

LEASE OF CITY OF YUMA PROPERTY
APN 633-52-070

THIS LEASE (“Lease”) is made and executed at Yuma, Arizona, this _____ day of _____, 2025 (the “Effective Date”), between the City of Yuma, an Arizona municipal corporation, as Lessor, and Keithly-Williams Seeds, Inc., an Arizona corporation, as Lessee.

IT IS AGREED by and between the parties as follows:

1. **Description of Premises.** The Lessor owns 12.39 acres of real property identified as APN No. 633-52-070 by the Yuma County Assessor and as legally described and depicted in Exhibit 1. Lessor hereby leases to Lessee on the terms and conditions described in this Lease, all buildings, structures, and vacant land on APN No. 633-52-070 (collectively, the “Premises”).
2. **Term.** This Lease shall be in effect for a term of five years commencing on the Effective Date and may be renewed for an additional five-year term by written notice, delivered from Lessee to Lessor at the address shown in Section 7 below, no later than 60 days prior to expiration of the first five-year term. Each party guarantees that it shall not terminate the lease prior to the conclusion of the first three years following the Effective Date.
3. **Termination.** This Lease will terminate at the end of the five-year term unless extended for an additional five-year term or terminated earlier in accordance with Section 12 below. At the termination of this Lease, Lessee shall surrender the Premises to Lessor in as good as or better condition and repair than delivered to Lessee.
4. **Holding Over.** Lessee agrees not to holdover after the termination of this Lease. Should Lessee holdover, Lessee shall pay month to month rent to Lessor in an amount double the amount described in Section 7 below.
5. **Lessee Improvements.** In consideration of Lessee’s obligations to: (1) make improvements to the Premises at a significant expense to Lessee of no less than \$65,000, and (2) to remove the majority of the concrete footprint, including but not limited to flatwork, footings of preexisting buildings, parking and loading areas from the former Associated Citrus Packers packing and shipping site, City agrees to the below market rent described in Section 7 below.

Obligations (1) and (2) in this Section 5 are material terms of this Lease Agreement, and shall operate as a covenant of Lessee until completion of the Lessee Improvements. Lessee, with the assistance of Lessor, shall secure all necessary permits for a crushing operation on the Premises, in order that Lessee can conduct onsite crushing and haul away of the existing concrete material. Once crushed and removed from the Premises, the recycled concrete aggregate shall belong to Lessee.

Once installed, Lessee agrees that all Lessee Improvements shall become the property of the City of Yuma and that at the termination of this Lease, Lessee relinquishes all claims to title, reimbursement, or credit for Lessee Improvements.

6. **Zoning.** During the term of this Lease, Lessee shall cooperate with Lessor to rezone the Premises in the event Lessor desires to rezone.
7. **Rent.** Lessee agrees to pay the Lessor as rent for the Premises, for the first five-year term, the sum of fifty-four-thousand (\$54,000)(Rent) payable in monthly installments at the rate of five hundred dollars (\$500.00) per month for the first twelve months and at the rate of one thousand dollars (\$1,000.00) per month for the remaining 48 months of the first five-year term of the Lease. Each installment is due and payable on the 1st day of each month until paid in full. Upon renewal for a second five-year term, Rent shall increase to ninety-thousand dollars (\$90,000.00), payable in monthly installments of one thousand five hundred dollars per month (\$1,500.00) for the second term of the Lease.

Payments shall be marked Keithly-Williams Seeds Rent and mailed or delivered in person to:

City of Yuma
Attn: Accounting
One City Plaza
Yuma, Arizona 85364

In addition, Lessee agrees to do and perform all the covenants and agreements in this Lease. If any payment by Lessee is returned for insufficient funds (“NSF”) or if Lessee stops payment, Lessor may require that the Lessee pay all future Rent installments in cash, by money order, or cashier’s check, in addition to a \$100.00 NSF fee for each returned check.

