Finance Committee
Meeting Agenda
September 26, 2023
4:30 PM
City Council Chambers

City Council Members:

Gayatri Agnew	**Ward 1, Position 2**
Cindy Acree	**Ward 2, Position 1**
Bill Burckart	**Ward 3, Position 2**

***If the public would like to attend virtually, please register at the following link: https://us02web.zoom.us/j/89139307844?pwd=ZWMxNVhRby9RVElhd1pyZzluVmdHZz09**

Call to Order/Roll Call

I. Items For Discussion

1. **Cash Reserves Discussion**

2. **Impact Fee Study Discussion**

II. City Council Items To Be Considered

1. **Section I Item 1 on City Council Agenda - Impact Fees for Library Collections** — **Resolution**

   Resolution approving a Budget Adjustment transferring impact fees totaling $160,000.00 for library collections and processing materials. A Budget Adjustment is needed.

2. **Section I Item 3 on City Council Agenda - Vehicle Maintenance Budget Adjustment** — **Resolution**

   Resolution requesting a Budget Adjustment to the Vehicle Repairs and Maintenance budget to finish out 2023. A Budget Adjustment is needed.

3. **Section I Item 6 on City Council Agenda - Professional Services Agreement with Garver, LLC for Title I Design Services, RFQ-23-31** — **Resolution**

   Resolution requesting a Budget Adjustment to accept ARDOT STBGP Grant Funds and entering into a Professional Service Agreement with Garver, LLC to perform Title I design services for the Highway 12-SW Regional Airport Blvd./Highway 279-S. Vaughn Rd. intersection improvements Project. A Budget Adjustment is needed.

City of Bentonville
Impact Fee Results

September 19, 2023

TischlerBise
FISCAL | ECONOMIC | PLANNING

Impact Fee Ground Rules

- One-time payment for growth-related infrastructure, usually collected at the time buildings permits are issued
- Not a tax, similar to a contractual arrangement to build infrastructure with fee revenue, with three requirements
  - Need (system improvements, not project-level improvements)
  - Benefit
    - Short range expenditures (7 years)
    - Geographic service areas and/or benefit districts
  - Proportionate

Bentonville Impact Fee Study

- Residential Projection
- 15,600 new residents, 7,600 new homes, 27% increase

City of Bentonville	Base Year 2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total Increase
Population	58,890	60,304	61,758	63,253	64,791	66,371	67,996	69,668	71,237	72,846	74,496	**15,606**
Percent Increase		*2.4%*	*2.4%*	*2.4%*	*2.4%*	*2.4%*	*2.4%*	*2.5%*	*2.3%*	*2.3%*	*2.3%*	*26.5%*
Housing Units												
Single Family	16,929	17,205	17,489	17,781	18,081	18,389	18,706	19,032	19,338	19,652	19,974	**3,045**
Multifamily	7,406	7,820	8,245	8,682	9,132	9,595	10,071	10,561	11,020	11,491	11,974	**4,568**
Total Housing Units	24,335	25,025	25,734	26,463	27,213	27,984	28,777	29,593	30,358	31,143	31,948	**7,613**

Source: Population and housing development projections are based on annual growth rates calculated from estimates in Bentonville *Community Plan* and PPHU factors by type of housing unit.

Bentonville Impact Fee Study

- Nonresidential Projection
- 16,000 new jobs, 6.1M new square feet, 27% increase

Industry	Base Year 2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total Increase
Jobs [1]												
Retail	14,661	15,109	15,558	16,007	16,456	16,905	17,354	17,803	18,252	18,701	19,150	**4,489**
Office	31,759	31,983	33,874	35,765	37,656	37,880	38,104	38,328	38,552	38,776	39,001	**7,241**
Industrial	5,904	6,069	6,234	6,399	6,565	6,730	6,895	7,060	7,226	7,391	7,556	**1,652**
Institutional	7,778	8,038	8,297	8,557	8,817	9,077	9,337	9,597	9,857	10,117	10,377	**2,600**
Total	60,101	61,199	63,964	66,729	69,494	70,592	71,690	72,789	73,887	74,985	76,083	**15,983**
Nonresidential Floor Area (1,000 sq. ft.) [2]												
Retail	6,905	7,117	7,328	7,539	7,751	7,962	8,174	8,385	8,597	8,808	9,020	**2,114**
Office	9,750	9,819	10,399	10,980	11,560	11,629	11,698	11,767	11,836	11,904	11,973	**2,223**
Industrial	3,117	3,204	3,292	3,379	3,466	3,553	3,641	3,728	3,815	3,902	3,990	**872**
Institutional	2,722	2,813	2,904	2,995	3,086	3,177	3,268	3,359	3,450	3,541	3,632	**910**
Total	22,494	22,953	23,923	24,893	25,863	26,322	26,780	27,239	27,697	28,156	28,614	**6,120**

[1] Source: Northwest Arkansas Regional Planning Commission Travel Demand Model; TischlerBise analysis

[2] Source: Institute of Transportation Engineers, *Trip Generation*, 10th Edition (2017)

[3] The Walmart HQ expansion project is estimated to have 15,000 total office jobs. Currently, there is an estimated 10,000 office jobs at the existing HQ. The 5,000 additional jobs are assumed over three years beginning in 2025.

Bentonville Impact Fee Study

- Parks & Recreation
- Library
- Police
- Fire
- Summary

Parks & Recreation

- Analysis components:
  - Park land (neighborhood parks), park land development, park improvements, recreation centers, concrete trails
- Incremental expansion
  - Current level of service based on facilities and population
- Fee is attributed to residential development
- Civic/mini parks and regional attractors have been excluded from the analysis

Parks & Recreation

- Neighborhood Park LOS & Cost Analysis
- Future needs for park land, development, and improvement

Neighborhood Parks	Acres	Park Improvement	Improvement Cost
Bogle Park	1.0	1	$100,000
Durham Place Park	0.4	1	$300,000
Gilmore Park	1.0	1	$300,000
Lake Bentonville	20.0	4	$500,000
Merchants Baseball Park	7.9	6	$2,500,000
Old Tiger Track	6.0	3	$1,525,000
Orchards Park	16.5	4	$1,000,000
Park Springs Park	13.9	3	$600,000
Wildwood Park	1.5	4	$800,000
Total	68.2	27	$7,625,000

Level-of-Service Standards	Land Purchase	Land Dev	Improvements
Residential Share	100%	100%	100%
Share of Acreage and Improvements	68.2	68.2	27
2023 Population	58,890	58,890	58,890
Acres/Improvements per 1,000 Persons	**1.16**	**1.16**	**0.46**

Cost Analysis	Land Purchase	Land Dev	Improvements
Acres/Improvements per 1,000 Persons	1.16	1.16	0.46
Average Cost per Acre/Improvement [1]	$65,000	$118,000	$282,000
Capital Cost per Person	**$75**	**$137**	**$130**

[1] Anticipated cost for new park land, park development, and current replacement cost of park improvements

Parks & Recreation

- Community Park LOS & Cost Analysis
- Future needs for park development and improvement
  - Memorial Park and Harlon Phillips Park were excluded, regional attractors

Community Parks	Acres	Park Improvements	Improvement Cost
Bella Vista Lake	132.0	1	$200,000
Citizens Park	34.9	15	$5,400,000
Creekside Park	25.0	12	$1,800,000
Total	191.9	28	$7,400,000

Level-of-Service Standards	Land Dev	Improvements
Residential Share	100%	100%
Share of Acreage and Improvements	191.9	28
2023 Population	58,890	58,890
Acres/Improvements per 1,000 Persons	**3.26**	**0.48**

Cost Analysis	Land Dev	Improvements
Acres/Improvements per 1,000 Persons	3.26	0.48
Average Cost per Acre/Improvement [1]	$108,000	$264,000
Capital Cost per Person	**$352**	**$127**

[1] Anticipated cost for park development and current replacement cost of park improvements

Parks & Recreation

- Indoor Rec Center LOS & Cost Analysis

Indoor Recreation Centers	Park	Square Feet	Replacement Cost [1]
Melvin Ford Aquatic Center	Memorial Park	75,000	$5,040,750
Bentonville Community Center	Citizen Park	78,000	$18,880,005
Downtown Activity Center	-	8,378	$2,054,850
		161,378	$25,975,605

Level-of-Service Standards	**Square Feet**
Residential Share	100%
Share of Square Feet	161,378
2023 Population	58,890
Square Feet per 1,000 Persons	**2,740**

Cost Analysis	**Square Feet**
Square Feet per 1,000 Persons	2,740
Average Cost per Square Feet	$161
Capital Cost per Person	**$441**

[1] Insurance Valuation Report

Parks & Recreation

- Concrete Trail LOS & Cost Analysis

Concrete Trails	Miles
All-American Trail	0.5
Applegate Trail	2.5
Arkansas Missouri Trail	0.8
Citizens Park Trail	0.9
Crystal Bridges Trail	1.0
Downtown Trail	0.4
Enfield Park Trail	0.2
Heritage Trail @ Central Ave	1.3
Heritage Trail @ SW I St.	2.1
J Street Trail	1.2
Jefferson Trail	0.4
John Deshields Trail	1.0

Concrete Trails	Miles
Lake Bella Vista Trail	1.8
Lincoln Loop	0.4
Members Place Trail	0.4
Moberly Lane Trail	2.0
North Bentonville Trail	2.3
North Walton Blvd Trail	2.9
Park Springs/Burns Trail	0.8
South Bentonville Trail	2.6
Tiger Trail	1.5
Town Branch Trail	0.8
Trail of Two Cities	1.5
Wishing Spring Trail	1.6
Total	30.6

Level-of-Service Standards	Trails
Residential Share	100%
Share of Trail Miles	30.6
2023 Population	58,890
Miles per 1,000 Persons	**0.520**

Cost Analysis	Trails
Miles per 1,000 Persons	0.520
Average Cost per Mile [1]	$1,171,000
Capital Cost per Person	**$609**

[1] Based on three current trail projects

Parks & Recreation

- Summary of 7-Year Needs @ Current LOS
  - 7-year update cycle
- Credit for existing fund balance

	7-Year Need to Accommodate Growth					
Park Type	**Park Acres**	**Land Dev (Acres)**	**Park Impr.**	**Square Feet**	**Miles**	**Total Cost**
Neighborhood Parks	12.5	12.5	5.0	-	-	$3,697,500
Community Parks	-	35.2	5.2	-	-	$5,174,400
Indoor Rec Center Facilities	-	-	-	29,533	-	$4,754,749
Concrete Trails	-	-	-	-	5.6	$6,557,600
Total	**12.5**	**47.7**	**10.2**	**29,533**	**5.6**	**$20,184,249**

Existing Impact Fee Fund Balance	**$1,443,025**	**7%**
Future Funding Needs	**$18,741,224**	**93%**

Parks & Recreation

- Parks & Recreation Capital Improvement Plan

Parks & Recreation Capital Improvement Plan		
Location	**Facility Type**	**Improvement**
Bogle Park	Neighborhood Park	Park improvements
Future Park #1	Neighborhood Park	10-15 acre land purchase & improve
Future Park #2	Neighborhood Park	10-15 acre land purchase & improve
Bella Vista Lake	Community Park	Restrooms
Creekside Park	Community Park	Splashpark, playground, dog park, 8 pickleball courts, cricket field, restroom
Downtown Activity Center	Indoor Recreation Center	Expansion and improvements
Citywide Loop Trail	Tier 1 Projects from Bike/Ped Master Plan	9 miles of concrete trails

Parks & Recreation

- Parks & Recreation Credit for 2021 Bond Payments
- **Third** credit for outside funding for trail expansion
    - Based on past and expected funding, 75% credit is included
- **Fourth** credit for rec centers
    - 75% funding from grants

Fiscal Year	Payment	Residential 58%	Nonresidential 42%
2023	$211,506	$122,673	$88,833
2024	$211,506	$122,673	$88,833
2025	$468,118	$271,508	$196,610
2026	$546,212	$316,803	$229,409
2027	$545,674	$316,491	$229,183
2028	$546,313	$316,862	$229,451
2029	$546,010	$316,686	$229,324
2030	$545,397	$316,330	$229,067
2031	$547,135	$317,338	$229,797
2032	$546,428	$316,928	$229,500
2033	$546,031	$316,698	$229,333
2034	$545,923	$316,635	$229,288
2035	$546,084	$316,729	$229,355
2036	$545,822	$316,577	$229,245
2037	$545,808	$316,569	$229,239
2038	$26,442	$15,336	$11,106
2039	$26,442	$15,336	$11,106
2040	$26,442	$15,336	$11,106
2041	$26,442	$15,336	$11,106
2042	$26,442	$15,336	$11,106
2043	$26,442	$15,336	$11,106
Total	**$7,602,619**	**$4,409,516**	**$3,193,103**

Residential

Fiscal Year	Payment	Projected Population	Payment/ Capita
2023	$122,673	58,890	$2.08
2024	$122,673	60,304	$2.03
2025	$271,508	61,758	$4.40
2026	$316,803	63,253	$5.01
2027	$316,491	64,791	$4.88
2028	$316,862	66,371	$4.77
2029	$316,686	67,996	$4.66
2030	$316,330	69,668	$4.54
2031	$317,338	71,237	$4.45
2032	$316,928	72,846	$4.35
2033	$316,698	74,496	$4.25
2034	$316,635	76,423	$4.14
2035	$316,729	78,399	$4.04
2036	$316,577	80,426	$3.94
2037	$316,569	82,506	$3.84
2038	$15,336	84,639	$0.18
2039	$15,336	86,828	$0.18
2040	$15,336	89,073	$0.17
2041	$15,336	91,377	$0.17
2042	$15,336	93,740	$0.16
2043	$15,336	96,164	$0.16
Total	**$4,409,516**		**$62.40**
		Discount Rate	3.00%
		Credit per Person	**$49**

Parks & Recreation

- Maximum Supportable Impact Fee

Fee Component	Land Cost per Person	Land Dev Cost per Person	Improvement Cost per Person
Neighborhood Parks	$75	$137	$130
Community Parks	-	$352	$127
Indoor Recreation Centers	-	-	$441
Concrete Trails	-	-	$609
		Gross Total per Person	**$1,871**
		Credit for Debt Payments	**($49)**
		Credit for Existing Fund Balance (7%)	**($134)**
		Credit for External Funding For Trails (75%)	**($457)**
		Credit for External Funding For Rec Centers (75%)	**($331)**
		Net Total per Person	**$901**

Residential

Development Type	Persons per Housing Unit	Maximum Supportable Fee	Current Fee	Increase/ (Decrease)
Residential (per housing unit)				
Single Family Detached	2.80	**$2,521**	$2,192	$329
Single Family Attached	2.24	**$2,017**	-	-
Multifamily	1.55	**$1,396**	$1,381	$15

[1] External funding includes State and Federal grants and community donations

Parks & Recreation

- 7-Year Projected Revenue

	Total Cost	Growth Cost
Neighborhood Parks	$3,697,500	$3,697,500
Community Parks	$5,174,400	$5,174,400
Indoor Recreation Centers	$4,754,749	$4,754,749
Concrete Trails	$6,557,600	$6,557,600
Total Expenditures	**$20,184,249**	**$20,184,249**

Projected Revenue =>	**$9,706,000**
Total Expenditures =>	**$20,184,000**
Non-Impact Fee Funding =>	**$10,478,000**

