

ASSIGNMENT OF EXISTING AGREEMENT

Original Agreement: Agreement for Roadway Access
Between City of Columbia, MO
And MFA Oil Company

Date of Original Agreement: July 1, 2013

New Assignee: Arcade District Properties, LLC

THIS ASSIGNMENT AGREEMENT (hereinafter "Assignment") is made by and between the City of Columbia, Missouri (hereinafter "City"), a municipal corporation whose address is 701 E. Broadway, Columbia, Missouri 65201 and Arcade District Properties LLC (hereinafter "Assignee"), a limited liability company authorized to transact business within the State of Missouri and whose address is 602 Fay St, Columbia, MO 65201, and is entered into on the date of the last signatory below (hereinafter "Effective Date"). It is regarding the Agreement for Roadway Access dated July 1, 2013 (hereinafter "Original Agreement"), between City and MFA Oil Company (hereinafter "MFA Oil"). City and Assignee are each individually referred to herein as a "Party" and collectively as the "Parties."

WHEREAS, in July 2013, City and MFA Oil entered into the Original Agreement to grant MFA Oil nonexclusive use of City-owned right-of-way property for purpose of roadway access to MFA Oil's Premises;

WHEREAS, in December, 2018, Assignee purchased the Premises from MFA Oil;

WHEREAS, pursuant to Section 12, both Parties wish to assign all of MFA Oil's rights and responsibilities under the Original Agreement to Assignee.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the Parties hereto agree as follows:

1. **Certification of Authority.** Assignee certifies that it has acquired the Premises, as defined in Original Agreement attached hereto as **Exhibit A** and made a part of this Assignment, from MFA Oil and therefore has authority to enter into this Assignment as a successor or transferee under Section 12 of the Original Agreement.
2. **Assignment.** Both Parties agree that all of MFA Oil's rights, titles, interests, obligations, responsibilities, and duties with respect to the Original Agreement shall be assigned to Assignee upon Effective Date.

3. **Confirmation of Original Agreement as Assigned.** All terms and provisions of the Original Agreement will remain in full force and effect on both Parties as assigned. The Parties hereby adopt, ratify and confirm the Original Agreement as it is assigned. This Assignment shall be binding on, and inure to the benefit of, the Parties hereto.

[SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have executed this Assignment by their duly authorized representatives as of the date of the last signatory hereto.

CITY: City of Columbia, MO

By: _____
John Glascock, City Manager

Date: _____

ATTEST:

By: _____
Sheela Amin, City Clerk

APPROVED AS TO FORM:

By: _____
Nancy Thompson, City Counselor /ak

ASSIGNEE: Arcade District Properties, LLC

BY: _____
NAME: Robert Campbell
TITLE: Owner
DATE: Nov 5, 2019

**AGREEMENT
FOR ROADWAY ACCESS
BETWEEN
CITY OF COLUMBIA, MISSOURI,
AND
MFA Oil Company**

This Agreement, entered into this 1st day of July, 2013 (the "Effective Date"), by and between the City of Columbia, Missouri, a municipal corporation (hereinafter "CITY"), and MFA Oil Company, a cooperative organized in the State of Missouri, whose address is 1 Ray Young Drive, PO Box 519, Columbia, Missouri 65205-0519 (hereinafter "LESSEE"). CITY and LESSEE are each individually referred to herein as a "Party" and collectively as the "Parties."

WHEREAS, CITY owns and operates a line of railroad trackage between Columbia and Centralia, Missouri, and a railroad terminal facility at 6501 Brown Station Road in Columbia, Boone County, Missouri; and

WHEREAS, LESSEE desires the privilege of nonexclusive occupation and the nonexclusive use of approximately 5,775 square feet of land belonging to the CITY and located in the State of Missouri, County of Boone, for purposes of roadway access; and

WHEREAS, CITY is willing to grant LESSEE permission to use CITY's property at LESSEE's own risk for the purpose of roadway access, provided that LESSEE complies with the terms and conditions outlined in this Agreement.

NOW, THEREFORE, in consideration of the Premises and of the rentals herein provided, as well as the covenants and conditions set forth below, CITY does hereby grant unto LESSEE permission to use and occupy the Premises described herein for the limited purposes set forth herein, upon the following terms and conditions.

1. LOCATION. The location of the roadway access is contained on Exhibit A, which is attached hereto and made a part of this Agreement, and hereinafter referred to as the Premises.
2. RIGHT OF USE FOR A LIMITED PURPOSE. Subject to the payment of rent and compliance with the terms of this Agreement, CITY grants LESSEE a lease for the limited purpose of roadway access to CITY's property.
 - a. The Parties agree that this is a nonexclusive right to use the Premises for roadway access.
 - b. The Parties agree that LESSEE shall use the Premises for roadway access at LESSEE's own risk.

