

City Council Agenda Items
and
Contracts, Leases or Agreements

⁰⁵
06-Mar-13

City Council Meeting Date
Agenda Items Only

David Jurgens
Submitted By

Wastewater Treatment
Division

Utilities
Department

Action Required:

Approving granting an easement to Ozarks Electric Cooperative on the land owned by the City near the Noland Wastewater Treatment Facility.

Cost of this request	\$0.00	\$ -	Wastewater Treatment
Account Number		\$ -	Wastewater Treatment
Project Number		\$ -	Water/Sewer
			Fund Name

Budgeted Item

Budget Adjustment Attached

[Signature]
Department Director 14 JAN 13
Date

Previous Ordinance or Resolution # _____

[Signature]
City Attorney 1-14-13
Date

Original Contract Date: _____

Original Contract Number: _____

Paul a. Baker
Finance and Internal Services Director 1-15-2013
Date

Received in City Clerk's Office
01-14-13 P02:45 RCVD
[Signature]

[Signature]
Chief of Staff 1-15-13
Date

Received in Mayor's Office
ENTERED
1/14/13
[Signature]

[Signature]
Mayor 1/15/13
Date

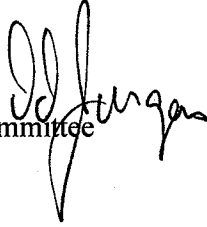
Comments:

www.accessfayetteville.org

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: David Jurgens, Utilities Director
Fayetteville Water and Sewer Committee



Date: January 14, 2013

Subject: Easement to Ozarks Electric Cooperative, Noland Wastewater Treatment Facility

RECOMMENDATION

Staff recommends approving granting an easement to Ozarks Electric Cooperative on the land owned by the City near the Noland Wastewater Treatment Facility (WWTF).

BACKGROUND

Ozarks Electric Cooperative is in the initial stages of upgrading one of their electric lines near the Noland WWTF. The aging electrical infrastructure in this area has reached its acceptable service life and needs to be replaced. This project to rebuild the line will provide more reliable service to the area as well as allow Ozarks Electric to accommodate additional load. Design requirements have changed since the line was constructed and two areas have been flagged as needing additional easement to install guy wires to support poles. They are located approximately half a mile south of Noland WWTF facility and are on City property.

DISCUSSION

Ozarks Electric has an existing 100' easement centered on their existing electrical line. These power lines provide electricity to the Noland WWTF as well as other area customers. It is in the City's best interest to have fully reliable power to this site. Their design requirements have changed significantly since the existing lines were installed in 1968 when the first WWTF was constructed on this site. The new design criteria require a different guy wire arrangement than applied for the existing lines, and thus the guy wires will be outside the existing easement at two locations. The two areas contain 0.08 and 0.06 acres. Granting this easement has no negative impact on City operations at these locations.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE TRANSFER OF AN EASEMENT INTEREST TO OZARKS ELECTRIC COOPERATIVE CORPORATION ON CERTAIN CITY-OWNED PROPERTY NEAR THE NOLAND WASTEWATER TREATMENT FACILITY TO PROVIDE FOR A RELOCATION OF ELECTRICAL UTILITY SERVICE

WHEREAS, Ozarks Electric Cooperative Corporation provides electrical service to the Noland Wastewater Treatment Facility; and

WHEREAS, the current electric line is being upgraded by Ozarks Electric Cooperative Corporation to accommodate additional electrical load; and

WHEREAS, it is in the City's best interest to have fully reliable electrical power to the site by providing additional easement area to accommodate the electrical upgrade;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the transfer of an easement interest to Ozarks Electric Cooperative Corporation as described in the attached draft "Utility Easement" which is incorporated into this Resolution as Exhibit "A", and further authorizes the Mayor and City Clerk to execute any necessary documents to effectuate the transfer of the easement interest.

PASSED and APPROVED this 5th day of March, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

UTILITY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, That we the undersigned, whether one or more, City of Fayetteville, Arkansas, 113 W. Mountain, Fayetteville, AR. 72701 hereinafter called "**Grantors**", for the sum of \$1.00 and good and valuable consideration, the receipt of which is hereby acknowledged do hereby grant and convey unto **Ozark Electric Cooperative (Grantee)**, hereinafter called "Cooperative", whose principal office is in Fayetteville, Arkansas, and unto its successors, licensees or assigns, a perpetual easement right, privilege, and authority to enter upon the lands of the undersigned Grantor, and to place, construct, reconstruct, erect, excavate, add to, relocate, rebuild, modify, change operating voltage level, repair, replace, patrol, operate and maintain on, over, and under the described lands, and in and upon all streets, roads, highways and other rights of way abutting said premises, overhead lines and underground cables of one or more circuits to serve as service, distribution, or transmission lines, or combinations of all, to transmit electrical energy and communications, including but not limited to poles, towers, wires, buried cable, guys, brace poles, guy wires, anchors, and other appurtenances necessary thereto, together with the right of ingress and egress to and from the lines of the Cooperative, over the lands of Grantors, which said lands of Grantors situated in the County of Washington, State of Arkansas, are described as follows:
See Property Description: Page 3