8. **Security Deposit.** Upon execution of this Lease, Lessee shall deposit with Lessor the sum of one thousand five hundred dollars (\$1,500.00), receipt of which is hereby acknowledged by Lessor, as a security deposit.
9. **Late Charges.** Lessee acknowledges that “due and payable on the 1st day of the month” means receipt of the monthly Rent installment by the Lessor on the 1st day of the month, and that late payment by Lessee to Lessor of the monthly Rent installment or other sums due under this Lease will cause Lessor to incur costs not contemplated by this Lease. Such costs include, but are not limited to, processing and accounting charges. Accordingly, if Lessee fails to pay any monthly installment of Rent or any other sum within five (5) days after the monthly Rent installment is due and payable under this Lease, Lessee shall pay Lessor, as liquidated damages, a late charge equal to 10% of each such installment or sum due. In the event Lessor elects to waive the late charge with respect to any single installment, the waiver shall not be deemed to constitute a waiver with respect to any subsequent installment due.
10. **Interest on Rent in Arrears.** Any installment of Rent, NSF fee, or late charges accruing under the provisions of this Lease which are not paid when due shall bear interest at the rate of twelve (12%) percent per annum (1% per month) from the date due under the terms of this Lease. Such interest shall continue to accrue until such time as Lessee pays the amount due in full.

11. **Use.** The Premises shall only be used for a thrift store or taxidermy shop unless Lessee obtains the prior written consent of the Lessor. Any use of the Premises shall be in accordance with all City, County, and State laws and regulations and this Lease (“All Applicable Laws”).
12. **Notice of Lease Termination.** Three years after the Effective Date, Lessor may terminate the Lease at any time before the term ends if Lessor gives Lessee 60 days’ written notice of Lessor’s intent to terminate the Lease. In the event of Lease termination for the convenience of Lessor under this Section 12, no additional installment of Rent shall be due and payable to Lessor after Lessee vacates the Premises.
13. **Smoking.** No smoking is permitted inside any building or structure on the Premises.
14. **Assignment and Subletting.** Lessee may not assign this Lease or any interest of Lessor in this Lease, either by operation of law or by contract, without the prior written consent of Lessor with the approval by motion of the Yuma City Council. Lessor may not sublet the Premises, any part of the Premises, or any right or privilege appurtenant to the Premises, without the written consent of the Lessor with the approval by motion of the Yuma City Council. Use of the Premises or any part of the Premises as a thrift store or taxidermy studio is an approved use and shall not require additional approval of the sublease or subtenant, even if the subtenant is a separate entity, so long as the subtenant is subject to all terms of this Lease and All Applicable Laws.
15. **Condition of Premises.** The Premises (including all buildings and structures) are rented "as is." Upon termination of Lease, the Premises shall be restored to as clean condition or better condition and good repair as when leased, normal wear and tear excepted. Lessee shall remove all personal property, except those items permanently affixed before vacating the Premises. Lessee shall obtain the City Administrator’s written consent prior to making any changes, alterations, or improvements to the Premises, including the Lessee Improvements described in Section 5, in the event Lessee seeks to count the Lessee Improvements towards Lessee’s obligations to qualify for below market rent. Lessee shall not cause, or permit to be caused, any damage to the Premises.
16. **Right of Entry.** Lessor reserves the right to enter the leased Premises. Lessor shall provide Lessee as much prior notice of entry as is reasonable under the circumstances, and if unable to provide notice, for example, if necessitated by an emergency or governmental function, written notice of access shall be sent to Lessee within five (5) business days following the access. Lessor will use Lessor’s best efforts to ensure that Lessee’s operations are not interrupted.
17. **Taxes.** In addition to any rent payable under this Lease, any excise, sales, property, privilege or any other applicable tax imposed or levied by any government or governmental agency upon Lessor or Lessee and attributed to the Rent payable by Lessee shall be paid by Lessee over and above the Rent otherwise payable hereunder. Lessee shall pay an annual government property lease excise tax, based upon the square footage of the building and the formula provided in Arizona Revised Statutes §42-6203(B)(1)(f).