Projected Development Impact Fee Revenue

		Single Family $2,521 per unit	Multifamily $1,396 per unit
Year		Housing Units	Housing Units
Base	2023	16,929	7,406
Year 1	2024	17,205	7,820
Year 2	2025	17,489	8,245
Year 3	2026	17,781	8,682
Year 4	2027	18,081	9,132
Year 5	2028	18,389	9,595
Year 6	2029	18,706	10,071
Year 7	2030	19,032	10,561
7-Year Increase		2,103	3,155
Projected Revenue		$5,301,058	$4,404,715

Funding gap is the result of credits, but the other revenues will keep the program whole

Bentonville Impact Fee Study

- Parks & Recreation
- Library
- Police
- Fire
- Summary

Library

- Analysis components:
  - Library branch improvements and collection
    - Library branch improvements is a new component
- Plan-based approach
  - 7-year CIP compared to 7-year growth
  - Impact fee eligible CIP, kept separate of other revenues and projects
- Fee is attributed to residential

Library

- Library CIP & Cost Analysis
  - Impact fee eligible CIP, fee revenue will go fund these projects

Library 7-Year Capital Improvement Plan			
Project	**Type**	**Total Cost**	**Growth's Share**
Materials Return System (3 to 9 bays)	Branch Improvement	$165,000	$110,000
Self-check terminals and materials security gates	Branch Improvement	$130,000	$130,000
Integrated technology for collaboration rooms	Branch Improvement	$6,440	$6,440
Shelving for collection expansion	Branch Improvement	$5,000	$5,000
Expansion of Existing Pickup Lockers at BCC	Branch Improvement	$16,500	$16,500
7-Year Library Collection Expansion	Collections	$1,575,000	$1,575,000
	Total	**$1,897,940**	**$1,842,940**

Collections Cost	$1,575,000
7-Year Increase in Population	10,778
Capital Cost per Person	**$146**

Branch Improvements Cost	$267,940
7-Year Increase in Population	10,778
Capital Cost per Person	**$25**

Library

- Credit for future debt payments on bond

Fiscal Year	Payment	Residential 58%	Nonresidential 42%
2023	$32,129	$18,635	$13,494
2024	$32,129	$18,635	$13,494
2025	$71,111	$41,244	$29,867
2026	$82,974	$48,125	$34,849
2027	$82,892	$48,077	$34,815
2028	$82,990	$48,134	$34,856
2029	$82,944	$48,108	$34,836
2030	$82,850	$48,053	$34,797
2031	$83,114	$48,206	$34,908
2032	$83,007	$48,144	$34,863
2033	$82,947	$48,109	$34,838
2034	$82,930	$48,099	$34,831
2035	$82,955	$48,114	$34,841
2036	$82,915	$48,091	$34,824
2037	$82,913	$48,090	$34,823
2038	$4,017	$2,330	$1,687
2039	$4,017	$2,330	$1,687
2040	$4,017	$2,330	$1,687
2041	$4,017	$2,330	$1,687
2042	$4,017	$2,330	$1,687
2043	$4,017	$2,330	$1,687
Total	**$1,154,902**	**$669,844**	**$485,058**

Residential

Fiscal Year	Payment	Projected Population	Payment/ Capita
2023	$18,635	58,890	$0.32
2024	$18,635	60,304	$0.31
2025	$41,244	61,758	$0.67
2026	$48,125	63,253	$0.76
2027	$48,077	64,791	$0.74
2028	$48,134	66,371	$0.73
2029	$48,108	67,996	$0.71
2030	$48,053	69,668	$0.69
2031	$48,206	71,237	$0.68
2032	$48,144	72,846	$0.66
2033	$48,109	74,496	$0.65
2034	$48,099	76,423	$0.63
2035	$48,114	78,399	$0.61
2036	$48,091	80,426	$0.60
2037	$48,090	82,506	$0.58
2038	$2,330	84,639	$0.03
2039	$2,330	86,828	$0.03
2040	$2,330	89,073	$0.03
2041	$2,330	91,377	$0.03
2042	$2,330	93,740	$0.02
2043	$2,330	96,164	$0.02
Total	**$669,844**		**$9.50**
		Discount Rate	3.00%
		Total Credit	**$7**

Library

- Credit for library collection donations

Bentonville Library	Collection Funding
7-Year Anticipated Donations	$70,000
7-Year Collection CIP	$1,575,000
Donations Share of Funding	**4.4%**

Library

- Maximum Supportable Impact Fee

Fee Component	Cost per Person
Library Branch Improvements	$25
Library Collections	$146
Gross Total	**$171**
Credit for Debt Payments	**($7)**
Credit for Collection Funding (4.4%)	**($6)**
Net Total	**$158**

Residential

Development Type	Persons per Housing Unit	Maximum Supportable Fee	Current Fee	Increase/ (Decrease)
Residential (per housing unit)				
Single Family Detached	2.80	**$442**	$178	$264
Single Family Attached	2.24	**$354**	-	-
Multifamily	1.55	**$245**	$112	$133

Library

- 7-Year Projected Revenue

Infrastructure Costs for Library Facilities

	Total Cost	Growth Cost
Library Branch Improvements	$267,940	$267,940
Library Collections	$1,575,000	$1,575,000
Total Expenditures	**$1,842,940**	**$1,842,940**

Projected Development Impact Fee Revenue

		Single Family $442 per unit	Multifamily $245 per unit
Year		Housing Units	Housing Units
Base	2023	16,929	7,406
Year 1	2024	17,205	7,820
Year 2	2025	17,489	8,245
Year 3	2026	17,781	8,682
Year 4	2027	18,081	9,132
Year 5	2028	18,389	9,595
Year 6	2029	18,706	10,071
Year 7	2030	19,032	10,561
Seven-Year Increase		2,103	3,155
Projected Revenue		$929,420	$773,034

Projected Revenue =>	**$1,702,000**
Total Expenditures =>	**$1,843,000**
Non-Impact Fee Funding =>	**$141,000**

Funding gap is the result of credits, but the other revenues will keep the program whole

Bentonville Impact Fee Study

- Parks & Recreation
- Library
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Police

- Incremental Expansion
  - Police facility space, vehicles, and 911 communication infrastructure
    - 911 communication infrastructure is a new component
- Fee is attributed to residential and nonresidential development

Police

- Functional population used to attribute demand

Bentonville, AR (2018)					
Residential				*Demand Hours/Day*	*Person Hours*
Population*	46,112				
Residents Not Working		24,984		20	499,680
Employed Residents		21,128			
Employed in Bentonville			9,351	14	130,914
Employed outside Bentonville			11,777	14	164,878
			Residential Subtotal		795,472
			Residential Share =>		**58%**
Nonresidential					
Non-working Residents		24,984		4	99,936
Jobs Located in Bentonville		48,378			
Residents Employed in Bentonville			9,351	10	93,510
Non-Resident Workers (inflow commuters)			39,027	10	390,270
			Nonresidential Subtotal		583,716
			Nonresidential Share =>		**42%**
			TOTAL		1,379,188

Source: U.S. Census Bureau, OnTheMap 6.1.1 Application and LEHD Origin-Destination Employment Statistics.

* Source: U.S. Census Bureau, American Community Survey, 2018

Police

- Police Facility LOS & Cost Analysis

Facility	Square Feet	Replacement Cost [1]
Headquarters	18,885	$6,096,416
Storage	6,500	$1,838,550
CID/Communications/EOQ	22,137	$10,300,500
Total	**47,522**	**$18,235,466**

Level-of-Service Standards	**Residential**	**Nonresidential**
Proportionate Share	58%	42%
Share of Floor Area (sq. ft.)	27,563	19,959
2023 Population/Nonres Vehicle Trips	58,890	172,022
Square Feet per 1,000 Persons/Nonres Trips	**468**	**116**

Cost Analysis	**Residential**	**Nonresidential**
Square Feet per 1,000 Persons/Nonres Trips	468	116
Average Cost per Square Foot	$384	$384
Capital Cost per Person/Nonres Vehicle Trip	**$180**	**$45**

[1] Insurance valuation report

Police

- Police Vehicle LOS & Cost Analysis

Vehicle Type	Total Units	Cost per Unit	Replacement Cost
Patrol	75	$65,000	$4,875,000
CID/Admin	30	$65,000	$1,950,000
Total	**105**		**$6,825,000**

Level-of-Service Standards	**Residential**	**Nonresidential**
Proportionate Share	58%	42%
Share of Fleet	60.9	44.1
2023 Population/Nonres Vehicle Trips	58,890	172,022
Units per 1,000 Persons/Nonres Trips	**1.034**	**0.256**

Cost Analysis	**Residential**	**Nonresidential**
Units per 1,000 Persons/Nonres Trips	1.034	0.256
Average Cost per Unit	$65,000	$65,000
Capital Cost per Person/Nonres Vehicle Trip	**$67**	**$17**

Police

- Police Communication Infrastructure LOS & Cost Analysis

Communication Equipment	Total Units	Cost per Unit	Replacement Cost
911 Radio Towers	5	$1,000,000	$5,000,000
911 Comms Consoles	4	$100,000	$400,000
Total	**9**		**$5,400,000**

Level-of-Service Standards	**Residential**	**Nonresidential**
Proportionate Share	58%	42%
Share of Fleet	5.2	3.8
2023 Population/Nonres Vehicle Trips	58,890	172,022
Units per 1,000 Persons/Nonres Trips	**0.089**	**0.022**

Cost Analysis	**Residential**	**Nonresidential**
Units per 1,000 Persons/Nonres Trips	0.089	0.022
Average Cost per Unit	$600,000	$600,000
Capital Cost per Person/Nonres Vehicle Trip	**$53**	**$13**

Police

- Summary of 7-Year Needs @ Current LOS
- Credit for existing fund balance

	7-Year Need to Accommodate Growth		
Infrastructure	**Square Feet**	**Units**	**Total Cost**
Police Facilities	9,293	-	$3,568,512
Police Vehicles	-	20.6	$1,339,000
Police Communication	-	1.8	$1,080,000
Total	**9,293.0**	**22.4**	**$5,987,512**

Existing Impact Fee Fund Balance	**$3,248,158**	**54%**
Future Funding Needs	**$2,739,354**	**46%**

Police

- Police CIP

Police Capital Improvement Plan	
Project	**Improvement**
Training Facility	Phase 2, similar to Fayetteville facility, ~$8 million
Substation	Expansion for future staff and evidence storage
Vehicles	21 units for future patrol and CID hires
Comms Improvements	Expanded network that may include radio tower #6 (structure and land), new 911 consoles and lines

Police

- Police Credit for 2021 Bond Payments – Training Facility

Fiscal Year	Payment	Residential 58%	Nonresidential 42%
2023	$53,280	$30,902	$22,378
2024	$53,280	$30,902	$22,378
2025	$117,923	$68,395	$49,528
2026	$137,595	$79,805	$57,790
2027	$137,460	$79,727	$57,733
2028	$137,621	$79,820	$57,801
2029	$137,545	$79,776	$57,769
2030	$137,390	$79,686	$57,704
2031	$137,828	$79,940	$57,888
2032	$137,650	$79,837	$57,813
2033	$137,550	$79,779	$57,771
2034	$137,523	$79,763	$57,760
2035	$137,563	$79,787	$57,776
2036	$137,497	$79,748	$57,749
2037	$137,494	$79,747	$57,747
2038	$6,661	$3,863	$2,798
2039	$6,661	$3,863	$2,798
2040	$6,661	$3,863	$2,798
2041	$6,661	$3,863	$2,798
2042	$6,661	$3,863	$2,798
2043	$6,661	$3,863	$2,798
Total	**$1,915,165**	**$1,110,792**	**$804,373**

Residential

Fiscal Year	Payment	Projected Population	Payment/ Capita
2023	$30,902	58,890	$0.52
2024	$30,902	60,304	$0.51
2025	$68,395	61,758	$1.11
2026	$79,805	63,253	$1.26
2027	$79,727	64,791	$1.23
2028	$79,820	66,371	$1.20
2029	$79,776	67,996	$1.17
2030	$79,686	69,668	$1.14
2031	$79,940	71,237	$1.12
2032	$79,837	72,846	$1.10
2033	$79,779	74,496	$1.07
2034	$79,763	76,423	$1.04
2035	$79,787	78,399	$1.02
2036	$79,748	80,426	$0.99
2037	$79,747	82,506	$0.97
2038	$3,863	84,639	$0.05
2039	$3,863	86,828	$0.04
2040	$3,863	89,073	$0.04
2041	$3,863	91,377	$0.04
2042	$3,863	93,740	$0.04
2043	$3,863	96,164	$0.04
Total	**$1,110,792**		**$15.70**
		Discount Rate	3.00%
		Total Credit	**$12**

Nonresidential

Fiscal Year	Payment	Projected Nonres. Vehicle Trips	Payment/ Trip
2023	$22,378	172,022	$0.13
2024	$22,378	176,066	$0.13
2025	$49,528	182,883	$0.27
2026	$57,790	189,700	$0.30
2027	$57,733	196,517	$0.29
2028	$57,801	200,561	$0.29
2029	$57,769	204,605	$0.28
2030	$57,704	208,649	$0.28
2031	$57,888	212,693	$0.27
2032	$57,813	216,737	$0.27
2033	$57,771	220,781	$0.26
2034	$57,760	224,825	$0.26
2035	$57,776	220,549	$0.26
2036	$57,749	229,064	$0.25
2037	$57,747	237,579	$0.24
2038	$2,798	246,093	$0.01
2039	$2,798	254,608	$0.01
2040	$2,798	263,123	$0.01
2041	$2,798	271,638	$0.01
2042	$2,798	280,153	$0.01
2043	$2,798	288,668	$0.01
Total	**$804,373**		**$3.84**
		Discount Rate	3.00%
		Total Credit	**$3**

Police

- Maximum Supportable Impact Fee

Fee Component	Cost per Person	Cost per Nonres. Vehicle Trips
Police Station	$180	$45
Police Vehicles	$67	$17
Communication Infrast.	$53	$13
Gross Total	$300	$75
Credit for Debt Payments	($12)	($3)
Credit for Existing Fund Balance (54%)	($163)	($41)
Net Total	**$125**	**$31**

Residential

Development Type	Persons per Housing Unit	Maximum Supportable Fee	Current Fee	Increase/ (Decrease)
Residential (per housing unit)				
Single Family Detached	2.80	**$350**	$546	($196)
Single Family Attached	2.24	**$280**	-	-
Multifamily	1.55	**$194**	$344	($150)

Nonresidential

Development Type	Vehicle Trips	Maximum Supportable Fee	Current Fee	Increase/ (Decrease)
Noresidential (per 1,000 Square Feet)				
Retail	14.06	**$436**	$615	($179)
Office	5.42	**$168**	$233	($65)
Industrial	2.38	**$74**	$81	($7)
Institutional	5.39	**$167**	-	-

Police

- 10-Year Projected Revenue

Infrastructure Costs for Police Facilities

	Total Cost	Growth Cost
Police Station	$3,568,512	$3,568,512
Police Vehicles	$1,339,000	$1,339,000
Communication Infrast.	$1,080,000	$1,080,000
Total Expenditures	**$5,987,512**	**$5,987,512**

Projected Revenue =>	**$2,484,000**
Total Expenditures =>	**$5,988,000**
Non-Impact Fee Funding =>	**$3,504,000**

Funding gap is the result of credits, but the other revenues will keep the program whole