- c. LESSEE's nonexclusive use of Premises shall not interfere with CITY's use of the property or railroad.
- d. Subject to the terms and limitations set forth in this Agreement, CITY promises that LESSEE, if not in default, shall peaceably have, hold and enjoy the nonexclusive right to use the Premises as provided herein for the term of this Agreement (or any renewal or extension thereof).
- e. CITY is not responsible for any losses incurred by LESSEE's use of the Premises.
- f. The Premises shall be used only for the purpose mentioned herein and for no other purpose without the written permission of CITY nor shall the Premises or any structure thereon be sold or sublet nor shall this lease be assigned without the prior written consent of CITY.
- g. CITY shall retain the right to enter the leased Premises.
3. RENT. As consideration for the nonexclusive right to use of the Premises, beginning as of the date during which LESSEE commences its use of the Premises (the "Commencement Date"), LESSEE shall pay to CITY the sum of Nine Hundred Dollars (\$900.00) per annum. LESSEE shall pay sum in advance on the first day of the month following the Effective Date.
4. CITY'S USE OF PREMISES. LESSEE's use of the Premises shall not interfere with CITY's use of the site nor shall it interfere with CITY's use of the railroad. In the event LESSEE's use does interfere with CITY's use of the site or facility, CITY shall give LESSEE written notice of such interference and LESSEE shall have thirty (30) days from the date of such notice to end any such interference. CITY's obligation to give LESSEE notice of such interference and an opportunity to end the interference shall not preclude CITY from taking those steps it deems necessary to protect its operation from such interference. Failure of LESSEE to end the interference within thirty (30) days may be considered by City as a breach of this Agreement by LESSEE.
5. INSURANCE. LESSEE shall obtain and maintain liability insurance in an amount not less than Five Million Dollars (\$5,000,000) for any incident and Ten Million Dollars (\$10,000,000) in aggregate, with a self-insured retention not to exceed Twenty-five Thousand Dollars (\$25,000), naming as additional insured, City of Columbia, Missouri. LESSEE's insurance policy shall include coverage for Federal Employers Liability Act ("FELA") claims. Said insurance shall be Primary and Non-Contributory and shown as such on the Certificate of Insurance provided to CITY. LESSEE shall provide a copy of said policy to CITY annually upon obtaining coverage, and shall provide evidence of the fact of said coverage at any reasonable time upon request by CITY.

6. INDEMNIFICATION. To the extent allowed by Law, LESSEE agrees to assume all risks and liability and to indemnify and hold harmless the CITY, its officers, agents and employees from and against any and all loss of or damage to property or injuries to or death of any person or persons including property and employees of CITY arising out of LESSEE'S activities on the Premises or use of the Premises by Lessee, and shall defend and indemnify and hold harmless CITY, its officers, agents, and employees from any and all claims, damages, suits costs, expense, liability, actions or proceedings of any and all nature whatsoever in any way resulting from or arising out of, directly or indirectly from the activities of LESSEE on, or the LESSEE's use of, the Premises. Whenever any loss of, damage to, or destruction of any property whatsoever (exclusive of normal wear and tear), or injury to or death of any person or persons whomsoever, or any damage to or destruction of the environment whatsoever, including without limitation, land, air, water, wildlife, and vegetation, occurs in connection with the operation of LESSEE at the Premises, LESSEE shall assume all liability therefore and shall bear all cost and expense in connection therewith, and shall forever protect, defend, indemnify and save harmless CITY and its directors, officers, agents and employees, from and against any such liability, cost and expense.
7. PLACEMENT OF STRUCTURES OR PROPERTY ON PREMISES. LESSEE shall not place any structure or improvements upon the Premises.
8. IMPROVEMENTS. The parties acknowledge there are no buildings or improvements on the Premises.
9. TERM. Beginning as of the Effective Date, the term of this Agreement shall be one (1) year from the date of the execution of this Agreement by CITY (the "Term"). This Agreement shall automatically renew for an additional one (1) year (each being a "Renewal Term") unless the Agreement is terminated by one Party giving the other notice of its intent to do so at least thirty (30) days prior to the expiration of the current term.
10. TERMINATION.
 - a. Termination by CITY. CITY shall conduct an annual review at the end of each contract year to determine if LESSEE has met all of the following conditions: (1) paid all CITY invoices when due; and (2) maintained insurance required herein. Should CITY's annual review determine that one or more of the above described conditions has not been met, CITY shall notify LESSEE in writing and allow LESSEE thirty (30) days to correct the condition, except that CITY shall not allow LESSEE to use the Premises should the insurance be found deficient. CITY has the right to terminate this Agreement after thirty (30) days from the date of the first notification in writing should conditions not be resolved.