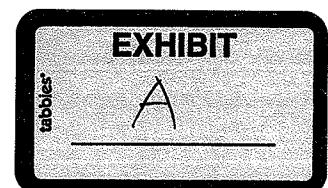
The location of the utility easement on the above-described premises being generally described as follows:

Guy tracts #1 & #2 as shown on the attached Exhibit A.

At points of angle and termination in the line, Cooperative shall have the right to place anchors, stub poles, and guy wires. The location of anchors, stub poles and guy wire shall be finally determined as they are constructed within the utility easement shown on Exhibit A.

Grantors do also hereby grant and convey to Cooperative the perpetual right to clear and keep clear by cutting, trimming, the application of federally registered herbicides or removing by any other manner all brush, trees, timber, and vegetation within the defined easement and, at the Cooperative's option, to trim or remove all other trees outside of the defined easement that would in the sole opinion of the Cooperative, endanger the safety of the public or be a hazard to the operation and maintenance of the lines, and to dispose of trees and brush in any manner desired by the Cooperative. And agree that no shrubs, trees, or structures shall be planted or constructed within the defined easement. And the removal of any structures, trees, or other obstructions placed in the easement after the construction of said line will be removed at the expense of the property owner.

Grantors agree to make no use of, nor permit others to make any use of said easement strip that would reduce in clearance or in any other way interfere with the proper and safe operation and/or maintenance of said line by Cooperative. Grantors further agree that Grantors will not make or allow others to make any attachments to any line, poles, or structures of Cooperative although the Cooperative retains the right to do so at its discretion.



Grantors agree that all poles, wires, transformers and all other facilities installed by and at the expense of Cooperative on Grantors' property pursuant to the rights granted by this easement shall remain the property of Cooperative and may be removed by Cooperative at its option.

No delay in exercising any or all of the rights granted herein to Cooperative shall be interpreted to be a surrender of any of the said rights nor abandonment of the easement granted.

All provisions contained herein shall run with the land and be binding on the parties, their heirs, successors, representatives and assigns.

And any and all dower, curtesy, distributive shares or homestead interest the undersigned, or either of them, may have inconsistent with the rights herein conferred is hereby relinquished and released to the extent necessary to permit the free enjoyment of said rights and to that extent only. In so doing, the undersigned do not deed the ownership of said lands.

Grantors covenant to and with Cooperative that they are lawfully seized and possessed of said lands, and have good and lawful right to and power to sell and convey said land and the easement granted herein and that said land is free and clear of all liens and encumbrances and that Grantors will forever warrant and defend the title to said easement and the quiet possession thereof against the lawful claims and demands of all persons whomever.

**City of Fayetteville, Arkansas,
A municipal corporation**

By: _____
Lioneld Jordan, Mayor

ATTEST:

Sondra Smith, City Clerk

[Seal]

ACKNOWLEDGMENT

STATE OF ARKANSAS }
 } ss.
COUNTY OF WASHINGTON }

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Lioneld Jordan** and **Sondra Smith**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **Mayor** and **City Clerk** of the **City of Fayetteville, Arkansas, a municipal corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipal corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2012.

MY COMMISSION EXPIRES:

Notary Public

UTILITY EASEMENT

Property Description (Deed Book 688 at Page 1)

The East Half(E1/2) of the Northwest Quarter (NW ¼) of the Southeast Quarter (SE ¼) of Section Seven (7) Twenty (20) acres, more or less, the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of Section Seven (7) Forty (40) acres; and eight and one half (8 ½) acres off of the North side of the Northeast Quarter of the Southeast Quarter of Section Seven (7) described as follows, to-wit; Beginning at the Northeast corner of said Forty acre tract, thence South Seventeen(17) rods, and two (2) feet, thence West Eighty (80) rods, thence North Seventeen (17) rods and two (2) feet, thence East Eighty (80) rods to the place of beginning. Also the Southwest Quarter of the Northwest Quarter of Section (8) except that part lying East of the Center of White River running through said forty acre tract to the North line thereof which was deeded to William Eads by J.G.Tunstall, containing herein Twenty-five (25) acres more or less, also a part of the Northwest Quarter of the Southwest Quarter of Section Eight (8) described as follows, to-wit; Beginning at the Northeast corner of said Forty acre tract and running thence South Seventeen (17) rods and two (2) feet, thence West eighty (80) rods, thence North 17 rods and two feet, thence East eighty (80) rods to the place of beginning, containing eight and one-half (8 ½) acres more or less, all in Township Sixteen (16) North of Range Twenty-nine (29) West of the 5th P.M. containing One Hundred and two (102) acres more or less from date of the patents or final entries.