Projected Development Impact Fee Revenue

		Single Family $350 per unit	Multifamily $194 per unit	Retail $436 per KSF	Office $168 per KSF	Industrial $74 per KSF	Institutional $167 per KSF
Year		Housing Units	Housing Units	KSF	KSF	KSF	KSF
Base	2023	16,929	7,406	6,905	9,750	3,117	2,722
Year 1	2024	17,205	7,820	7,117	9,819	3,204	2,813
Year 2	2025	17,489	8,245	7,328	10,399	3,292	2,904
Year 3	2026	17,781	8,682	7,539	10,980	3,379	2,995
Year 4	2027	18,081	9,132	7,751	11,560	3,466	3,086
Year 5	2028	18,389	9,595	7,962	11,629	3,553	3,177
Year 6	2029	18,706	10,071	8,174	11,698	3,641	3,268
Year 7	2030	19,032	10,561	8,385	11,767	3,728	3,359
7-Year Increase		2,103	3,155	1,480	2,017	611	637
Projected Revenue		$735,966	$612,117	$645,322	$338,800	$45,191	$106,364

Bentonville Impact Fee Study

- Parks & Recreation
- Library
- Police
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- Summary

Fire

- Plan-Based Approach
  - 7-year growth-related expansion compared to projected growth
    - Station space would be a new element to the fee
- Fee is attributed to residential and nonresidential development

Fire

- Calls for service used to attribute demand

Location	Calls for Service	Percent of Total
Residential	3,242	46%
Nonresidential	2,777	40%
Traffic	978	14%
Total	**6,997**	**100%**

Location	Vehicle Trips	Percent of Total
Residential	142,606	45%
Nonresidential	172,022	55%
Total	**314,628**	**100%**

Location	Adj. Vehicle Trips	Percent of Total
Residential	3,685	**53%**
Nonresidential	3,312	**47%**
Total	**6,997**	**100%**

Fire

- Fire Station Expansion Plan & Cost Analysis

Facility	Square Feet	Replacement Cost
Fire Station 8	10,000	$4,500,000
Total	**10,000**	**$4,500,000**

Level-of-Service Standards	**Residential**	**Nonresidential**
Proportionate Share	53%	47%
Share of Floor Area (sq. ft.)	5,267	4,733
7-Year Increase in Population and Nonres Trips	10,778	36,627
Square Feet per 1,000 Persons/Nonres Trips	**489**	**129**

Cost Analysis	**Residential**	**Nonresidential**
Square Feet per 1,000 Persons/Nonres Trips	489	129
Average Cost per Square Foot	$450	$450
Capital Cost per Person/Nonres Vehicle Trip	**$220**	**$58**

Source: Bentonville Fire Department

Fire

- Fire Fleet Expansion Plan & Cost Analysis

Vehicle Type	Total Units	Cost per Unit	Replacement Cost
Fire Truck	1	$960,000	$960,000
Battalion Truck	1	$120,000	$120,000
Training and Admin Truck	2	$60,000	$120,000
Total	**4**		**$1,200,000**

Level-of-Service Standards	**Residential**	**Nonresidential**
Proportionate Share	53%	47%
Share of Fleet	2.1	1.9
7-Year Increase in Population and Nonres Trips	10,778	36,627
Units per 1,000 Persons/Nonres Trips	**0.195**	**0.052**

Cost Analysis	**Residential**	**Nonresidential**
Units per 1,000 Persons/Nonres Trips	0.195	0.052
Average Cost per Unit	$300,000	$300,000
Capital Cost per Person/Nonres Vehicle Trip	**$59**	**$16**

Source: Bentonville Fire Department

Fire

- Summary of 7-Year Plan vs. Existing Fund Balance
- Credit for existing fund balance

	7-Year Need to Accommodate Growth		
Infrastructure	**Square Feet**	**Units**	**Total Cost**
Fire Station	10,000	-	$4,500,000
Fire Vehicles	-	4.0	$1,200,000
Total	**10,000**	**4.0**	**$5,700,000**

Existing Impact Fee Fund Balance	**$1,695,872**	**30%**
Future Funding Needs	**$4,004,128**	**70%**

Fire

- Fire Credit for 2021 Bond Payments - Training Facility

Fiscal Year	Payment	Residential 58%	Nonresidential 42%
2023	$25,187	$14,608	$10,579
2024	$25,187	$14,608	$10,579
2025	$55,745	$32,332	$23,413
2026	$65,045	$37,726	$27,319
2027	$64,981	$37,689	$27,292
2028	$65,057	$37,733	$27,324
2029	$65,021	$37,712	$27,309
2030	$64,948	$37,670	$27,278
2031	$65,155	$37,790	$27,365
2032	$65,071	$37,741	$27,330
2033	$65,023	$37,713	$27,310
2034	$65,011	$37,706	$27,305
2035	$65,030	$37,717	$27,313
2036	$64,999	$37,699	$27,300
2037	$64,997	$37,698	$27,299
2038	$3,149	$1,826	$1,323
2039	$3,149	$1,826	$1,323
2040	$3,149	$1,826	$1,323
2041	$3,149	$1,826	$1,323
2042	$3,149	$1,826	$1,323
2043	$3,149	$1,826	$1,323
Total	**$905,351**	**$525,098**	**$380,253**

Residential

Fiscal Year	Payment	Projected Population	Payment/ Capita
2023	$14,608	58,890	$0.25
2024	$14,608	60,304	$0.24
2025	$32,332	61,758	$0.52
2026	$37,726	63,253	$0.60
2027	$37,689	64,791	$0.58
2028	$37,733	66,371	$0.57
2029	$37,712	67,996	$0.55
2030	$37,670	69,668	$0.54
2031	$37,790	71,237	$0.53
2032	$37,741	72,846	$0.52
2033	$37,713	74,496	$0.51
2034	$37,706	76,423	$0.49
2035	$37,717	78,399	$0.48
2036	$37,699	80,426	$0.47
2037	$37,698	82,506	$0.46
2038	$1,826	84,639	$0.02
2039	$1,826	86,828	$0.02
2040	$1,826	89,073	$0.02
2041	$1,826	91,377	$0.02
2042	$1,826	93,740	$0.02
2043	$1,826	96,164	$0.02
Total	**$525,098**		**$7.43**
		Discount Rate	3.00%
		Total Credit	**$6**

Nonresidential

Fiscal Year	Payment	Projected Nonres. Vehicle Trips	Payment/ Trip
2023	$10,579	172,022	$0.06
2024	$10,579	176,066	$0.06
2025	$23,413	182,883	$0.13
2026	$27,319	189,700	$0.14
2027	$27,292	196,517	$0.14
2028	$27,324	200,561	$0.14
2029	$27,309	204,605	$0.13
2030	$27,278	208,649	$0.13
2031	$27,365	212,693	$0.13
2032	$27,330	216,737	$0.13
2033	$27,310	220,781	$0.12
2034	$27,305	224,825	$0.12
2035	$27,313	220,549	$0.12
2036	$27,300	229,064	$0.12
2037	$27,299	237,579	$0.11
2038	$1,323	246,093	$0.01
2039	$1,323	254,608	$0.01
2040	$1,323	263,123	$0.01
2041	$1,323	271,638	$0.00
2042	$1,323	280,153	$0.00
2043	$1,323	288,668	$0.00
Total	**$380,253**		**$1.81**
		Discount Rate	3.00%
		Total Credit	**$1**

Fire

- Maximum Supportable Impact Fee

Fee Component	Cost per Person	Cost per Nonres. Vehicle Trips
Fire Station	$220	$58
Fire Vehicles	$59	$16
Gross Total	$279	$74
Credit for Debt Payments	($6)	($1)
Credit for Fund Balance (30%)	($83)	($22)
Net Total	**$190**	**$51**

Residential

Development Type	Persons per Housing Unit	Maximum Supportable Fee	Current Fee	Increase/ (Decrease)
Residential (per housing unit)				
Single Family Detached	2.80	**$532**	$318	$214
Single Family Attached	2.24	**$426**	-	-
Multifamily	1.55	**$295**	$200	$95

Nonresidential

Development Type	Vehicle Trips	Maximum Supportable Fee	Current Fee	Increase/ (Decrease)
Noresidential (per 1,000 Square Feet)				
Retail	14.06	**$717**	$357	$360
Office	5.42	**$276**	$135	$141
Industrial	2.38	**$121**	$47	$74
Institutional	5.39	**$275**	-	-

Fire

- 7-Year Projected Revenue

Infrastructure Costs for Fire Facilities

	Total Cost	Growth Cost
Fire Station	$4,500,000	$4,500,000
Fire Vehicles	$1,200,000	$1,200,000
Total Expenditures	**$5,700,000**	**$5,700,000**

Projected Revenue =>	**$3,916,000**
Total Expenditures =>	**$5,700,000**
Non-Impact Fee Funding =>	**$1,784,000**

Funding gap is the result of credits, but the other revenues will keep the program whole

Projected Development Impact Fee Revenue

		Single Family $532 per unit	Multifamily $295 per unit	Retail $717 per KSF	Office $276 per KSF	Industrial $121 per KSF	Institutional $275 per KSF
Year		Housing Units	Housing Units	KSF	KSF	KSF	KSF
Base	2023	16,929	7,406	6,905	9,750	3,117	2,722
Year 1	2024	17,205	7,820	7,117	9,819	3,204	2,813
Year 2	2025	17,489	8,245	7,328	10,399	3,292	2,904
Year 3	2026	17,781	8,682	7,539	10,980	3,379	2,995
Year 4	2027	18,081	9,132	7,751	11,560	3,466	3,086
Year 5	2028	18,389	9,595	7,962	11,629	3,553	3,177
Year 6	2029	18,706	10,071	8,174	11,698	3,641	3,268
Year 7	2030	19,032	10,561	8,385	11,767	3,728	3,359
Seven-Year Increase		2,103	3,155	1,480	2,017	611	637
Projected Revenue		$1,118,668	$930,796	$1,061,228	$556,601	$73,894	$175,151

Bentonville Impact Fee Study

- Parks & Recreation
- Library
- Police
- Fire
- Summary

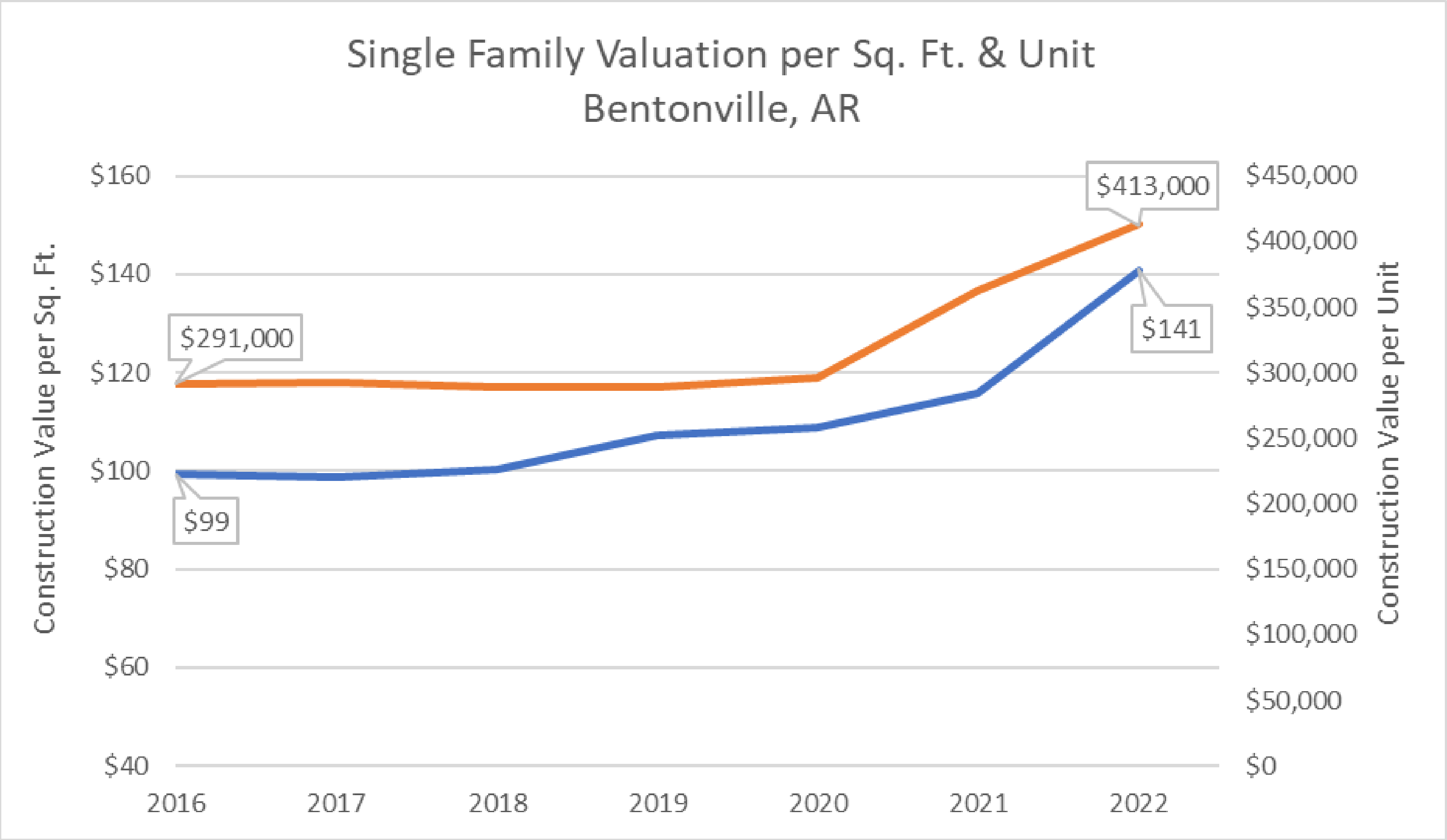
Bentonville Impact Fee Study

- Maximum Supportable Impact Fees

Development Type	Parks & Recreation	Library	Police	Fire	Maximum Supportable Fee	Current Fee (2016)	Increase/ (Decrease)	% Increase/ (Decrease)
Residential (per housing unit)								
Single Family Detached	$2,521	$442	$350	$532	**$3,845**	$3,234	$611	19%
Single Family Attached	$2,017	$354	$280	$426	**$3,077**	-	-	-
Multifamily	$1,396	$245	$194	$295	**$2,130**	$2,037	$93	5%
Nonresidential (per 1,000 square feet)								
Retail	$0	$0	$436	$717	**$1,153**	$972	$181	19%
Office	$0	$0	$168	$276	**$444**	$368	$76	21%
Industrial	$0	$0	$74	$121	**$195**	$128	$67	52%
Institutional	$0	$0	$167	$275	**$442**	-	-	-

Bentonville Impact Fee Study

- Single family valuations (ICC) since 2016
  - Over 40% increase



SFD maximum increase represents 9 sq. ft. of construction compared to average size of 3,000 sq. ft.