18. **Conduct of Business.** Lessee shall not use or permit the Premises, or any part of the Premises, to be used for any purpose or purposes other than the purposes for which leased. No use shall be made or permitted to be made of the Premises which will increase Lessor's existing rate of insurance on the Premises or cause a cancellation of any insurance policy on the Premises. Lessee shall not sell or permit to be kept on the Premises, any article which may be prohibited by the standard form of fire insurance policy.
19. **Compliance with Authorities.** Lessee shall, at Lessee's sole cost and expense, comply with and observe All Applicable Laws now in force or which may hereafter be in force, pertaining to the Premises.
20. **Utilities.** Utilities (including, but not limited to, water, wastewater, gas, telephone and telecommunications, cable, internet, and sanitation) and janitorial and facilities maintenance services are not included in the Rent set forth in Section 7 of this Lease and are the sole responsibility of the Lessee. Lessor shall not be liable for, and Lessee shall not be entitled to any relief by reason of, the unavailability, suspension or limited availability of any utilities or services resulting from matters not within Lessor's control. Lessee shall keep and maintain, at Lessee's own cost and expense, any fire alarm and fire suppression system currently installed on the Premises.
21. **Maintenance.**
- a. Lessor is leasing the Premises "as is." In exchange for below market Rent, Lessee shall keep and maintain the roof, exterior surfaces, and all electrical and mechanical systems of the subject Premises in a good state of repair. Lessee shall be responsible for all interior and exterior maintenance of the Premises at Lessee's sole expense, including but not limited to interior and exterior walls, plumbing fixtures, electrical fixtures, heating and air conditioning systems, doors, windows, and gas and electrical service if applicable.
- B. Lessee shall insure the Premises against fire, flood or casualty loss as described in Section 22 and name the Lessor as the loss payee. Lessee shall obtain such insurance as Lessee deems necessary to insure the Premises against vandalism, theft, window glass breakage, exterior vandalism, and casualty and fire loss as to Lessee's own merchandise and wares or other personal property. Lessee's insurance shall not relieve Lessee from indemnifying Lessor from loss as described in Section 31 below.
- C. In the event of injury or damage to the Premises, unless caused by the Lessor, Lessee shall immediately repair and replace the damaged Premises at Lessee's expense, and if not properly done by Lessee, Lessor may make said repair and Lessee shall be liable to repay and reimburse Lessor, as additional rent, all expenses in connection herewith.
22. **Insurance.** As a condition of this Lease and prior to Lessee taking possession of the Premises, Lessee shall, at Lessee's sole expense, secure and maintain during the term of this Lease, Commercial General Liability insurance including bodily injury, property damage, contractual, and personal injury insurance from a company authorized to do business in the State of Arizona. Liability limits shall be no less than \$1,000,000 per occurrence, and no less than a \$2,000,000.00 general aggregate limit.

If Lessee has employees, Lessee must carry Worker's Compensation Insurance for obligations imposed by federal and state statutes having jurisdiction of employees engaged in the performance of the work or services in an amount of not less than the statutory required minimums.

Prior to Lessee taking possession and at all times during the term of this Lease, Lessee shall procure and maintain, at Lessee's sole expense, "all risk" property insurance for damage or other loss caused by fire, flood, or other casualty or cause, including, but not limited to vandalism and malicious mischief, theft and water damage of any type, including sprinkler leakage, bursting of pipes and explosion, in a amount not less than ninety (90%) percent of the replacement cost of all buildings on the leased Premises. Such policy shall name the City of Yuma as the loss payee with respect to the Premises.

All of the policies set forth above shall include endorsements which Lessee shall deliver to Lessor prior to Lessee's taking possession of the property (and thereafter upon renewal of such insurance) that: (a) name Lessor and Lessor's officers, elected officials, agents, directors and employees as a named insured for all coverages under Lessee's policies; (b) provide that such policies of insurance shall not be canceled unless thirty (30) days prior written notice from the insurer to the Lessor has been given at the address shown in Section 7 with a copy to the City Attorney, One City Plaza, Yuma, Arizona 85365; (c) shall waive subrogation against the Lessor and all named insureds for losses arising from all activities under this Lease; and (d) shall provide primary coverage to Lessor and Lessor's named insureds regardless of whether Lessor has similar or duplicate in coverage under Lessor's policy. Lessee recognizes that Lessor shall have no insurance obligations under this Lease and by Lessee's signature below, acknowledges that Lessee has advised Lessee's insurer of this fact.

23. **Vacation or Abandonment.** Lessee shall not vacate or abandon the Premises at any time during the term of this Lease. If Lessee abandons, vacates, surrenders or is dispossessed of the Premises by process of law or otherwise, any personal property belonging to Lessee and left on the Premises, shall be deemed abandoned. Vacation or abandonment of the Premises by the Lessee does not relieve Lessee of the duty to pay Rent for the remainder of the term of this Lease.
24. **Breach.** In the event of any breach of this Lease by Lessee, then Lessor, in addition to any other rights or remedies Lessor may have, has the immediate right of re-entry and may remove all persons and property from the Premises. Such property may be removed and stored in any other place, for the account of, and at the expense and the risk of Lessee. Lessee waives all claims for damages which may be caused by the re-entry of Lessor and Lessor's taking possession of the Premises or removing or storing the property as described. Lessee will save Lessor harmless from any loss, costs or damages occasioned Lessee thereby, and no such re-entry will be considered or construed to be a forcible entry. Should Lessor elect to re-enter, or should Lessor take possession pursuant to legal proceedings or pursuant to any notice provided for by law, Lessor may either terminate this Lease or Lessor may from time to time, without terminating this Lease, re-let the Premises or any part thereof for such term and at such rental or rentals and upon such other terms and conditions as Lessor in Lessor's sole discretion may deem advisable with the right to make alterations and repairs to

