each party shall pay its own attorneys' fees, if any, and such other fees and expenses incurred by or customarily charged to said party.

10. **PRORATIONS, TAXES, ETC.** On or at the Closing, taxes, special assessments, and any other charges, accrued on or before the Closing Date shall be paid by Seller, even if not due until after Closing. Current Taxes, Special Assessments and any other charges shall be prorated as of the Closing Date based upon the last available tax statement.

Any adjustment of taxes, charges and assessments shall be upon the basis of one-hundred (100%) of the rate for the preceding year applied to the latest assessed valuation; there shall be a re-proration of such tax, charge or assessment immediately upon receipt of the actual bill therefor; within ten (10) business days of the receipt of such bill, Seller shall pay Buyer, or Buyer shall pay Seller, as the case may be, any amount due the other Party as a result of such re-proration. Unless otherwise specifically provided in this Agreement, all adjustments shall be made on a per diem basis, as of midnight of the day preceding the Closing Date. In the event that, on the Closing Date, precise figures necessary for any of the foregoing adjustments are not capable of determination, the adjustment shall be made on the basis of the good faith estimates of the Parties, and final adjustments shall be made promptly after precise figures are determined or available. The covenants in this Agreement with respect to adjustment shall survive Closing, where applicable.

11. **SPECIAL PROVISIONS.** The parties hereto further agree that:

(a) All covenants, agreements, representations and warranties made hereunder or pursuant hereto or in connection with the transactions contemplated hereby shall survive the Closing and shall remain operative and shall not merge into any conveyancing instrument delivered hereunder, regardless of any investigation by or on behalf of any party hereto.

(b) Seller will deliver possession of the Property at Closing.

(c) From the date of this Agreement until the Closing Date or earlier termination of this Agreement, except with the written consent of the Buyer, Seller shall not enter into any written or oral service contract, lease, sales contract, or other agreement with respect to the Property.

(d) **The Buyer's obligations under this Contract shall be contingent upon approval of the North Little Rock City Council.**

12. CASUALTY AND CONDEMNATION. In the event that, prior to Closing, any portion of the Property is damaged by fire or other casualty or any eminent domain proceeding affecting the Property is commenced or threatened by a governmental entity having the power of eminent domain, Seller shall immediately give notice to Buyer thereof and Buyer may elect to terminate this Agreement, by written notice to Seller, in which event neither Party will have any further liability hereunder or Buyer may elect to proceed to Closing and Seller shall affirmatively commit to restore or repair any damaged or lost Property or in the case of an eminent domain proceeding shall assign to Buyer all of Seller's right, title and interest with respect to all awards, damages and compensation arising from such proceeding.

13. ASSIGNMENT. Buyer may assign this Agreement or any of Buyer's interest in and rights hereunder to anyone or any entity without the prior written consent of Seller. Notwithstanding the foregoing, any such assignment shall not relieve Buyer of and from liability to fully perform hereunder in the event such Assignee fails so to do.

14. BROKERAGE. All negotiations relative to this Agreement have been conducted by and between Seller and Buyer without the intervention of any person as Agent or Broker

15. DEFAULT.

(a) In the event Seller shall be in default hereunder, Buyer may at its option (i) cancel this Agreement, or (ii) pursue such other remedies as may be available to Buyer by law or in equity, including but not limited to the right to have this Agreement specifically performed.

(b) In the event Buyer shall be in default hereunder, Seller may at its option (i) cancel this Agreement, or (ii) pursue such other remedies as may be available to Buyer by law or in equity, including but not limited to the right to have this Agreement specifically performed.

16. MISCELLANEOUS.

(a) Any notice, consent, request, claim or other communication hereunder shall be in writing and shall be deemed to have been duly given if delivered or mailed by registered or certified mail, return receipt requested, to the following address shown for the respective party, unless changed by notice:

To Seller at: The Woodcrest Company, LLLP
4801 North Hills Blvd.
North Little Rock, Arkansas 72116

and to Buyer at: North Little Rock Wastewater Utility
7400 Baucum Pike
North Little Rock, AR 72117
Attn: Michael Clayton
Email: mclayton@nlrwu.com

With a copy to: Amy Fields
North Little Rock, Arkansas City Attorney
P.O. Box 5757
North Little Rock, AR 72119
Email: AFields@nlr.ar.gov

Scott Hilburn
Hilburn & Harper, Ltd.
P.O. Box 5551
North Little Rock, AR 72119
Email: scotthilburn@hilburnlawfirm.com

(b) All statements contained in any certificate or other instrument delivered by or on behalf of the Parties pursuant hereto, or in connection with the transaction contemplated hereby, shall be deemed representations and warranties by the Party giving same and shall be subject to all limitation to representations and warranties as are contained in this Agreement.

(c) This Agreement contains all the terms and conditions agreed upon by the Parties hereto with respect to the transactions contemplated hereby and shall not be amended or modified except by written instrument signed by all of the parties.

(d) This Agreement shall be binding upon and inure to the benefit of the representatives, heirs, estates and successors of the Parties hereto.

(e) Nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any person, firm or corporation, other than the Parties hereto and their successors, any benefits, rights or remedies under or by reason of this Agreement.

(f) This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

(g) This Agreement shall be governed by and construed under the laws of the State of Arkansas.

(h) In the event either Party to this Agreement shall employ legal counsel to protect its rights under this Agreement or to enforce any term or provision of this Agreement, then the Party prevailing in any such legal action shall have the right to recover from the other Party all of its reasonable attorneys' fees, costs and expenses incurred in relation to such claim.

(i) The obligations and undertakings of the Parties hereto shall be performed within the time specified therefor, **time being of the essence** of this Agreement, and the failure to perform within such time shall constituted a breach of and default under this Agreement on the part of the Party who fails to perform.

(j) Whenever the context shall require, the masculine shall include the feminine and neuter, and the singular shall include the plural, and conversely.

(k) The Parties hereto agree that notwithstanding the actual date of execution by each Party hereto the effective date of this Agreement from which all dates, time and days shall be calculated shall be and is the last date of execution set forth in the signature pages hereto (the **"Effective Date"**).

(l) This Agreement will be of no force and effect unless executed by each party and delivered to the other on or before September 20, 2025.

17. **ACKNOWLEDGMENT**. Buyer and Seller acknowledge that they have read and understand this Agreement and have received a copy hereof.

SELLER:

THE WOODCREST COMPANY, LLLP

_____,
an Arkansas Limited Liability Limited Partnership

By: _____
Name: _____
Title: _____
Date: _____

BUYER:

CITY OF NORTH LITTLE ROCK, ARKANSAS for NORTH LITTLE ROCK WASTEWATER UTILITY

By: _____
Terry Hartwick, Mayor

Date: _____

EXHIBIT "A"

FORMAL LEGAL DESCRIPTION OF THE PROPERTY TO BE DETERMINED BY NEW SURVEY.

Pulaski County, Arkansas Tax Parcel Numbers 23N0440000200, 23N0440000400, 23N0440000600, 23N0440001900, 23N0440002300, 33N2070000900, 33N2070003300

EXHIBIT "B"