Bentonville Impact Fee Study

- Recently, utility staff have provided updated facility needs from master planning efforts
- Utility rates currently include infrastructure that impact fees could cover
- TB recommends utility impact fees be explored next year when master plans are complete
    - A rate adjustment would be necessary if utilities are included in this report
        - Double dipping concern

Bentonville Impact Fee Study

- Considerations:
  - Council may adopt less than maximum or phase in max
    - Adopting lower than maximum would either result in lowering levels of service or require other revenues to backfill funding gap
  - TB recommends an annual inflationary factor
  - Affordable housing policy
    - Report includes several policy examples

Discussion

DEVELOPMENT IMPACT FEE STUDY

Prepared for:

Bentonville, Arkansas

September 19, 2023

TischlerBise
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Executive Summary

The City of Bentonville, Arkansas, has retained TischlerBise to determine growth-related infrastructure needs and calculate impact fees for the following infrastructure categories:

- Parks
- Library
- Police
- Fire

Impact fees are one-time payments used to construct system improvements needed to accommodate development. Impact fees for Bentonville are proportionate and reasonably related to the capital facility service demands of new development. Impact fees are necessary to achieve an equitable allocation of capital costs, in comparison to past and future benefits. Bentonville has complied with all requirements of Arkansas's impact fee enabling statute, which requires that collected impact fees and accrued interest are spent within seven years from the date the fees were collected.

After discussions with City staff, TischlerBise determined demand indicators for each type of public facility and calculated residential and nonresidential proportionate share factors. These factors are used to allocate costs by type of development. The formulas used to calculate the impact fees for the City of Bentonville are diagrammed in a flow chart for each type of public facility in the respective chapter of this report. Also contained in this report are summary tables indicating the specific Level-of-Service (LOS) or infrastructure standards used to derive the impact fees. Demographic and land use assumptions used to prepare this analysis are included in the appendix.

IMPACT FEE METHODOLOGIES

There are three basic methods used to calculate the impact fees. The **incremental expansion** method documents the current LOS for each type of public facility in both quantitative and qualitative measures. This method is best suited for public facilities that will be expanded incrementally in the future, with LOS standards based on current conditions in the community. The **plan-based** method is best suited for public facilities that have adopted plans or commonly accepted engineering standards to identify the need for capital projects. A **cost recovery** method may be used for facilities that have been oversized to accommodate future development, at least for the next seven years. The rationale for the cost recovery approach is that new development is paying for its share of the useful life or remaining capacity of the existing facility. To the extent that new growth and development is served by the previously constructed improvements, the City can be reimbursed for the previously incurred public facility costs.

Another general requirement that is common to impact fee methodologies is the evaluation of credits. Past and future revenue credits have been evaluated to avoid potential double payment situations arising from the payment of a one-time impact or fee and then subsequent payments of other revenues that may also fund growth-related capital improvements. General Fund revenues, such as sales taxes, and private donations that are being used for improvements have been accounted for via credits.

A note on rounding: Calculations throughout this report are based on an analysis conducted using Excel software. Results are discussed in the report using one-and two-digit places (in most cases), which represent round or rounded figures. However, in some instances the analysis itself uses figures carried to their ultimate decimal places (e.g., for LOS standards); therefore, the sums and products generated in the analysis may not equal the sum or product if the reader replicates the calculation with the factors shown in the report (due to the rounding of figures shown).

SUMMARY OF CURRENT AND PROPOSED IMPACT FEES

Figure 1 shows the method used to derive each type of proposed fee in Bentonville, plus each component that contributes to the impact fee.

Figure 1. Methods and Cost Components

Fee Category	Service Area	Cost Recovery	Incremental Expansion	Plan-Based	Cost Allocation
Parks and Recreation	Citywide	n/a	Neighborhood Parks, Community Parks, Indoor Rec Centers, Concrete Trails	n/a	Population
Library	Citywide	n/a	n/a	Branch Improvements & Collections	Population
Police	Citywide	n/a	Facilities, Vehicles, Communication Infrastructure	n/a	Population, Nonres Vehicle Trips
Fire	Citywide	n/a	n/a	Facilities & Apparatus	Population, Nonres Vehicle Trips

Figure 2 provides a summary schedule of the maximum supportable impact produced by this study. Fees for residential development are per housing unit and fees for nonresidential development are per 1,000 square feet of floor area.

Figure 2. Maximum Supportable Impact Fees

Development Type	Parks & Recreation	Library	Police	Fire	Maximum Supportable Fee	Current Fee (2016)	Increase/ (Decrease)	% Increase/ (Decrease)
Residential (per housing unit)								
Single Family Detached	$2,521	$442	$350	$532	**$3,845**	$3,234	$611	19%
Single Family Attached	$2,017	$354	$280	$426	**$3,077**	-	-	-
Multifamily	$1,396	$245	$194	$295	**$2,130**	$2,037	$93	5%
Nonresidential (per 1,000 square feet)								
Retail	$0	$0	$436	$717	**$1,153**	$972	$181	19%
Office	$0	$0	$168	$276	**$444**	$368	$76	21%
Industrial	$0	$0	$74	$121	**$195**	$128	$67	52%
Institutional	$0	$0	$167	$275	**$442**	-	-	-

Along with the maximum supportable fee being an increase from the current fee, there have been several other changes from the 2016 study:

- **Neighborhood park land.** During the previous study, the City did not have the need to purchase additional park land. However, recent annexations that have expanded the southern boundary of the city has resulted in further residential development and demand for neighborhood parks. The City does not currently have park land in that area, thus, a neighborhood park land component has been included in the analysis.
- **Fire stations.** At the time of the previous study, there were no plans to expand or add new fire stations. At this point, there are plans to provide further station space to serve future demand. In this case, TischlerBise recommends including fire stations to the fire impact fee program.
- **Library branch improvements.** At the time of the previous study, there were no plans to expand or add new library branches. At this point, there is an expansion occurring at the main branch which will not be funded with impact fees. However, future branch improvements are needed to accommodate growth. TischlerBise recommends including a branch improvement component to the library impact fee program.
- **Single family attached.** As housing development has evolved since 2016, the Planning Department recommended adjusting the fee schedule to bifurcate single family development into single family detached and single family attached. With local US Census data, TischlerBise found that the housing types have different person per housing unit factors, resulting in differentiate demand on City facilities. The adjustment to two single family housing types has been included in this update.
- **Utility and transportation impact fees.** TischlerBise explored the option of adding water, sewer, and transportation impact fees to the program. However, similar to the 2016 study, a vast majority of the capital expansion needs for each category is being funded by other revenues: utility rates for water and sewer, sales tax referendum for transportation. Lower priority capital projects could be explored, however, there is a concern that further impact fees would be a burden on future development. In this case, TischlerBise has recommended not include these additional infrastructure types in the impact fee program.
    - **Note:** At the time this report was nearing final review by City Council, TischlerBise was contacted by Bentonville water and sewer staff that the underway master planning efforts were uncovering infrastructure needs that were not anticipated to be needed within the seven-year planning horizon of the impact fee study during the initial impact fee meetings. TischlerBise recommended moving forward with this report and when the master planning is complete review the identified needs and impact fee eligible expenditures.

General Impact Fee Requirements

Impact fees are one-time payments used to fund capital improvements necessitated by new growth. Impact fees have been utilized by local governments in various forms for at least 50 years. Impact fees do have limitations and should not be regarded as the total solution for infrastructure financing needs. Rather, they should be considered one component of a comprehensive portfolio to ensure adequate provision of public facilities with the goal of maintaining current LOS in a community. Any community considering impact and/or fees should note the following limitations:

- Impact fees can only be used to finance capital infrastructure and cannot be used to finance ongoing operations and/or maintenance and rehabilitation costs;
- Impact fees cannot be deposited in the local government's General Fund: the funds must be accounted for separately in individual accounts and earmarked for the capital expenses for which they were collected; and
- Impact fees cannot be used to correct existing infrastructure deficiencies unless there is a funding plan in place to correct the deficiency for all current residents and businesses in the community.

LEGAL FRAMEWORK

U.S. Constitution. Like all land use regulations, development exactions—including impact fees—are subject to the Fifth Amendment prohibition on taking of private property for public use without just compensation. Both state and federal courts have recognized the imposition of impact fees on development as a legitimate form of land use regulation, provided the fees meet standards intended to protect against regulatory takings. To comply with the Fifth Amendment, development regulations must be shown to substantially advance a legitimate governmental interest. In the case of impact fees, that interest is in the protection of public health, safety, and welfare by ensuring that development is not detrimental to the quality of essential public services.

There is little federal case law specifically dealing with impact fees, although other rulings on other types of exactions (e.g., land dedication requirements) are relevant. In one of the most important exaction cases, the U. S. Supreme Court found that a government agency imposing exactions on development must demonstrate an "essential nexus" between the exaction and the interest being protected (see *Nollan v. California Coastal Commission,* 1987). In a more recent case (*Dolan v. City of Tigard, OR,* 1994), the Court ruled that an exaction also must be "roughly proportional" to the burden created by development. However, the *Dolan* decision appeared to set a higher standard of review for mandatory dedications of land than for monetary exactions such as impact fees.

REQUIRED FINDINGS

There are three reasonable relationship requirements for impact fees that are closely related to "rational nexus" or "reasonable relationship" requirements enunciated by a number of state courts. Although the term "dual rational nexus" is often used to characterize the standard by which courts evaluate the validity of impact fees under the U.S. Constitution, we prefer a more rigorous formulation that recognizes three elements: "impact or need," "benefit," and "proportionality." The dual rational nexus test explicitly addresses only the first two, although proportionality is reasonably implied, and was specifically mentioned by the U.S. Supreme Court in the *Dolan* case. The reasonable relationship language of the statute is considered less strict than the rational nexus standard used by many courts. Individual elements of the nexus standard are discussed further in the following paragraphs.

Demonstrating an Impact. All new development in a community creates additional demands on some, or all, public facilities provided by local government. If the supply of facilities is not increased to satisfy that additional demand, the quality or availability of public services for the entire community will deteriorate. Impact fees may be used to recover the cost of development-related facilities, but only to the extent that the need for facilities is a consequence of development that is subject to the fees. The *Nollan* decision reinforced the principle that development exactions may be used only to mitigate conditions created by the developments upon which they are imposed. That principle clearly applies to impact fees. In this study, the impact of development on improvement needs is analyzed in terms of quantifiable relationships between various types of development and the demand for specific facilities, based on applicable LOS standards.

Demonstrating a Benefit. A sufficient benefit relationship requires that fee revenues be segregated from other funds and expended only on the facilities for which the fees were charged. Fees must be expended in a timely manner and the facilities funded by the fees must serve the development paying the fees. Procedures for the earmarking and expenditure of fee revenues are typically mandated by the State enabling act, as are procedures to ensure that the fees are expended expeditiously or refunded. All of these requirements are intended to ensure that developments benefit from the fees they are required to pay. Thus, an adequate showing of benefit must address procedural as well as substantive issues.

Demonstrating Proportionality. The requirement that exactions be proportional to the impacts of development was clearly stated by the U.S. Supreme Court in the *Dolan* case (although the relevance of that decision to impact fees has been debated) and is logically necessary to establish a proper nexus. Proportionality is established through the procedures used to identify development-related facility costs, and in the methods used to calculate impact fees for various types of facilities and categories of development. The demand for facilities is measured in terms of relevant and measurable attributes of development. For example, the need for school improvements is measured by the number of public school-age children generated by development.

Implementation and Administration

The following section details options regarding the adoption and implementation of the Bentonville development impact fee program update.

AFFORDABLE HOUSING EXEMPTION

The City of Bentonville has the option of establishing an affordable housing exemption policy. Such policy could reduce or completely exempt the impact fees on eligible residential development. However, the first step a city must complete is defining "affordable housing." This definition should be tailored to the conditions in the community and community goals. A joint effort with the Affordable Housing Workgroup has identified an affordable housing definition for the City of Bentonville (*Bentonville Housing Affordability Workgroup Report*, 2023). Additionally, a city must consider the burden of managing and enforcing such program to ensure exempted developments operate within the set parameters. Lastly, the development impact fee program needs to continue being fully funded. Thus, other revenues must be transferred to the impact fee funds to offset any exemption policy.

With that said, more communities throughout the country are exploring affordable housing exemption policies to lessen the cost burden on housing. The City of Bentonville has a variety of local resources available, including the Housing Affordability Workgroup, that could be leveraged to promote a comprehensive and holistic policy that expands beyond solely an impact fee exemption. For example, a policy could include incentives to promote development in certain areas of the city. Additionally, the Arkansas Low-Income Housing Tax Credit (LIHTC) may be a useful resource for both implementation and enforcement of an affordable housing program. Lastly, there are a variety of programs across the country that Bentonville could use to help guide its own policy. For example:

- Georgetown County, SC annually allocates $100,000 from its General Fund to support impact fee exemptions. Addressing budget exposure to the policy.
- Big Sky, MT leverages sales tax revenue to incentive homeowners to transition a short-term rental to a rental property for long-term residents. Addressing the large percentage of housing in the community used by visitors.
- Berthoud, CO adopted a small home program which reduces fees for smaller dwelling units. Addressing the "missing middle" in the housing market.

Importantly, Bentonville City Council can move forward with the results of the *2023 Development Impact Fee Study* before implementing any affordable housing policy.

ANNUAL INFLATION ADJUSTMENT

Development impact fees should be periodically evaluated and updated to reflect recent data. TischlerBise recommends that Bentonville annually adjust its development impact fees to account for inflation in construction costs. The construction cost indices of Engineering News Record and RSMeans are standards used across the country. If cost estimates change significantly, the City should consider a comprehensive update to its impact fee study.

ADOPTION OPTIONS

The fee amounts in this report represent the maximum supportable fees to be adopted and City Council has the ability to adopt at lower levels. For example, Council may adopt a flat percentage of the maximum supportable or implement a phasing approach over several years. Importantly, reductions to the impact fee amounts must be made to all land uses. TischlerBise recommends not adopting reductions for only a select number of land uses. Additionally, the City should evaluate the program during its annual reviews to ensure planned capital project capacity is sufficiently funded during the years of any "phase in."

CREDITS AND REIMBURSEMENTS

A general requirement that is common to development impact fee methodologies is the evaluation of credits. A revenue credit may be necessary to avoid potential double payment situations arising from one-time development impact fees plus on-going payment of other revenues that may also fund growth-related capital improvements. The determination of revenue credits is dependent upon the development impact fee methodology used in the cost analysis and local government policies.

Policies and procedures related to site-specific credits should be addressed in the resolution or ordinance that establishes the development impact fees. Project-level improvements, required as part of the development approval process, are not eligible for credits against development impact fees. If a developer constructs a system improvement included in the fee calculations, it will be necessary to either reimburse the developer or provide a credit against the fees due from that particular development. The latter option is more difficult to administer because it creates unique fees for specific geographic areas.

SERVICE AREA

A development impact fee service area is a region in which a defined set of improvements provide benefit to an identifiable amount of new development. Within a service area, all new development of a type (single family, commercial, etc.) is assessed at the same development impact fee rate. Land use assumptions and development impact fees are each defined in terms of this geography, so that capital facility demand, projects needed to meet that demand, and capital facility cost are all quantified in the same terms. Development impact fee revenue collected within a service area is required to be spent within that service area.

Implementation of a large number of small service areas is problematic. Administration is complicated and, because funds collected within the service area must be spent within that area multiple service areas may make it impossible to accumulate sufficient revenue to fund any projects within the time allowed.

As part of our analysis and the type of facilities and improvements included in the development impact fee calculation, TischlerBise has determined that a single service area for the infrastructure categories included in the study.

Parks & Recreation

The parks impact fee is derived using the incremental expansion methodology. The analysis includes several components:

- Neighborhood Park: land, land development, park improvement
- Community Park: land development, park improvement
- Indoor Recreation Center: facility square footage
- Concrete Trails: network expansion (miles)

As indicated above, the City anticipates purchasing additional acreage for neighborhood parks to accommodate future growth. However, there is enough available acreage for the other components.