the Premises. If Lessor at any time terminates this Lease for any breach, in addition to any other remedy Lessor may have, Lessor may recover from Lessee all damages Lessor may incur by reason of Lessee's breach, including the cost of recovering the Premises and the amount of Rent and charges equivalent to Rent reserved in this Lease for the remainder of the stated term.

25. **Restrictions.** This Lease is subject to any and all provisions of leases and encumbrances of record under which Lessor holds title or possession of the Premises.
26. **Non-Waiver for Breach.** The failure by Lessor to pursue a remedy of any default or breach of any term, covenant or condition in this Lease shall not be deemed a waiver of such term, covenant or condition, or any subsequent breach of the same or other term, covenant or condition herein contained. The acceptance of Rent shall not act as a waiver of any breach by Lessee of any term, covenant, or condition of this Lease.
27. **Additional Rules and Regulations.** Lessor has the further right and power to prescribe rules and regulations for the use, entry, operation, and management of the Premises, to ensure the safety, care and cleanliness of the Premises and the preservation and good order thereon. Such additional rules and regulations will not materially alter or impair Lessee's use of the Premises nor increase the costs to Lessee, except to the extent that additional rules and regulations are mandated by state or federal laws that may affect costs.
28. **Cumulative Remedies.** It is understood and agreed that the remedies of Lessor are cumulative, and the exercise of any one remedy by Lessor is not to the exclusion of any other remedy.
29. **Heirs, Successors and Assigns.** The covenants and conditions in this Lease will, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of the Lessee, and the Lessee and assignee, shall be jointly and severally liable under this Lease.
30. **Effectiveness.** This Lease shall become effective and binding upon Lessor and Lessee when the following occurs:
 - A. Each party has signed and delivered to the other party a copy of this Lease.
 - B. All blanks have been completed or filled in.
 - C. Certificates of insurance and all endorsements have been provided.
31. **Indemnity.** The Lessee agrees to indemnify, protect, defend and hold the Lessor harmless for, from and against any and all claims, costs, liabilities, judgments, losses or expenses (including, without limitation, attorneys' fees and costs) arising out of, resulting from or connected with any matters, actions, acts, failure to act, errors, omissions or conditions attributable, to the fault or negligent or intentional act of the Lessee (including but not limited to the fault of the Lessee's employees, agents, contractors, subcontractors, representatives, licensees or invitees) occurring on the Premises or related to the Lease of the Premises during the term of the lease.

This indemnity provision shall also apply to any liability or remediation costs under CERCLA, state statute, or municipal ordinance arising because of contamination of the Premises or the surrounding environment, or violation of any Federal or state environmental laws due to any discharge of waste, regardless of whether the event requiring such remediation was intentional or accidental. At the time of entering this Lease, there is no contamination on the Premises known to Lessor and Lessor has conducted both a Phase I and Phase II study in 2023 to be used as a baseline of the existence or non-existence of any contamination on the Premises. Lessee's indemnity of Lessor under this Section 31 shall survive the expiration or early termination of this lease.