b. Termination by LESSEE. LESSEE may terminate this Agreement upon thirty (30) days written notice to CITY. In the event of termination of this Agreement as provided above, LESSEE shall vacate the Premises in an orderly manner.

c. Termination for Cause. If said rent, or any part thereof, shall remain unpaid for thirty (30) days after it shall become due, and without demand made therefor; or if said LESSEE shall assign this lease or underlet said leased Premises, or any part thereof, or if said LESSEE's interest therein shall be sold under execution or other legal process, without the written consent of said CITY, its successor or assigns, or if said LESSEE or any assignee of this lease shall make an assignment for the benefit of LESSEE's or assignee's creditors; or if proceedings in bankruptcy shall be instituted by or against LESSEE or any assignee; or if a receiver or trustee be appointed for the property of LESSEE or any assignee; or if this lease by operation of law pass to any person or persons; or if said or any assignee shall fail to keep any of the other covenants of this lease, it shall be lawful for said CITY, its successors or assigns, into said Premises to re-enter, and to repossess and enjoy as in the first and former estate; and thereupon this lease and everything herein contained on said CITY's behalf to be done and performed shall cease, and be utterly void.

11. EFFECT OF TERMINATION. Upon termination or expiration of this Agreement, LESSEE shall remove its equipment and improvements and shall restore the site to substantially the condition existing on the Effective Date. Any of LESSEE's equipment or property that remains on the Premises after termination or expiration of this Agreement shall be deemed abandoned and CITY shall be entitled to dispose of the equipment or property in whatsoever manner CITY deems appropriate.
12. ASSIGNMENT. This Agreement shall not be assigned by LESSEE without the express written consent of CITY. CITY may assign this Agreement to any successor or transferee and CITY shall notify LESSEE in writing within thirty (30) days of such an assignment.
13. ACCOMMODATION. LESSEE understands and agrees that CITY owns and maintains the COLT Line as a freight railroad and uses the Premises for other City governmental purposes as needed. LESSEE agrees that LESSEE's use of the Premises is done as an accommodation to LESSEE and is not an agreement by CITY to create a transferable business interest in CITY's property for the benefit of LESSEE or to subordinate CITY's use of the property to LESSEE.
14. INCORPORATION. This Agreement incorporates all agreements and understandings of the parties. No prior or subsequent agreements shall be binding unless executed in writing by the parties. If any section of this Agreement is declared null or void, it shall not affect the remaining provisions of this Agreement.

15. DESIGNATED REPRESENTATIVES AND NOTICES. LESSEE's General Manager is designated as its representative for the purposes of administering the provisions of this Agreement. CITY's representative shall be the Director of Water and Light of the City of Columbia, Missouri. Notices under this Agreement shall be given in writing and may be hand delivered, sent by US first class mail, or by facsimile as follows:

Notice to CITY:

Director of Water and Light
City of Columbia, Missouri
P.O. Box 6015
Columbia, MO 65205-6015
Fax: (573) 443-6875

Notice to LESSEE:

MFA Oil Company
Attn: President
One Ray Young Drive
PO Box 519
Columbia, MO 65205-0519

16. COMPLIANCE WITH LAWS AND RULES. LESSEE shall operate its equipment and use the site in a manner which complies with all the laws, regulations and rules of all federal, state, and municipal agencies which govern the site. LESSEE'S use of the premises shall be in compliance with CITY's Operating Rules.
17. CHOICE OF LAW AND VENUE. This Agreement shall be governed, interpreted and enforced in accordance with the laws of the State of Missouri and the laws of the United States. The venue for all litigation arising out of, or relating to, this Agreement shall be Boone County, Missouri, or the United States Western District of Missouri. The Parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of Missouri and waive any defense of forum non conveniens.
18. NUISANCES PROHIBITED. LESSEE shall not create nor permit to be created or to exist upon the leased Premises any nuisance, public or private, during the continuance of this Agreement and shall save and keep harmless the CITY from any suit or claim growing out of any nuisance thereon or LESSEE's violation of any applicable laws, ordinances or governmental regulations because of or arising from the condition of the leased Premises or any use thereof or operations thereon by LESSEE or those claiming by, through or under LESSEE.
19. TERMINATION OF PRIOR LEASE. Upon execution of this lease Agreement, a prior lease agreement known as NWL-1293 dated March 1, 1980, between the Norfolk and Western Railway Company and Henderson Oil, Inc. and all of its revisions and supplements, shall cease and become void. Any pro rata rent due to LESSEE under the NWL-1293 lease agreement, shall be credited to the first rent payment due under this lease Agreement.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties, through their duly authorized signatories, have executed this Agreement in duplicate on the day and year first above written.