It is important to note that the parks impact fee methodology excludes mini parks, civic parks, and parks that are considered to be regional attractors. Mini and civic parks are considered to have a small benefit zone while regional attractors are providing benefit to those outside of Bentonville making it difficult to quantify the level of service that is being provide to residents. Additionally, all cost components are allocated 100 percent to residential development. Please note that the City's definition of a neighborhood park differs from that of many other communities. The City's neighborhood parks can be quite large and have a wide variety of amenities. As such, they draw residents from throughout the city and are included in this citywide impact fee analysis.

LEVEL OF SERVICE AND INFRASTRUCTURE STANDARDS FOR PARKS & RECREATION

Neighborhood Parks

Figure 3 lists the current inventory of neighborhood parks and level of service (LOS) standards. Bentonville currently has 68.2 acres of neighborhood parks. Using the 2023 population of 58,890 people, this inventory equates to a current LOS of 1.16 acres per 1,000 persons (68.2 acres / 58,890 = 1.16 acres per 1,000 persons). To find the capital cost per person, the park land LOS is combined with the anticipated costs to purchase new neighborhood park acres ($65,000 per acre) and to develop (i.e., environmental mitigation, site prep, irrigation, parking, etc.) the raw land ($118,000 per acre). For example, the capital cost per person for park land is $75 (1.16 park acres per 1,000 persons x $65,000 per acre = $75 per person, rounded).

Additionally, there are 27 park improvements at the existing parks with a replacement cost of $7.6 million. As result, the current park improvement LOS is 0.46 improvements per 1,000 residents. The average cost per improvement is $282,000, resulting in a capital cost per person of $130 (0.46 improvement per 1,000 residents x $282,000 per improvement = $130 per person, rounded).

Figure 3. Current Level of Service and Cost Factors for Neighborhood Parks

Neighborhood Parks	Acres	Park Improvement	Improvement Cost
Bogle Park	1.0	1	$100,000
Durham Place Park	0.4	1	$300,000
Gilmore Park	1.0	1	$300,000
Lake Bentonville	20.0	4	$500,000
Merchants Baseball Park	7.9	6	$2,500,000
Old Tiger Track	6.0	3	$1,525,000
Orchards Park	16.5	4	$1,000,000
Park Springs Park	13.9	3	$600,000
Wildwood Park	1.5	4	$800,000
Total	68.2	27	$7,625,000

Level-of-Service Standards	Land Purchase	Land Dev	Improvements
Residential Share	100%	100%	100%
Share of Acreage and Improvements	68.2	68.2	27
2023 Population	58,890	58,890	58,890
Acres/Improvements per 1,000 Persons	**1.16**	**1.16**	**0.46**

Cost Analysis	Land Purchase	Land Dev	Improvements
Acres/Improvements per 1,000 Persons	1.16	1.16	0.46
Average Cost per Acre/Improvement [1]	$65,000	$118,000	$282,000
Capital Cost per Person	**$75**	**$137**	**$130**

[1] Anticipated cost for new park land, park development, and current replacement cost of park improvements

Community Parks

Figure 4 lists the current inventory of community parks and LOS standards. In consultation with City staff, TischlerBise excluded Memorial Park (73 acres) and Harlon Phillips Park (40 acres) from the current LOS inventory because these parks serve a large number of visitors for tournaments and other events.

With these exclusions, Bentonville currently has 191.9 acres of community parks. Using 2023 population of 58,890 people, this inventory equates to a current LOS of 3.26 acres per 1,000 persons (191.9 acres / 58,890 people = 3.92 acres per 1,000 persons). Please note that Bentonville does not have any current plans to purchase additional park land at this time. Rather, it plans to develop recreational amenities on the undeveloped portions of these properties. Therefore, a cost component for land acquisition is not included in this fee. However, the City will continue to use impact fees to improve existing community parks. The capital cost per person is found by combining the land development LOS with the current cost per acre of $108,000, resulting in $352 per person.

Additionally, there are 28 park improvements at the existing parks with a replacement cost of $7.4 million. As result, the current park improvement LOS is 0.48 improvements per 1,000 residents. The average cost per improvement is $264,000, resulting in a capital cost per person of $127 (0.48 improvement per 1,000 residents x $264,000 per improvement = $127 per person, rounded).

Figure 4. Current Level of Service and Cost Factors for Community Parks

Community Parks	Acres	Park Improvements	Improvement Cost
Bella Vista Lake	132.0	1	$200,000
Citizens Park	34.9	15	$5,400,000
Creekside Park	25.0	12	$1,800,000
Total	191.9	28	$7,400,000

Level-of-Service Standards	Land Dev	Improvements
Residential Share	100%	100%
Share of Acreage and Improvements	191.9	28
2023 Population	58,890	58,890
Acres/Improvements per 1,000 Persons	**3.26**	**0.48**

Cost Analysis	Land Dev	Improvements
Acres/Improvements per 1,000 Persons	3.26	0.48
Average Cost per Acre/Improvement [1]	$108,000	$264,000
Capital Cost per Person	**$352**	**$127**

[1] Anticipated cost for park development and current replacement cost of park improvements

Indoor Recreation Centers

Figure 5 lists the current inventory of indoor recreation centers and level of service (LOS) standards. There are currently 161,378 square feet at three locations with an insurance valuation of $26 million ($161 per square foot). As a result, the current LOS is 2,740 square feet per 1,000 persons. The capital cost per person is found by multiplying the current LOS with the average cost per square foot, resulting in $441 per person (2,740 square feet per 1,000 persons x $161 per square foot = $441 per person, rounded).

Figure 5. Current Level of Service and Cost Factors for Indoor Recreation Centers

Indoor Recreation Centers	Park	Square Feet	Replacement Cost [1]
Melvin Ford Aquatic Center	Memorial Park	75,000	$5,040,750
Bentonville Community Center	Citizen Park	78,000	$18,880,005
Downtown Activity Center	-	8,378	$2,054,850
		161,378	$25,975,605

Level-of-Service Standards	Square Feet
Residential Share	100%
Share of Square Feet	161,378
2023 Population	58,890
Square Feet per 1,000 Persons	**2,740**

Cost Analysis	Square Feet
Square Feet per 1,000 Persons	2,740
Average Cost per Square Feet	$161
Capital Cost per Person	**$441**

[1] Insurance Valuation Report

Concrete Trails

Figure 6 provides Bentonville's current inventory of concrete trails (excluding the Memorial Park Fitness Trail and Soccer Trail at Memorial Park). Natural surface trails are not included in the parks fee because City staff do not anticipate building any non-hard surface trails in the near future. In total there are 30.6 miles of concrete trails, providing a LOS of 0.520 miles per 1,000 persons (30.6 miles / 58,890 persons = 0.520 miles per 1,000 persons). Based on three recent and current construction projects the average cost per mile is $1,171,000. The concrete trail cost per person is derived by multiplying the current LOS and the current construction costs, resulting in $609 per person (0.520 miles per 1,000 residents x $1,171,000 per mile = $609 per person, rounded).

Figure 6. Current Level of Service and Cost Factors for Concrete Trails

Concrete Trails	Miles	Concrete Trails	Miles
All-American Trail	0.5	Lake Bella Vista Trail	1.8
Applegate Trail	2.5	Lincoln Loop	0.4
Arkansas Missouri Trail	0.8	Members Place Trail	0.4
Citizens Park Trail	0.9	Moberly Lane Trail	2.0
Crystal Bridges Trail	1.0	North Bentonville Trail	2.3
Downtown Trail	0.4	North Walton Blvd Trail	2.9
Enfield Park Trail	0.2	Park Springs/Burns Trail	0.8
Heritage Trail @ Central Ave	1.3	South Bentonville Trail	2.6
Heritage Trail @ SW I St.	2.1	Tiger Trail	1.5
J Street Trail	1.2	Town Branch Trail	0.8
Jefferson Trail	0.4	Trail of Two Cities	1.5
John Deshields Trail	1.0	Wishing Spring Trail	1.6
		Total	30.6

Level-of-Service Standards	Trails
Residential Share	100%
Share of Trail Miles	30.6
2023 Population	58,890
Miles per 1,000 Persons	**0.520**

Cost Analysis	Trails
Miles per 1,000 Persons	0.520
Average Cost per Mile [1]	$1,171,000
Capital Cost per Person	**$609**

[1] Based on three current trail projects

PROJECTED NEED FOR PARKS & RECREATION FACILITIES

The City of Bentonville updates its impact fee studies on a seven-year cycle. The following figures illustrate the demand from new development over that time based on the study's growth projections.

Neighborhood Parks

Figure 7 depicts projected demand for neighborhood parks over the next seven years. Demand from population growth will require the addition of 12.5 new park acres, 12.5 park acres developed, and 5 park improvements with a total cost of $3.7 million over the next seven years to maintain existing LOS.

Figure 7. Neighborhood Park Needs Analysis

Infrastructure	Level of Service			Cost/Unit
Neighborhood Parks	1.16	Park Land (acres)	per 1,000 persons	$65,000
	1.16	Land Dev (acres)		$118,000
	0.46	Improvements		$282,000

Growth-Related Need for Neighborhood Parks					
Year		Population	Park Acres Purchased	Park Acres Developed	Park Improvements
Base	2023	58,890	68.3	68.3	27.0
Year 1	2024	60,304	69.9	69.9	27.7
Year 2	2025	61,758	71.6	71.6	28.4
Year 3	2026	63,253	73.3	73.3	29.0
Year 4	2027	64,791	75.1	75.1	29.8
Year 5	2028	66,371	76.9	76.9	30.5
Year 6	2029	67,996	78.8	78.8	31.2
Year 7	2030	69,668	80.8	80.8	32.0
7-Year Increase		10,778	**12.5**	**12.5**	**5.0**
		Projected Expenditure	**$812,500**	**$1,475,000**	**$1,410,000**

Growth-Related Expenditures for Neighborhood Parks	**$3,697,500**

Community Parks

Figure 8 depicts projected demand for community parks over the next seven years. Demand from population growth will require the 35.2 park acres developed and 5.2 park improvements with a total cost of $5.2 million over the next seven years to maintain existing LOS.

Figure 8. Community Park Needs Analysis

Infrastructure	Level of Service			Cost/Unit
Community Parks	3.26	Land Dev (acres)	per 1,000 persons	$108,000
	0.48	Improvements		$264,000

Growth-Related Need for Community Parks				
Year		Population	Park Acres Developed	Park Improvements
Base	2023	58,890	191.9	28.2
Year 1	2024	60,304	196.5	28.9
Year 2	2025	61,758	201.3	29.6
Year 3	2026	63,253	206.2	30.3
Year 4	2027	64,791	211.2	31.0
Year 5	2028	66,371	216.3	31.8
Year 6	2029	67,996	221.6	32.6
Year 7	2030	69,668	227.1	33.4
7-Year Increase		10,778	**35.2**	**5.2**
		Projected Expenditure	**$3,801,600**	**$1,372,800**

Growth-Related Expenditures for Community Parks	$5,174,400

Indoor Recreation Centers

Figure 9 depicts projected demand for indoor recreation centers over the next seven years. Demand from population growth will require 29,533 new square feet of rec centers with a total cost of $4.8 million over the next seven years to maintain existing LOS.

Figure 9. Indoor Recreation Center Needs Analysis

Infrastructure	Level of Service			Cost/Unit
Indoor Rec Center Facilities	2,740	Square Feet	per 1,000 persons	$161

Growth-Related Need for Indoor Rec Center Facilities			
Year		Population	Square Feet
Base	2023	58,890	161,359
Year 1	2024	60,304	165,234
Year 2	2025	61,758	169,217
Year 3	2026	63,253	173,313
Year 4	2027	64,791	177,526
Year 5	2028	66,371	181,856
Year 6	2029	67,996	186,309
Year 7	2030	69,668	190,891
7-Year Increase		10,778	**29,533**
		Projected Expenditure	**$4,754,749**

Growth-Related Expenditures for Indoor Rec Center Facilities	$4,754,749

Concrete Trails

Figure 10 depicts projected demand for concrete trails over the next seven years. Demand from population growth will require 5.6 new miles with a total cost of $6.6 million over the next seven years to maintain existing LOS.

Figure 10. Concrete Trail Needs Analysis

Infrastructure	Level of Service			Cost/Unit
Concrete Trails	0.520	Miles	per 1,000 persons	$1,171,000

Growth-Related Need for Concrete Trails			
Year		Population	Miles
Base	2023	58,890	30.6
Year 1	2024	60,304	31.3
Year 2	2025	61,758	32.1
Year 3	2026	63,253	32.8
Year 4	2027	64,791	33.6
Year 5	2028	66,371	34.5
Year 6	2029	67,996	35.3
Year 7	2030	69,668	36.2
7-Year Increase		10,778	**5.6**
		Projected Expenditure	**$6,557,600**

Growth-Related Expenditures for Concrete Trails	$6,557,600

PARKS & RECREATION CAPITAL IMPROVEMENT PLANS

The Parks & Recreation Capital Improvement Plan (CIP) is listed in Figure 11. As indicated, there are plans to expanded and improve the four components included in the impact fee analysis. The plans satisfy the estimated growth-related needs to keep providing the current LOS.

Figure 11. Parks & Recreation Capital Improvement Plans

Parks & Recreation Capital Improvement Plan		
Location	**Facility Type**	**Improvement**
Bogle Park	Neighborhood Park	Park improvements
Future Park #1	Neighborhood Park	10-15 acre land purchase & improve
Future Park #2	Neighborhood Park	10-15 acre land purchase & improve
Bella Vista Lake	Community Park	Restrooms
Creekside Park	Community Park	Splashpark, playgound, dog park, 8 pickpall courts, cricket field, restroom
Downtown Activity Center	Indoor Recreation Center	Expansion and improvements
Citywide Loop Trail	Tier 1 Projects from Bike/Ped Master Plan	9 miles of concrete trails

DEBT SERVICE CREDIT EVALUATION

In 2021, Bentonville voters approved a referendum to finance a variety of projects through sales tax bonds that included expansion of parks, recreation centers, and trails. To avoid potential double payment for the improvements, a credit is necessary because new development that will pay the impact fee will also contribute to future payments on this remaining debt through sales tax revenue. Future payments are planned through 2046, 23 years from this study. Conservatively, the next 20 years of payments are included in the credit.

As shown in Figure 12, future payments are distributed based on proportionate share for residential and nonresidential uses. To account for the time value of money, annual payments per person are discounted using a net present value formula based on an average current interest rate of the bond, 3.00 percent. The total net present value of future payments per person is $49 per person. This amount is subtracted from the gross capital cost per person to derive a net capital cost.