TRACT #
 CITY OF
 FAYETTEVILLE

OZARKS ELECTRIC COOPERATIVE CORP.
 FAYETTEVILLE, ARKANSAS
 EXHIBIT "A"

1 of 3

PART OF THE EAST 1/2
 SEC. 6 T16N-R29W
 PART OF THE EAST 1/2
 SEC. 7 T16N-R29W
 WASHINGTON COUNTY, ARKANSAS



NOT TO SCALE

LEGEND

- PROPERTY LINE
- SECTION LINE

16.0 ACRES
 MORE OR LESS

N03°27'03"E
 6531.37'

SEC. 6 T16N-R29W
 SEC. 7 T16N-R29W

GUY
 TRACT #2

APPROX.
 ☉ OVERHEAD
 ELECTRIC

N09°44'50"E
 431.10'

POB

GUY
 TRACT #1

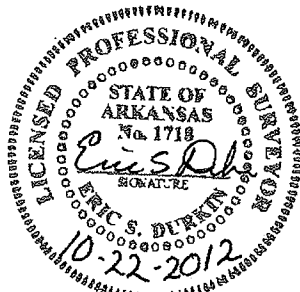
N00°00'00"E
 1069.92'

N90°00'00"W
 1141.24'

FOUND IRON PIN
 NE CORNER SE 1/4 SE1/4
 SECTION 7, T16N, R29W

N02°01'11"E
 1324.39'

FOUND RR SPIKE
 SE CORNER
 SECTION 7, T16N, R29W



ERIC S. DURKIN
 ARKANSAS P.L.S. #1718
 AGENT FOR ALLGEIER, MARTIN and
 ASSOCIATES, INC.

SURVEYOR'S DECLARATION

I HEREBY DECLARE THAT THIS EXHIBIT WAS PREPARED
 UNDER MY SUPERVISION. THIS EXHIBIT DEPICTS
 APPARENT OWNERSHIP LINES AND WAS PREPARED
 EXCLUSIVELY FROM INSTRUMENTS OF RECORD.

10-22-12

THIS DRAWING IS A DOCUMENT OF SERVICE AND IS THE PROPERTY OF
 ALLGEIER, MARTIN and ASSOCIATES, INC. THIS DOCUMENT SHALL NOT
 BE USED ON THIS OR OTHER PROJECTS WITHOUT THE WRITTEN
 CONSENT OF ALLGEIER, MARTIN and ASSOCIATES, INC.

CERTIFICATE OF AUTHORITY
 ARKANSAS NO. 126



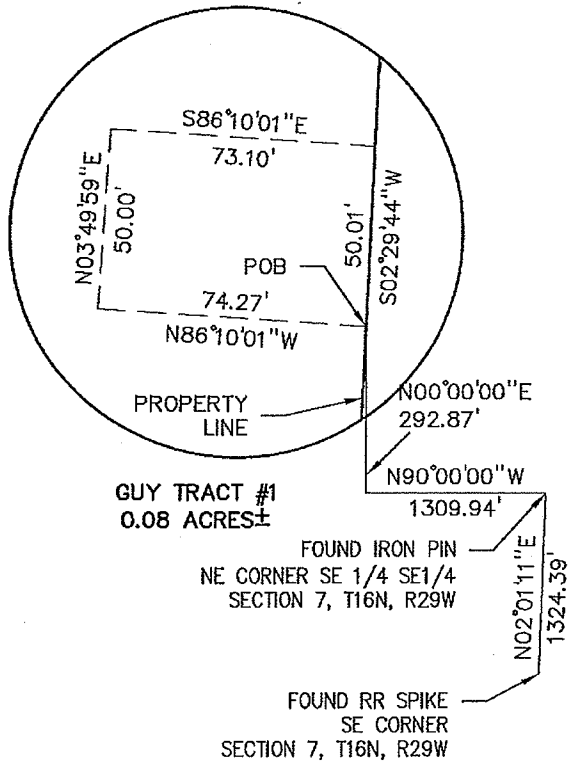
ALLGEIER, MARTIN and ASSOCIATES, INC.
 CONSULTING ENGINEERS
 7231 EAST 24TH STREET
 JOPLIN, MISSOURI 64804 (417) 680-7200