CITY:


CITY OF COLUMBIA, MISSOURI

By: 
Mike Matthes, City Manager

ATTEST:


 7/2/13
Sheela Amin, City Clerk

APPROVED AS TO FORM:


Nancy Thompson, City Counselor

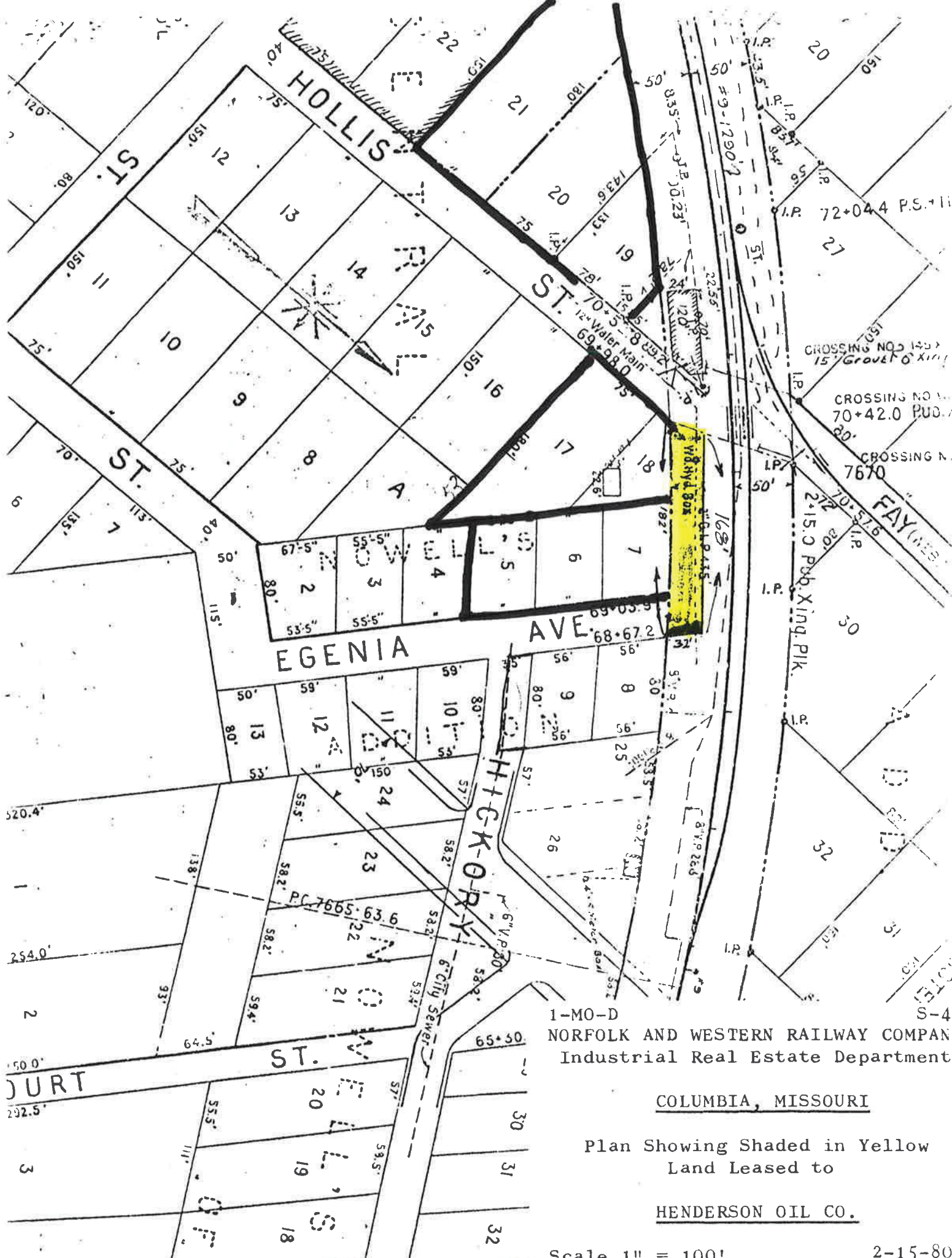
LESSEE:

MFA Oil Company

By: 
Jerome Taylor, President

Attest"


Secretary



1-MO-D S-4
 NORFOLK AND WESTERN RAILWAY COMPANY
 Industrial Real Estate Department

COLUMBIA, MISSOURI

Plan Showing Shaded in Yellow
 Land Leased to

HENDERSON OIL CO.

Scale 1" = 100'

2-15-80