Figure 12. Credit for Future Debt Payments

Fiscal Year	Payment	Residential 58%	Nonresidential 42%
2023	$211,506	$122,673	$88,833
2024	$211,506	$122,673	$88,833
2025	$468,118	$271,508	$196,610
2026	$546,212	$316,803	$229,409
2027	$545,674	$316,491	$229,183
2028	$546,313	$316,862	$229,451
2029	$546,010	$316,686	$229,324
2030	$545,397	$316,330	$229,067
2031	$547,135	$317,338	$229,797
2032	$546,428	$316,928	$229,500
2033	$546,031	$316,698	$229,333
2034	$545,923	$316,635	$229,288
2035	$546,084	$316,729	$229,355
2036	$545,822	$316,577	$229,245
2037	$545,808	$316,569	$229,239
2038	$26,442	$15,336	$11,106
2039	$26,442	$15,336	$11,106
2040	$26,442	$15,336	$11,106
2041	$26,442	$15,336	$11,106
2042	$26,442	$15,336	$11,106
2043	$26,442	$15,336	$11,106
Total	**$7,602,619**	**$4,409,516**	**$3,193,103**

Residential

Fiscal Year	Payment	Projected Population	Payment/ Capita
2023	$122,673	58,890	$2.08
2024	$122,673	60,304	$2.03
2025	$271,508	61,758	$4.40
2026	$316,803	63,253	$5.01
2027	$316,491	64,791	$4.88
2028	$316,862	66,371	$4.77
2029	$316,686	67,996	$4.66
2030	$316,330	69,668	$4.54
2031	$317,338	71,237	$4.45
2032	$316,928	72,846	$4.35
2033	$316,698	74,496	$4.25
2034	$316,635	76,423	$4.14
2035	$316,729	78,399	$4.04
2036	$316,577	80,426	$3.94
2037	$316,569	82,506	$3.84
2038	$15,336	84,639	$0.18
2039	$15,336	86,828	$0.18
2040	$15,336	89,073	$0.17
2041	$15,336	91,377	$0.17
2042	$15,336	93,740	$0.16
2043	$15,336	96,164	$0.16
Total	**$4,409,516**		**$62.40**
		Discount Rate	3.00%
		Credit per Person	**$49**

CREDIT FOR OTHER REVENUES

To ensure that the impact fee is calibrated to growth's burden on the City of Bentonville a credit is included for the existing balance of collected parks & recreation impact fees that will be used to fund future capital expansions. Listed in Figure 13 there is an estimated $20.2 million in growth-related costs for the next seven years and an existing balance of $1.4 million (7 percent of the capital costs). As a result, there is an 7 percent credit included in the final parks & recreation impact fee calculation.

Figure 13. Existing Impact Fee Fund Balance

	7-Year Need to Accommodate Growth					
Park Type	**Park Acres**	**Land Dev (Acres)**	**Park Impr.**	**Square Feet**	**Miles**	**Total Cost**
Neighborhood Parks	12.5	12.5	5.0	-	-	$3,697,500
Community Parks	-	35.2	5.2	-	-	$5,174,400
Indoor Rec Center Facilities	-	-	-	29,533	-	$4,754,749
Concrete Trails	-	-	-	-	5.6	$6,557,600
Total	**12.5**	**47.7**	**10.2**	**29,533**	**5.6**	**$20,184,249**

Existing Impact Fee Fund Balance	**$1,443,025**	**7%**
Future Funding Needs	**$18,741,224**	**93%**

Furthermore, historically the City of Bentonville has received private and grant funding for trail expansion. The City anticipates this to continue for the next seven years as well. It is estimated that **75 percent of future trail expansion projects will be funded from non-City monies**. **As a result, there is a 75 percent credit included in the trail fee calculation.**

Lastly, the City anticipates funding **75 percent of the Downtown Activity Center (as known as the Adult Wellness Center) from grants**. **As a result, there is a 75 percent credit included in the indoor recreation center fee calculation.**

PARKS & RECREATION IMPACT FEE SUMMARY

The maximum supportable parks & recreation impact fees are shown in Figure 14. The gross total per person is reduced by the four credits included in the impact fee calculation to ensure the impact fees represent growth's burden to the City of Bentonville. The fee is only assessed to residential development and based on persons per housing unit. For example, the single family detached impact fee is $2,521 (2.80 persons per housing unit x $901 net cost per person = $2,521 (rounded)). The current impact fee is included in the figure illustrating an increase of $329 for single family detached development.

The City may adopt fees that are less than the amounts shown. However, a reduction in impact fee revenue will necessitate an increase in other revenues, a decrease in planned capital expenditures, and/or a decrease in levels of service.

Figure 14. Parks & Recreation Maximum Supportable Impact Fees

Fee Component	Land Cost per Person	Land Dev Cost per Person	Improvement Cost per Person
Neighborhood Parks	$75	$137	$130
Community Parks	-	$352	$127
Indoor Recreation Centers	-	-	$441
Concrete Trails	-	-	$609
		Gross Total per Person	**$1,871**
		Credit for Debt Payments	**($49)**
		Credit for Existing Fund Balance (7%)	**($134)**
		Credit for External Funding For Trails (75%)	**($457)**
		Credit for External Funding For Rec Centers (75%)	**($331)**
		Net Total per Person	**$901**

Residential

Development Type	Persons per Housing Unit	Maximum Supportable Fee	Current Fee	Increase/ (Decrease)
Residential (per housing unit)				
Single Family Detached	2.80	**$2,521**	$2,192	$329
Single Family Attached	2.24	**$2,017**	-	-
Multifamily	1.55	**$1,396**	$1,381	$15

[1] External funding includes State and Federal grants and community donations

CASH FLOW PROJECTIONS FOR MAXIMUM SUPPORTABLE IMPACT FEE

This section summarizes the potential cash flow to the City if the development impact fees are implemented at the maximum supportable amounts. The cash flow projections are based on the assumptions detailed in this chapter and the development projections discussed in Appendix B: Demographic Data.

The summary provides an indication of the impact fee revenue generated by new development. Shown at the bottom of the figure, the maximum supportable parks & recreation impact fee is estimated to generate $9.7 million in revenue while there is a growth-related cost of $20.2 million. The revenue is able to mitigate 48 percent of growth-related costs. The remaining funding gap is the result of the credits for the other revenue sources available to fund capital expansion projects.

Figure 15. Cash Flow Summary for Maximum Supportable Impact Fees

Infrastructure Costs for Park Facilities

	Total Cost	Growth Cost
Neighborhood Parks	$3,697,500	$3,697,500
Community Parks	$5,174,400	$5,174,400
Indoor Recreation Centers	$4,754,749	$4,754,749
Concrete Trails	$6,557,600	$6,557,600
Total Expenditures	**$20,184,249**	**$20,184,249**

Projected Development Impact Fee Revenue

		Single Family $2,521 per unit	Multifamily $1,396 per unit
Year		Housing Units	Housing Units
Base	2023	16,929	7,406
Year 1	2024	17,205	7,820
Year 2	2025	17,489	8,245
Year 3	2026	17,781	8,682
Year 4	2027	18,081	9,132
Year 5	2028	18,389	9,595
Year 6	2029	18,706	10,071
Year 7	2030	19,032	10,561
7-Year Increase		2,103	3,155
Projected Revenue		$5,301,058	$4,404,715
		Projected Revenue =>	**$9,706,000**
		Total Expenditures =>	**$20,184,000**
		Non-Impact Fee Funding =>	**$10,478,000**

Library

The library impact fee is derived using the plan-based methodology. The fee includes library branch improvements and library collections. The plan-based approach attributes the growth-related costs identified in the library Capital Improvement Plan (CIP) to projected growth in Bentonville. The cost is attributed to residential development only.

LIBRARY CAPITAL IMPROVEMENT PLAN (CIP) & COST ANALYSIS

Figure 16 lists the capital improvement projects that are planned to be funded by impact fees. There are other current capital expansion plans (i.e., the main branch expansion) that have already secured funding and are not included in the impact fee eligible CIP. In total, the plan is $1,897,940 over the next seven years. The materials return system improvement project expands the number of return bays from three to nine, thus only two-thirds of the project is growth-related. While all the other projects are considered to be 100 percent growth-related. As a result, growth's share is $1,842,940.

The 7-year growth's share of collections and branch improvements are compared to the projected 7-year increase in population to find the capital cost per person. For example, the collections CIP is $1,575,000 and the projected growth in population is 10,788, resulting in a capital cost per person of $146 ($1,575,000 / 10,788 persons = $146 per person).

Figure 16. Library CIP and Cost Analysis

Library 7-Year Capital Improvement Plan			
Project	**Type**	**Total Cost**	**Growth's Share**
Materials Return System (3 to 9 bays)	Branch Improvement	$165,000	$110,000
Self-check terminals and materials security gates	Branch Improvement	$130,000	$130,000
Integrated technology for collaboration rooms	Branch Improvement	$6,440	$6,440
Shelving for collection expansion	Branch Improvement	$5,000	$5,000
Expansion of Existing Pickup Lockers at BCC	Branch Improvement	$16,500	$16,500
7-Year Library Collection Expansion	Collections	$1,575,000	$1,575,000
	Total	**$1,897,940**	**$1,842,940**

Collections Cost	$1,575,000
7-Year Increase in Population	10,778
Capital Cost per Person	**$146**

Branch Improvements Cost	$267,940
7-Year Increase in Population	10,778
Capital Cost per Person	**$25**

DEBT SERVICE CREDIT EVALUATION

In 2021, Bentonville voters approved a referendum to finance a variety of projects through sales tax bonds that included expansion of the main library branch. To avoid potential double payment for the improvements, a credit is necessary because new development that will pay the impact fee will also contribute to future payments on this remaining debt through sales tax revenue. Future payments are planned through 2046, 23 years from this study. Conservatively, the next 20 years of payments are included in the credit.

As shown in Figure 17, future payments are distributed based on proportionate share for residential and nonresidential uses. To account for the time value of money, annual payments per person are discounted using a net present value formula based on an average current interest rate of the bond, 3.00 percent. The total net present value of future payments per person is $7 per person. This amount is subtracted from the gross capital cost per person to derive a net capital cost.

Figure 17. Credit for Future Debt Payments

Fiscal Year	Payment	Residential 58%	Nonresidential 42%
2023	$32,129	$18,635	$13,494
2024	$32,129	$18,635	$13,494
2025	$71,111	$41,244	$29,867
2026	$82,974	$48,125	$34,849
2027	$82,892	$48,077	$34,815
2028	$82,990	$48,134	$34,856
2029	$82,944	$48,108	$34,836
2030	$82,850	$48,053	$34,797
2031	$83,114	$48,206	$34,908
2032	$83,007	$48,144	$34,863
2033	$82,947	$48,109	$34,838
2034	$82,930	$48,099	$34,831
2035	$82,955	$48,114	$34,841
2036	$82,915	$48,091	$34,824
2037	$82,913	$48,090	$34,823
2038	$4,017	$2,330	$1,687
2039	$4,017	$2,330	$1,687
2040	$4,017	$2,330	$1,687
2041	$4,017	$2,330	$1,687
2042	$4,017	$2,330	$1,687
2043	$4,017	$2,330	$1,687
Total	**$1,154,902**	**$669,844**	**$485,058**

Residential

Fiscal Year	Payment	Projected Population	Payment/ Capita
2023	$18,635	58,890	$0.32
2024	$18,635	60,304	$0.31
2025	$41,244	61,758	$0.67
2026	$48,125	63,253	$0.76
2027	$48,077	64,791	$0.74
2028	$48,134	66,371	$0.73
2029	$48,108	67,996	$0.71
2030	$48,053	69,668	$0.69
2031	$48,206	71,237	$0.68
2032	$48,144	72,846	$0.66
2033	$48,109	74,496	$0.65
2034	$48,099	76,423	$0.63
2035	$48,114	78,399	$0.61
2036	$48,091	80,426	$0.60
2037	$48,090	82,506	$0.58
2038	$2,330	84,639	$0.03
2039	$2,330	86,828	$0.03
2040	$2,330	89,073	$0.03
2041	$2,330	91,377	$0.03
2042	$2,330	93,740	$0.02
2043	$2,330	96,164	$0.02
Total	**$669,844**		**$9.50**
		Discount Rate	3.00%
		Total Credit	**$7**

CREDIT FOR ADDITIONAL REVENUE SOURCES

There are several sources that are anticipated to fund library capital improvements including the existing impact fee fund balance and revenue from fund raising campaigns to support the main branch expansion project. The existing fund balance will be spent over the next two years to address demand on library collections from past growth, thus, a credit is not needed. Also, the library branch expansion is not receiving funding from impact fees, thus a credit is not needed for the funds donated for that project.

With that said, the Library Department historically receives donations for collection expansion. This is anticipated to continue at an average of $10,000 annually. As a result, the donations will offset 4.4 percent of the collection CIP. A credit is included in the final library impact fee calculation to account for the additional revenue.

Figure 18. Credit for Library Collection Donations

Bentonville Library	Collection Funding
7-Year Anticipated Donations	$70,000
7-Year Collection CIP	$1,575,000
Donations Share of Funding	**4.4%**

LIBRARY IMPACT FEE SUMMARY

The maximum supportable library impact fees are shown in Figure 19. The gross cost per person is reduced by the credits for other revenues to find the net total cost per person. The fee is only assessed to residential development and based on persons per housing unit. For example, the single family detached impact fee is $442 (2.80 persons per housing unit x $158 net cost per person = $442 (rounded)). The current library impact fee is included in the figure illustrating an increase of $264 for single family detached development.

The City may adopt fees that are less than the amounts shown. However, a reduction in impact fee revenue will necessitate an increase in other revenues, a decrease in planned capital expenditures, and/or a decrease in levels of service.

Figure 19. Maximum Supportable Library Impact Fees

Fee Component	Cost per Person
Library Branch Improvements	$25
Library Collections	$146
Gross Total	**$171**
Credit for Debt Payments	**($7)**
Credit for Collection Funding (4.4%)	**($6)**
Net Total	**$158**

Residential

Development Type	Persons per Housing Unit	Maximum Supportable Fee	Current Fee	Increase/ (Decrease)
Residential (per housing unit)				
Single Family Detached	2.80	**$442**	$178	$264
Single Family Attached	2.24	**$354**	-	-
Multifamily	1.55	**$245**	$112	$133

CASH FLOW PROJECTIONS FOR MAXIMUM SUPPORTABLE IMPACT FEE

This section summarizes the potential cash flow to the City if the development impact fees are implemented at the maximum supportable amounts. The cash flow projections are based on the assumptions detailed in this chapter and the development projections discussed in Appendix B: Demographic Data.

The summary provides an indication of the impact fee revenue generated by new development. Shown at the bottom of the figure, the maximum supportable library impact fee is estimated to generate $1.7 million in revenue while there is a growth-related cost of $1.8 million. The revenue is able to mitigate 92 percent of growth-related costs. The remaining funding gap is the result of the credits included in the fee calculation to ensure there is no double collecting.

Figure 20. Cash Flow Summary for Maximum Supportable Impact Fees

Infrastructure Costs for Library Facilities

	Total Cost	Growth Cost
Library Branch Improvements	$267,940	$267,940
Library Collections	$1,575,000	$1,575,000
Total Expenditures	**$1,842,940**	**$1,842,940**

Projected Development Impact Fee Revenue

		Single Family $442 per unit	Multifamily $245 per unit
Year		Housing Units	Housing Units
Base	2023	16,929	7,406
Year 1	2024	17,205	7,820
Year 2	2025	17,489	8,245
Year 3	2026	17,781	8,682
Year 4	2027	18,081	9,132
Year 5	2028	18,389	9,595
Year 6	2029	18,706	10,071
Year 7	2030	19,032	10,561
Seven-Year Increase		2,103	3,155
Projected Revenue		$929,420	$773,034
		Projected Revenue =>	**$1,702,000**
		Total Expenditures =>	**$1,843,000**
		Non-Impact Fee Funding =>	**$141,000**

Police

The police impact fee for Bentonville utilizes an incremental expansion approach, with infrastructure costs allocated to both residential and nonresidential development based on a functional population analysis. The fee includes police facilities, police vehicles, police communication infrastructure.