TRACT #
 CITY OF
 FAYETTEVILLE

OZARKS ELECTRIC COOPERATIVE CORP.
 FAYETTEVILLE, ARKANSAS
 EXHIBIT "A"



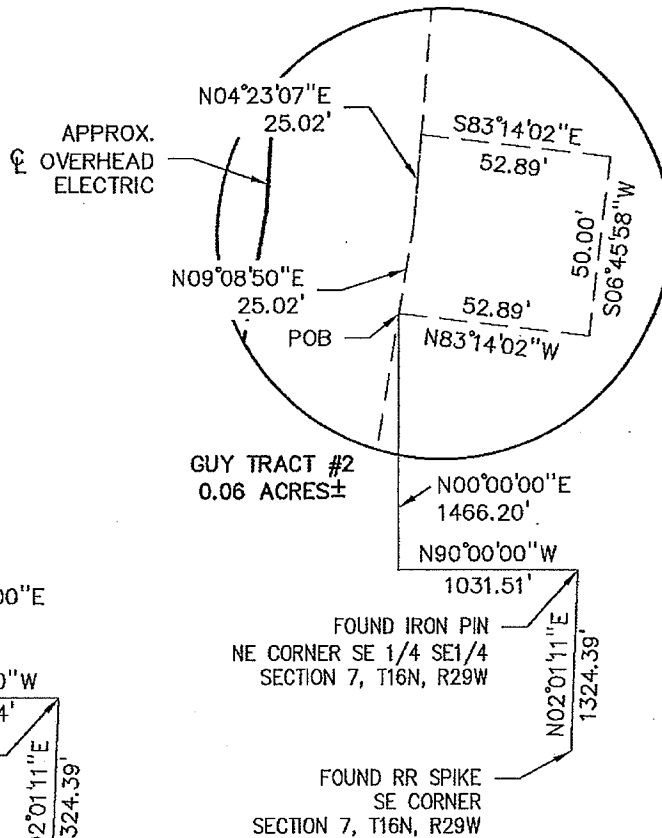
NOT TO SCALE



GUY TRACT #1
 0.08 ACRES±

FOUND IRON PIN
 NE CORNER SE 1/4 SE1/4
 SECTION 7, T16N, R29W

FOUND RR SPIKE
 SE CORNER
 SECTION 7, T16N, R29W



GUY TRACT #2
 0.06 ACRES±

FOUND IRON PIN
 NE CORNER SE 1/4 SE1/4
 SECTION 7, T16N, R29W

FOUND RR SPIKE
 SE CORNER
 SECTION 7, T16N, R29W

SURVEYOR'S DECLARATION

I HEREBY DECLARE THAT THIS EXHIBIT WAS PREPARED UNDER MY SUPERVISION. THIS EXHIBIT DEPICTS APPARENT OWNERSHIP LINES AND WAS PREPARED EXCLUSIVELY FROM INSTRUMENTS OF RECORD.

10-22-12

THIS DRAWING IS A DOCUMENT OF SERVICE AND IS THE PROPERTY OF ALLGEIER, MARTIN and ASSOCIATES, INC. THIS DOCUMENT SHALL NOT BE USED ON THIS OR OTHER PROJECTS WITHOUT THE WRITTEN CONSENT OF ALLGEIER, MARTIN and ASSOCIATES, INC.

CERTIFICATE OF AUTHORITY
 ARKANSAS NO. 126



ALLGEIER, MARTIN and ASSOCIATES, INC.
 CONSULTING ENGINEERS
 7231 EAST 24TH STREET
 JOPLIN, MISSOURI 64804 (417) 680-7200

ERIC S. DURKIN
 ARKANSAS P.L.S. #1718
 AGENT FOR ALLGEIER, MARTIN and ASSOCIATES, INC.