32. **Force Majeure.** Should the Premises or any part thereof become unsafe, unsuitable for use or otherwise uninhabitable due to an act of God, nature, or act of war or other event beyond the control of the Lessor, the Lessor may, at Lessor's sole option, choose not to repair or replace the Premises, and no liability shall accrue to Lessor. Should Lessor determine that the Premises are beyond reasonable repair and that all of Lessee's insurance and indemnity requirements have been satisfied, Lessee will be relieved of any further obligation to pay Rent beyond the date the event occurs. Lessee shall, if feasible, remove all personal property from the Premises.
33. **Compliance with Law.** Lessee must comply with all federal, state, and local laws and ordinances applicable to Lessee's performance under this Lease. Lessee will comply with the Americans with Disabilities Act (ADA) and will indemnify the Lessor for any costs, including but not limited to, damages, attorney's fees, and staff time in any action or proceeding brought alleging violation of the ADA. Lessee will not discriminate against any person on the basis of race, religion, color, age, sex, or national origin in the performance of this Lease, and will comply with the terms and intent of title VII of the Civil Rights Act of 1964, P.L. 88-354 (1964). In addition, Lessee agrees not to participate in or cooperate with an international boycott, as defined in Section 999 (b)(3) and (4) of the Internal Revenue Code of 1954, as amended, or engage in conduct declared to be unlawful by Arizona state law.
34. **Time.** Time is of the essence in this Lease and each provision of this Lease unless otherwise specified.
35. **Entire Agreement.** This Lease contains the entire agreement between the parties and no oral or written statement, promises, or inducements made by either party or agent of either party that is not contained in this written Lease, or specifically referred to in a written agreement, shall be valid or binding. The terms of this Lease may not be enlarged, modified, or altered except in writing signed by the parties.
36. **Dispute Resolution.** Claims, disputes, or other matters in question between the parties related to this Lease or breach thereof may be the subject of mediation if the parties mutually agree. Request for mediation must be filed in writing with the other party to this Lease.
37. **Jurisdiction/Attorney's Fees.** Any action to enforce any provision of this Lease or to obtain any remedy with respect hereto shall be brought exclusively in the Superior Court, Yuma County, Arizona, and for this purpose, each party hereby expressly and irrevocably consents

to the exclusive jurisdiction and venue of such Court. The parties also expressly waive their right to remove any such action to federal court. If an action or proceeding is brought for failure to observe any of the provisions of this Lease, the prevailing party is entitled to recover, as part of such action or proceeding, all litigation and collection expenses, including but not limited to expert witness fees, court costs, reasonable attorney fees and, without limitation, all copying, duplication, scanning, imaging, and/or related expenses related to document management, reproduction, and/or recovery.

- 38. **Conflict of Interest.** This Lease shall be subject to the provisions of Arizona Revised Statutes, § 38-511, as amended.
- 39. **Choice of Law.** This Lease shall be interpreted in accordance with the laws of the State of Arizona.
- 40. **No Partnership.** Nothing in this Lease constitutes a partnership or joint venture between the parties, and neither party is the principal or agent of the other.
- 41. **Severability.** If any provisions of this Lease is held invalid the remainder of the Lease shall not be affected thereby and all other parts of this Lease shall be in full force and effect.

IN WITNESS WHEREOF, as of the date first written above, Lessor and Lessee have caused this instrument to be executed, intending thereby to bind their heirs, assigns and successors.

LESSOR

LESSEE

City of Yuma, a municipal corporation

Keithly-Williams Seeds, Inc.

John D. Simonton
City Administrator

Pat Cooley
Chief Executive Officer

ATTEST:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Richard W. Files
City Attorney

Exhibit 1
Legal Description of Property

That property conveyed to Associated Citrus Packers, Inc., an Arizona Corporation, per the Grant Deed recorded at Docket 1582, Page 95 (Fee 1988-05701) less that property conveyed to the City of Yuma for the right-of-way of 5th Street per Fee 2006-01196 and consisting of a portion of Blocks 138, 139, 143 and 170 and portions of the rights-of-way of Main Street, 6th Street and 7th Street all in the Townsite of Yuma according to White's Official Survey file April 4, 1894 in the office of the County Recorder (Fee 1894-00001), all in the Southeast Quarter of Section 21, Township 8 South, Range 23 West, Gila and Salt River Base and Meridian, Yuma County, Arizona, and more particularly described as follows:

BEGINNING at the Southwest Corner of Block 138 of the Yuma Townsite, said point being the True Point of Beginning;

Thence East along the South Line of Block 138 and North Line of the right-of-way of 6th Street a distance of 300.00 feet;

Thence South a distance of 60.00 feet across the 6th Street right-of-way to the Northeast Corner of Block 144 of the Yuma Townsite;

Thence East a distance of 110.00 feet across the Main Street right-of-way to the Northwest Corner of Block 143 of the Yuma Townsite;

Thence South along the East Line of Main Street and the West Line of Blocks 143 and 170 of the Yuma Townsite a distance of 1,038.19 feet (1037.30 feet per the Yuma Townsite Survey) to a point 33.00 feet North of the South Line of Block 170 and on the North right-of-way line of 8th Street;

Thence South 89° 57' 00" East a distance of 205.00 feet along said line 33.00 feet North of the South Line of Block 170 and the North line of the 8th Street right-of-way;