For residential development, police impact fees are a function of population growth. For nonresidential impact fees, TischlerBise recommends using nonresidential vehicle trips as the best demand indicator for public safety. Trip generation rates are used for nonresidential development because vehicle trips are highest for commercial developments, such as shopping centers, and lowest for industrial/warehouse development. Office and institutional trip rates fall between the other two categories. This ranking of trip rates is consistent with the relative demand for police services from nonresidential development. Other possible nonresidential demand indicators, such as employment or floor area, will not accurately reflect the demand for service. For example, if employees per thousand square feet were used as the demand indicator, police impact fees would be too high for office and institutional development because offices typically have more employees per 1,000 square feet than retail uses. If floor area were used as the demand indicator, police impact fees would be too high for industrial development. Further details on vehicle trip rates can be found in the appendix.

PROPORTIONATE SHARE ANALYSIS

Both residential and nonresidential developments increase the demand on police services and facilities. To calculate the proportional share between residential and nonresidential demand on service and facilities, a functional population approach is used. The functional population approach allocates the cost of the facilities to residential and nonresidential development based on the activity of residents and workers in the city through the 24 hours in a day.

Residents that do not work are assigned 20 hours per day to residential development and 4 hours per day to nonresidential development (annualized averages). Residents that work in City of Bentonville are assigned 14 hours to residential development and 10 hours to nonresidential development. Residents that work outside the city are assigned 14 hours to residential development, the remaining hours in the day are assumed to be spent outside of the city working. Inflow commuters are assigned 10 hours to nonresidential development. Based on the most recent functional population data (2018), residential development accounts for 58 percent of the functional population, while nonresidential development accounts for 42 percent.

Figure 21. Bentonville Functional Population

Bentonville, AR (2018)				
Residential			*Demand*	*Person*
Population*	46,112		*Hours/Day*	*Hours*
Residents Not Working		24,984	20	499,680
Employed Residents		21,128		
Employed in Bentonville		9,351	14	130,914
Employed outside Bentonville		11,777	14	164,878
			Residential Subtotal	795,472
			Residential Share =>	**58%**
Nonresidential				
Non-working Residents		24,984	4	99,936
Jobs Located in Bentonville		48,378		
Residents Employed in Bentonville		9,351	10	93,510
Non-Resident Workers (inflow commuters)		39,027	10	390,270
			Nonresidential Subtotal	583,716
			Nonresidential Share =>	**42%**
			TOTAL	1,379,188

Source: U.S. Census Bureau, OnTheMap 6.1.1 Application and LEHD Origin-Destination Employment Statistics.
* Source: U.S. Census Bureau, American Community Survey, 2018

LEVELS OF SERVICE STANDARDS AND COST FACTORS FOR POLICE

Police Facilities

Bentonville currently has three police facilities totaling 47,522 square feet. Based on current insurance valuations, the facilities total $18.2 million in value. Figure 22 indicates residential and nonresidential proportionate share factors, current LOS standards, and cost per demand unit calculations. For example, the current residential LOS is derived by multiplying the total square footage by the proportionate share of functional population and dividing by the total population (47,522 square feet x 58 percent proportionate share / 58,890 residents), resulting in a LOS of 468 square feet per 1,000 persons.

The cost per demand unit is derived using the average cost per square foot ($384) and existing LOS discussed above. For example, the cost per person is $180 (384 square feet per 1,000 persons x $384 per square foot = $180 per person).

Figure 22. Current Level of Service and Cost Factors for Police Facilities

Facility	Square Feet	Replacement Cost [1]
Headquarters	18,885	$6,096,416
Storage	6,500	$1,838,550
CID/Communications/EOQ	22,137	$10,300,500
Total	**47,522**	**$18,235,466**

Level-of-Service Standards	Residential	Nonresidential
Proportionate Share	58%	42%
Share of Floor Area (sq. ft.)	27,563	19,959
2023 Population/Nonres Vehicle Trips	58,890	172,022
Square Feet per 1,000 Persons/Nonres Trips	**468**	**116**

Cost Analysis	Residential	Nonresidential
Square Feet per 1,000 Persons/Nonres Trips	468	116
Average Cost per Square Foot	$384	$384
Capital Cost per Person/Nonres Vehicle Trip	**$180**	**$45**

[1] Insurance valuation report

Police Vehicles

Bentonville currently has 105 units in its police fleet. Figure 23 below indicates the type of vehicle, the number owned, and the current cost of replacement. In total, the fleet's value is $6.8 million with an average cost per unit of $65,000. Figure 23 also indicates residential and nonresidential proportionate share factors, current LOS standards, and cost per demand unit calculations. For example, the current residential LOS is derived by multiplying the total number of vehicles by the proportionate share of functional population and dividing by the total population (105 vehicles x 58 percent proportionate share / 58,890 residents), resulting in a LOS of 1.034 vehicles per 1,000 persons.

The cost per demand unit is derived using the average cost per vehicles ($65,000) and existing LOS discussed above. For example, the cost per person is $67 (1.034 vehicles per 1,000 persons x $65,000 per vehicle = $67 per person).

Figure 23. Current Level of Service and Cost Factors for Police Vehicles

Vehicle Type	Total Units	Cost per Unit	Replacement Cost
Patrol	75	$65,000	$4,875,000
CID/Admin	30	$65,000	$1,950,000
Total	**105**		**$6,825,000**

Level-of-Service Standards	**Residential**	**Nonresidential**
Proportionate Share	58%	42%
Share of Fleet	60.9	44.1
2023 Population/Nonres Vehicle Trips	58,890	172,022
Units per 1,000 Persons/Nonres Trips	**1.034**	**0.256**

Cost Analysis	**Residential**	**Nonresidential**
Units per 1,000 Persons/Nonres Trips	1.034	0.256
Average Cost per Unit	$65,000	$65,000
Capital Cost per Person/Nonres Vehicle Trip	**$67**	**$17**

Police Communication infrastructure

The police communication infrastructure includes the 911 radio towers and 911 communication dispatch consoles. There are a total of nine units with a total replacement cost of $5.4 million. Figure 24 also indicates residential and nonresidential proportionate share factors, current LOS standards, and cost per demand unit calculations.

The cost per demand unit is derived using the average cost per unit ($600,000) and existing LOS. For example, the cost per person is $53 (0.089 units per 1,000 persons x $600,000 per unit = $53 per person).

Figure 24. Current Level of Service and Cost Factors for Police Communication Infrastructure

Communication Equipment	Total Units	Cost per Unit	Replacement Cost
911 Radio Towers	5	$1,000,000	$5,000,000
911 Comms Consoles	4	$100,000	$400,000
Total	**9**		**$5,400,000**

Level-of-Service Standards	**Residential**	**Nonresidential**
Proportionate Share	58%	42%
Share of Fleet	5.2	3.8
2023 Population/Nonres Vehicle Trips	58,890	172,022
Units per 1,000 Persons/Nonres Trips	**0.089**	**0.022**

Cost Analysis	**Residential**	**Nonresidential**
Units per 1,000 Persons/Nonres Trips	0.089	0.022
Average Cost per Unit	$600,000	$600,000
Capital Cost per Person/Nonres Vehicle Trip	**$53**	**$13**

PROJECTED NEED FOR POLICE FACILITIES

The City of Bentonville updates its impact fee studies on a seven-year cycle. The following figures illustrate the demand from new development over that time based on the study's growth projections.

Police Facilities

Figure 25 depicts projected demand for police facility space over the next seven years. Demand from population and nonresidential growth will require the addition of 9,293 square feet for a total cost of approximately $3.6 million over the next seven years to maintain existing LOS.

Figure 25. Police Facilities Needs Analysis

Infrastructure	Level of Service			Demand Unit	Cost/Sq Ft
Police Facilities	Residential	468	Square Feet	per 1,000 persons	$384
	Nonresidential	116		per 1,000 trips	

Growth-Related Need for Police Facilities						
Year		Population	Nonres. Vehicle Trips	Residential Square Feet	Nonresidential Square Feet	Total Square Feet
Base	2023	58,890	172,022	27,560	19,954	47,514
Year 1	2024	60,304	176,066	28,222	20,423	48,645
Year 2	2025	61,758	182,883	28,902	21,214	50,116
Year 3	2026	63,253	189,700	29,602	22,005	51,607
Year 4	2027	64,791	196,517	30,322	22,796	53,118
Year 5	2028	66,371	200,561	31,061	23,265	54,326
Year 6	2029	67,996	204,605	31,822	23,734	55,556
Year 7	2030	69,668	208,649	32,604	24,203	56,807
Seven-Year Increase		10,778	36,627	**5,044**	**4,249**	**9,293**
			Projected Expenditure	**$1,936,896**	**$1,631,616**	**$3,568,512**

Growth-Related Expenditures for Police Facilities	$3,568,512

Police Vehicles

Figure 26 depicts projected demand for police vehicles over the next seven years. Demand from population and nonresidential growth will require the addition of 20.6 units for a total cost of approximately $1.3 million over the next seven years to maintain existing LOS.

Figure 26. Police Vehicles Needs Analysis

Infrastructure	Level of Service			Demand Unit	Cost/Unit
Police Vehicles	Residential	1.034	Units	per 1,000 persons	$65,000
	Nonresidential	0.256		per 1,000 trips	

Growth-Related Need for Police Vehicles						
Year		Population	Nonres. Vehicle Trips	Residential Units	Nonresidential Units	Total Units
Base	2023	58,890	172,022	60.8	44.0	104.8
Year 1	2024	60,304	176,066	62.3	45.0	107.3
Year 2	2025	61,758	182,883	63.8	46.8	110.6
Year 3	2026	63,253	189,700	65.4	48.5	113.9
Year 4	2027	64,791	196,517	66.9	50.3	117.2
Year 5	2028	66,371	200,561	68.6	51.3	119.9
Year 6	2029	67,996	204,605	70.3	52.3	122.6
Year 7	2030	69,668	208,649	72.0	53.4	125.4
Seven-Year Increase		10,778	36,627	**11.2**	**9.4**	**20.6**
			Projected Expenditure	**$728,000**	**$611,000**	**$1,339,000**

Growth-Related Expenditures for Police Vehicles	**$1,339,000**

Police Communication Infrastructure

Figure 27 depicts projected demand for police communication infrastructure over the next seven years. Demand from population and nonresidential growth will require the addition of 1.8 units for a total cost of approximately $1,080,000 over the next seven years to maintain existing LOS.

Figure 27. Police Communication Infrastructure Needs Analysis

Infrastructure	Level of Service			Demand Unit	Cost/Unit
Police Communication	Residential	0.089	Units	per 1,000 persons	$600,000
	Nonresidential	0.022		per 1,000 trips	

Growth-Related Need for Police						
Year		Population	Nonres. Vehicle Trips	Residential Units	Nonresidential Units	Total Units
Base	2023	58,890	172,022	5.2	3.7	8.9
Year 1	2024	60,304	176,066	5.3	3.8	9.1
Year 2	2025	61,758	182,883	5.4	4.0	9.4
Year 3	2026	63,253	189,700	5.6	4.1	9.7
Year 4	2027	64,791	196,517	5.7	4.3	10.0
Year 5	2028	66,371	200,561	5.9	4.4	10.3
Year 6	2029	67,996	204,605	6.0	4.5	10.5
Year 7	2030	69,668	208,649	6.2	4.5	10.7
Seven-Year Increase		10,778	36,627	**1.0**	**0.8**	**1.8**
			Projected Expenditure	**$600,000**	**$480,000**	**$1,080,000**

Growth-Related Expenditures for Police Communication	**$1,080,000**

POLICE CAPITAL IMPROVEMENT PLANS

The Police Capital Improvement Plan (CIP) is listed in Figure 28. As indicated, there are plans to expanded and improve the three components included in the impact fee analysis. The plans satisfy the estimated growth-related needs to keep providing the current LOS.

Figure 28. Police Capital Improvement Plans

Police Capital Improvement Plan	
Project	**Improvement**
Training Facility	Phase 2, similar to Fayetteville facility, ~$8 million
Substation	Expansion for future staff and evidence storage
Vehicles	21 units for future patrol and CID hires
Comms Improvements	Expanded network that may include radio tower #6 (structure and land), new 911 consoles and lines

DEBT SERVICE CREDIT EVALUATION

In 2021, Bentonville voters approved a referendum to finance a variety of projects through sales tax bonds that included improvements to the City's public safety radio communication system. To avoid potential double payment for police improvements, a credit is necessary because new development that will pay the impact fee will also contribute to future payments on this remaining debt through sales tax revenue. Future payments are planned through 2046, 23 years from this study. Conservatively, the next 20 years of payments are included in the credit.

As shown in Figure 29, future payments are distributed based on proportionate share for residential and nonresidential uses. To account for the time value of money, annual payments per person and nonresidential vehicle trip are discounted using a net present value formula based on an average current interest rate of the bond, 3.00 percent. The total net present value of future payments per person is $12 per person and $3 per nonresidential vehicle trip. This amount is subtracted from the gross capital cost per demand unit for residential and nonresidential development to derive a net capital cost for police facilities.

Figure 29. Police Future Debt Payment Credit

Fiscal Year	Payment	Residential 58%	Nonresidential 42%
2023	$53,280	$30,902	$22,378
2024	$53,280	$30,902	$22,378
2025	$117,923	$68,395	$49,528
2026	$137,595	$79,805	$57,790
2027	$137,460	$79,727	$57,733
2028	$137,621	$79,820	$57,801
2029	$137,545	$79,776	$57,769
2030	$137,390	$79,686	$57,704
2031	$137,828	$79,940	$57,888
2032	$137,650	$79,837	$57,813
2033	$137,550	$79,779	$57,771
2034	$137,523	$79,763	$57,760
2035	$137,563	$79,787	$57,776
2036	$137,497	$79,748	$57,749
2037	$137,494	$79,747	$57,747
2038	$6,661	$3,863	$2,798
2039	$6,661	$3,863	$2,798
2040	$6,661	$3,863	$2,798
2041	$6,661	$3,863	$2,798
2042	$6,661	$3,863	$2,798
2043	$6,661	$3,863	$2,798
Total	**$1,915,165**	**$1,110,792**	**$804,373**

Residential

Fiscal Year	Payment	Projected Population	Payment/ Capita
2023	$30,902	58,890	$0.52
2024	$30,902	60,304	$0.51
2025	$68,395	61,758	$1.11
2026	$79,805	63,253	$1.26
2027	$79,727	64,791	$1.23
2028	$79,820	66,371	$1.20
2029	$79,776	67,996	$1.17
2030	$79,686	69,668	$1.14
2031	$79,940	71,237	$1.12
2032	$79,837	72,846	$1.10
2033	$79,779	74,496	$1.07
2034	$79,763	76,423	$1.04
2035	$79,787	78,399	$1.02
2036	$79,748	80,426	$0.99
2037	$79,747	82,506	$0.97
2038	$3,863	84,639	$0.05
2039	$3,863	86,828	$0.04
2040	$3,863	89,073	$0.04
2041	$3,863	91,377	$0.04
2042	$3,863	93,740	$0.04
2043	$3,863	96,164	$0.04
Total	**$1,110,792**		**$15.70**
		Discount Rate	3.00%
		Total Credit	**$12**

Nonresidential

Fiscal Year	Payment	Projected Nonres. Vehicle Trips	Payment/ Trip
2023	$22,378	172,022	$0.13
2024	$22,378	176,066	$0.13
2025	$49,528	182,883	$0.27
2026	$57,790	189,700	$0.30
2027	$57,733	196,517	$0.29
2028	$57,801	200,561	$0.29
2029	$57,769	204,605	$0.28
2030	$57,704	208,649	$0.28
2031	$57,888	212,693	$0.27
2032	$57,813	216,737	$0.27
2033	$57,771	220,781	$0.26
2034	$57,760	224,825	$0.26
2035	$57,776	220,549	$0.26
2036	$57,749	229,064	$0.25
2037	$57,747	237,579	$0.24
2038	$2,798	246,093	$0.01
2039	$2,798	254,608	$0.01
2040	$2,798	263,123	$0.01
2041	$2,798	271,638	$0.01
2042	$2,798	280,153	$0.01
2043	$2,798	288,668	$0.01
Total	**$804,373**		**$3.84**
		Discount Rate	3.00%
		Total Credit	**$3**

EXISTING IMPACT FEE FUND BALANCE CREDIT EVALUATION

To ensure that the impact fee is calibrated to growth's burden on the City of Bentonville a credit is included for the existing balance of collected police impact fees that will be used to fund future capital expansions. Listed in Figure 30 there is an estimated $6 million in growth-related costs for the next seven years and an existing balance of $3.3 million (54 percent of the capital costs). As a result, there is a 54 percent credit included in the final police impact fee calculation.