TRACT #
CITY OF
FAYETTEVILLE

OZARKS ELECTRIC COOPERATIVE CORP.
FAYETTEVILLE, ARKANSAS
EXHIBIT "A"

3 of 3

CENTERLINE EASEMENT DESCRIPTION:

THE EASEMENT HEREIN GRANTED WILL BE 100 FEET IN WIDTH AND LIE 50 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE (SIDELINES ARE LENGTHENED OR SHORTENED AS REQUIRED TO END OF THE GRANTOR'S BOUNDARY):

COMMENCING AT A FOUND RAILROAD SPIKE AT THE SOUTHEAST CORNER OF SECTION 7, TOWNSHIP 16 NORTH, RANGE 29 WEST, WASHINGTON COUNTY, ARKANSAS; THENCE N02°01'11"E, 1324.39 FEET TO A FOUND IRON PIN AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 7; THENCE N90°00'00"W, 1141.24 FEET; THENCE N00°00'00"E, 1069.92 FEET TO THE INTERSECTION OF AN OVERHEAD ELECTRIC CENTERLINE AND THE GRANTOR'S BOUNDARY LINE, ALSO BEING THE POINT OF BEGINNING; THENCE N09°44'50"E, 431.10 FEET TO A POINT OF DEFLECTION; THENCE N03°27'03"E, 6531.37 FEET MORE OR LESS TO THE GRANTOR'S NORTH BOUNDARY LINE. SUBJECT TO ANY ROAD RIGHT-OF-WAY, EASEMENTS, OR RESERVATIONS, IF ANY.

16.0 ACRES MORE OR LESS.

GUY TRACT #1 EASEMENT DESCRIPTION:

THE EASEMENT HEREIN GRANTED IN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 16 NORTH, RANGE 29 WEST, WASHINGTON COUNTY, ARKANSAS, MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND RAILROAD SPIKE AT THE SOUTHEAST CORNER OF SAID SECTION 7; THENCE N02°01'11"E, 1324.39 FEET TO A FOUND IRON PIN AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 7; THENCE N90°00'00"W, 1309.94 FEET; THENCE N00°00'00"E, 292.87 FEET TO THE POINT OF BEGINNING; THENCE N86°10'01"W, 74.27 FEET; THENCE N03°49'59"E, 50.00 FEET; THENCE S86°10'01"E, 73.10 FEET; THENCE S02°29'44"W, 50.01 FEET TO THE POINT OF BEGINNING. SUBJECT TO ANY ROAD RIGHT-OF-WAY, EASEMENTS, OR RESERVATIONS, IF ANY.

0.08 ACRES MORE OR LESS.

GUY TRACT #2 EASEMENT DESCRIPTION:

THE EASEMENT HEREIN GRANTED IN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 16 NORTH, RANGE 29 WEST, WASHINGTON COUNTY, ARKANSAS, MORE FULLY DESCRIBED AS FOLLOWS:

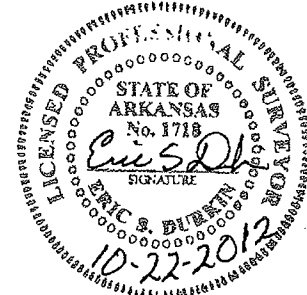
COMMENCING AT A FOUND RAILROAD SPIKE AT THE SOUTHEAST CORNER OF SAID SECTION 7; THENCE N02°01'11"E, 1324.39 FEET TO A FOUND IRON PIN AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 7; THENCE N90°00'00"W, 1031.51 FEET; THENCE N00°00'00"E, 1466.20 FEET TO THE POINT OF BEGINNING; THENCE N09°08'50"E, 25.02 FEET; THENCE N04°23'07"E, 25.02 FEET; THENCE S83°14'02"E, 52.89 FEET; THENCE S06°45'58"W, 50.00 FEET; THENCE N83°14'02"W, 52.89 FEET TO THE POINT OF BEGINNING. SUBJECT TO ANY ROAD RIGHT-OF-WAY, EASEMENTS, OR RESERVATIONS, IF ANY.

0.06 ACRES MORE OR LESS.

SURVEYOR'S DECLARATION

I HEREBY DECLARE THAT THIS EXHIBIT WAS PREPARED UNDER MY SUPERVISION. THIS EXHIBIT DEPICTS APPARENT OWNERSHIP LINES AND WAS PREPARED EXCLUSIVELY FROM INSTRUMENTS OF RECORD.

10-22-12



THIS DRAWING IS A DOCUMENT OF SERVICE AND IS THE PROPERTY OF ALLGEIER, MARTIN and ASSOCIATES, INC. THIS DOCUMENT SHALL NOT BE USED ON THIS OR OTHER PROJECTS WITHOUT THE WRITTEN CONSENT OF ALLGEIER, MARTIN and ASSOCIATES, INC.

CERTIFICATE OF AUTHORITY
ARKANSAS NO. 126



ALLGEIER, MARTIN and ASSOCIATES, INC.
CONSULTING ENGINEERS
7231 EAST 24TH STREET
JOPLIN, MISSOURI 64804 (417) 680-7200

ERIC S. DURKIN
ARKANSAS P.L.S. #1718
AGENT FOR ALLGEIER, MARTIN and ASSOCIATES, INC.