Thence South a distance of 33.00 feet to the South line of Block 170 and the South Line of Section 21;

Thence South 89° 57' 00" East along the South line of Block 170 and South line Section 21 a distance of 66.04 feet;

Thence North 0° 04' 32" East across Block 170 a distance of 330.46 feet;

Thence through a tangent curve to the left with a radius of 2,834.93 feet for a distance of 1,185.03 feet across a portion of Blocks 170, 143 and 139, including across the abandoned 6th Street and 7th Street right-of-ways;

Thence North 37° 16' 20" West a distance of 220.49 feet;

Thence through a tangent curve to the left with a radius of 607.28 feet for a distance of 99.91 feet to a point on the North line of Block 138, said point also being on the South line of the 5th Street right-of-way;

Thence West along the North Line of Block 138 a distance of 238.61 feet to the Northwest Corner of Block 138;

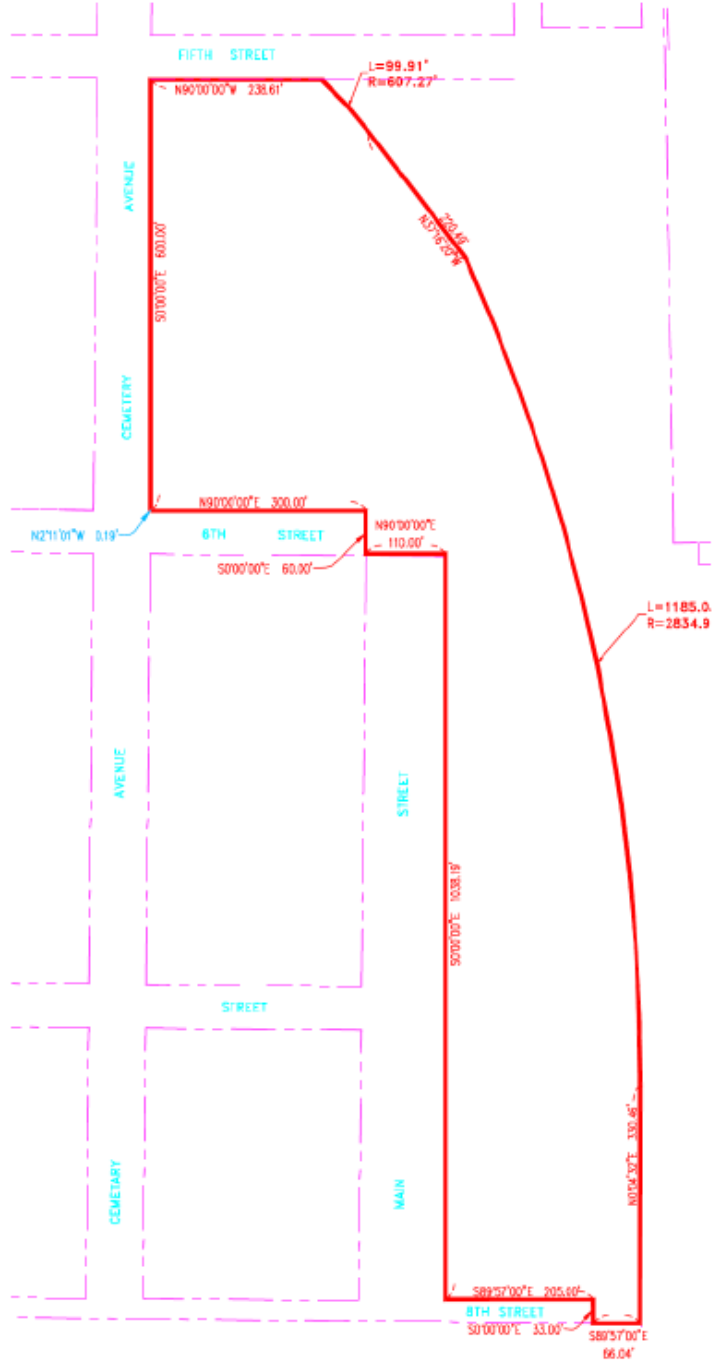
Thence South a distance of 600.00 feet (calculated as 599.81 feet for closure) along the West line of Block 138 and the East line of Cemetery Avenue to the True Point of Beginning.

The above described property contains 539,998 square feet (12.3966 acres), more or less.



Exhibit 1 continued

Depiction of Property



Legal Description Approved by City Engineer	<i>Andrew Mc Gannie</i>
Dated	5/30/2023