Figure 30. Credit for Police Impact Fee Fund Balance

	7-Year Need to Accommodate Growth			
Infrastructure	Square Feet	Units	Total Cost	
Police Facilities	9,293	-	$3,568,512	
Police Vehicles	-	20.6	$1,339,000	
Police Communication	-	1.8	$1,080,000	
Total	**9,293.0**	**22.4**	**$5,987,512**	
		Existing Impact Fee Fund Balance	**$3,248,158**	**54%**
		Future Funding Needs	**$2,739,354**	**46%**

POLICE IMPACT FEE SUMMARY

The maximum supportable police impact fees are shown in Figure 31. For residential development, police impact fees are based on persons per housing unit. For example, the single family detached impact fee is $350 (2.80 persons per housing unit x $125 net cost per person = $350 (rounded)). The nonresidential fees are the product of vehicle trips per 1,000 square feet multiplied by the net capital cost per nonresidential vehicle trip. The current police impact fee is included in the figure illustrating a decrease of $196 for single family detached development.

The City may adopt fees that are less than the amounts shown. However, a reduction in impact fee revenue will necessitate an increase in other revenues, a decrease in planned capital expenditures, and/or a decrease in levels of service.

Figure 31. Maximum Supportable Police Impact Fees

Fee Component	Cost per Person	Cost per Nonres. Vehicle Trips
Police Station	$180	$45
Police Vehicles	$67	$17
Communication Infrast.	$53	$13
Gross Total	$300	$75
Credit for Debt Payments	($12)	($3)
Credit for Existing Fund Balance (54%)	($163)	($41)
Net Total	**$125**	**$31**

Residential

Development Type	Persons per Housing Unit	Maximum Supportable Fee	Current Fee	Increase/ (Decrease)
Residential (per housing unit)				
Single Family Detached	2.80	**$350**	$546	($196)
Single Family Attached	2.24	**$280**	-	-
Multifamily	1.55	**$194**	$344	($150)

Nonresidential

Development Type	Vehicle Trips	Maximum Supportable Fee	Current Fee	Increase/ (Decrease)
Noresidential (per 1,000 Square Feet)				
Retail	14.06	**$436**	$615	($179)
Office	5.42	**$168**	$233	($65)
Industrial	2.38	**$74**	$81	($7)
Institutional	5.39	**$167**	-	-

CASH FLOW PROJECTIONS FOR MAXIMUM SUPPORTABLE IMPACT FEE

This section summarizes the potential cash flow to the City if the development impact fees are implemented at the maximum supportable amounts. The cash flow projections are based on the assumptions detailed in this chapter and the development projections discussed in Appendix B: Demographic Data.

The summary provides an indication of the impact fee revenue generated by new development. Shown at the bottom of the figure, the maximum supportable police impact fee is estimated to generate $2.5 million in revenue while there is a growth-related cost of $6 million. The revenue is able to mitigate 42 percent of growth-related costs. The remaining funding gap is the result of the credit for future debt payments and the existing impact fee fund balance.

Figure 32. Cash Flow Summary for Maximum Supportable Impact Fees

Infrastructure Costs for Police Facilities

	Total Cost	Growth Cost
Police Station	$3,568,512	$3,568,512
Police Vehicles	$1,339,000	$1,339,000
Communication Infrast.	$1,080,000	$1,080,000
Total Expenditures	**$5,987,512**	**$5,987,512**

Projected Development Impact Fee Revenue

		Single Family $350 per unit	Multifamily $194 per unit	Retail $436 per KSF	Office $168 per KSF	Industrial $74 per KSF	Institutional $167 per KSF
Year		Housing Units	Housing Units	KSF	KSF	KSF	KSF
Base	2023	16,929	7,406	6,905	9,750	3,117	2,722
Year 1	2024	17,205	7,820	7,117	9,819	3,204	2,813
Year 2	2025	17,489	8,245	7,328	10,399	3,292	2,904
Year 3	2026	17,781	8,682	7,539	10,980	3,379	2,995
Year 4	2027	18,081	9,132	7,751	11,560	3,466	3,086
Year 5	2028	18,389	9,595	7,962	11,629	3,553	3,177
Year 6	2029	18,706	10,071	8,174	11,698	3,641	3,268
Year 7	2030	19,032	10,561	8,385	11,767	3,728	3,359
7-Year Increase		2,103	3,155	1,480	2,017	611	637
Projected Revenue		$735,966	$612,117	$645,322	$338,800	$45,191	$106,364
						Projected Revenue =>	**$2,484,000**
						Total Expenditures =>	**$5,988,000**
						Non-Impact Fee Funding =>	**$3,504,000**

Fire

The fire impact fee for Bentonville utilizes a plan-based approach that compares the capital expansion plans and infrastructure costs to future development allocated to both residential and nonresidential growth based on an analysis of calls for service data. The fee includes a fire station and fire apparatus component that provide a citywide benefit. The previous impact fee study did not include fire stations because at that time there were no plans to construct new stations.

For residential development, fire impact fees are a function of population growth. For nonresidential impact fees, TischlerBise recommends using nonresidential vehicle trips as the best demand indicator for fire and emergency medical apparatus. Trip generation rates are used for nonresidential development because vehicle trips are highest for commercial developments, such as shopping centers, and lowest for industrial/warehouse development. Office and institutional trip rates fall between the other two categories. This ranking of trip rates is consistent with the relative demand for fire and emergency medical services from nonresidential development. Other possible nonresidential demand indicators, such as employment or floor area, will not accurately reflect the demand for service. For example, if employees per thousand square feet were used as the demand indicator, fire impact fees would be too high for office and institutional development because offices typically have more employees per 1,000 square feet than retail uses. If floor area were used as the demand indicator, fire impact fees would be too high for industrial development. Further details on vehicle trip rates can be found in the appendix.

PROPORTIONATE SHARE ANALYSIS

The fire impact fee uses an annual report of calls for service to attribute demand on fire station and fire apparatus from residential and nonresidential development. Of the total, 46 percent of calls were to residential locations, 40 percent to nonresidential locations, and 14 percent were to traffic incidents. The traffic incidents are split to residential and nonresidential locations based on the current vehicle trip generation estimates. As a result, 53 percent of calls are considered to be based on residential demand and 47 percent of calls are considered to be on nonresidential demand.

Figure 33. Fire Department Calls for Service

Location	Calls for Service	Percent of Total
Residential	3,242	46%
Nonresidential	2,777	40%
Traffic	978	14%
Total	**6,997**	**100%**

Location	Vehicle Trips	Percent of Total
Residential	142,606	45%
Nonresidential	172,022	55%
Total	**314,628**	**100%**

Location	Adj. Vehicle Trips	Percent of Total
Residential	3,685	53%
Nonresidential	3,312	47%
Total	**6,997**	**100%**

FIRE CAPITAL IMPROVEMENT PLANS

The Fire Capital Improvement Plan (CIP) is listed in Figure 34. As indicated, there are plans to construct Fire Station #8 with an estimated cost of $4.5 million. Along with the need to provide a new fire truck at Station #8 there are new administrative and training vehicles needed to support the department's growth.

Figure 34. Fire Capital Improvement Plans

Fire Capital Improvement Plan			
Project	**Need**	**Units**	**Total Cost**
Fire Station #8	10,000	square feet	$4,500,000
Fire Truck	1	units	$960,000
Battalion Truck	1	units	$120,000
Training and Admin Truck	2	units	$120,000
		Total	**$5,700,000**

LEVELS OF SERVICE STANDARDS AND COST FACTORS FOR FIRE

Fire Stations

Bentonville Fire Department plans to construction Fire Station #8 in the next seven years to accommodate citywide growth. The station is anticipated to be 10,000 square feet and cost $4.5 million. The capital expansion is compared to the 7-year growth projection to calculate capital cost factors. Figure 35 indicates residential and nonresidential proportionate share factors, LOS standards, and cost per demand unit calculations. For example, the residential LOS is derived by multiplying the total square footage by the proportionate share and dividing by the 7-year increase in population (10,000 square feet x 53 percent proportionate share / 10,778 residents), resulting in a LOS of 489 square feet per 1,000 persons.

The cost per demand unit is derived using the average cost per square foot ($450) and LOS discussed above. For example, the cost per person is $220 (489 square feet per 1,000 persons x $450 per square foot = $220 per person).

Figure 35. Level of Service and Cost Factors for Fire Station

Facility	Square Feet	Replacement Cost
Fire Station #8	10,000	$4,500,000
Total	**10,000**	**$4,500,000**

Level-of-Service Standards	**Residential**	**Nonresidential**
Proportionate Share	53%	47%
Share of Floor Area (sq. ft.)	5,267	4,733
7-Year Increase in Population and Nonres Trips	10,778	36,627
Square Feet per 1,000 Persons/Nonres Trips	**489**	**129**

Cost Analysis	**Residential**	**Nonresidential**
Square Feet per 1,000 Persons/Nonres Trips	489	129
Average Cost per Square Foot	$450	$450
Capital Cost per Person/Nonres Vehicle Trip	**$220**	**$58**

Source: Bentonville Fire Department

Fire Apparatus

Bentonville Fire Department plans to expand its vehicle fleet by four units over the next seven years to accommodate citywide growth. This includes a new fire truck for Station #8 and three administrative vehicles. The capital expansion plan is compared to the 7-year growth projection to calculate capital cost factors. Figure 36 also indicates residential and nonresidential proportionate share factors, LOS standards, and cost per demand unit calculations. For example, the residential LOS is derived by multiplying the number of apparatus by the proportionate share and dividing by the total population (4 apparatus x 53 percent proportionate share / 10,778 residents), resulting in a LOS of 0.195 apparatus per 1,000 persons.

The cost per demand unit is derived using the average cost per apparatus ($300,000) and LOS discussed above. For example, the cost per person is $59 (0.195 apparatus per 1,000 persons x $300,000 per apparatus = $59 per person).

Figure 36. Level of Service and Cost Factors for Fire Apparatus

Vehicle Type	Total Units	Cost per Unit	Replacement Cost
Fire Truck	1	$960,000	$960,000
Battalion Truck	1	$120,000	$120,000
Training and Admin Truck	2	$60,000	$120,000
Total	**4**		**$1,200,000**

Level-of-Service Standards	Residential	Nonresidential
Proportionate Share	53%	47%
Share of Fleet	2.1	1.9
7-Year Increase in Population and Nonres Trips	10,778	36,627
Units per 1,000 Persons/Nonres Trips	**0.195**	**0.052**

Cost Analysis	Residential	Nonresidential
Units per 1,000 Persons/Nonres Trips	0.195	0.052
Average Cost per Unit	$300,000	$300,000
Capital Cost per Person/Nonres Vehicle Trip	**$59**	**$16**

Source: Bentonville Fire Department

DEBT SERVICE CREDIT EVALUATION

In 2021, Bentonville voters approved a referendum to finance a variety of projects through sales tax bonds that included a fire training facility. To avoid potential double payment for fire improvements, a credit is necessary because new development that will pay the impact fee will also contribute to future payments on this remaining debt through sales tax revenue. Future payments are planned through 2046, 23 years from this study. Conservatively, the next 20 years of payments are included in the credit.

As shown in Figure 37, future payments are distributed based on proportionate share for residential and nonresidential uses. To account for the time value of money, annual payments per person and nonresidential vehicle trip are discounted using a net present value formula based on an average current interest rate of the bond, 3.00 percent. The total net present value of future payments per person is $6 per person and $1 per nonresidential vehicle trip. This amount is subtracted from the gross capital cost per demand unit for residential and nonresidential development to derive a net capital cost for fire facilities.

Figure 37. Fire Future Debt Payment Credit

Fiscal Year	Payment	Residential 58%	Nonresidential 42%
2023	$25,187	$14,608	$10,579
2024	$25,187	$14,608	$10,579
2025	$55,745	$32,332	$23,413
2026	$65,045	$37,726	$27,319
2027	$64,981	$37,689	$27,292
2028	$65,057	$37,733	$27,324
2029	$65,021	$37,712	$27,309
2030	$64,948	$37,670	$27,278
2031	$65,155	$37,790	$27,365
2032	$65,071	$37,741	$27,330
2033	$65,023	$37,713	$27,310
2034	$65,011	$37,706	$27,305
2035	$65,030	$37,717	$27,313
2036	$64,999	$37,699	$27,300
2037	$64,997	$37,698	$27,299
2038	$3,149	$1,826	$1,323
2039	$3,149	$1,826	$1,323
2040	$3,149	$1,826	$1,323
2041	$3,149	$1,826	$1,323
2042	$3,149	$1,826	$1,323
2043	$3,149	$1,826	$1,323
Total	**$905,351**	**$525,098**	**$380,253**

Residential

Fiscal Year	Payment	Projected Population	Payment/ Capita
2023	$14,608	58,890	$0.25
2024	$14,608	60,304	$0.24
2025	$32,332	61,758	$0.52
2026	$37,726	63,253	$0.60
2027	$37,689	64,791	$0.58
2028	$37,733	66,371	$0.57
2029	$37,712	67,996	$0.55
2030	$37,670	69,668	$0.54
2031	$37,790	71,237	$0.53
2032	$37,741	72,846	$0.52
2033	$37,713	74,496	$0.51
2034	$37,706	76,423	$0.49
2035	$37,717	78,399	$0.48
2036	$37,699	80,426	$0.47
2037	$37,698	82,506	$0.46
2038	$1,826	84,639	$0.02
2039	$1,826	86,828	$0.02
2040	$1,826	89,073	$0.02
2041	$1,826	91,377	$0.02
2042	$1,826	93,740	$0.02
2043	$1,826	96,164	$0.02
Total	**$525,098**		**$7.43**
		Discount Rate	3.00%
		Total Credit	**$6**

Nonresidential

Fiscal Year	Payment	Projected Nonres. Vehicle Trips	Payment/ Trip
2023	$10,579	172,022	$0.06
2024	$10,579	176,066	$0.06
2025	$23,413	182,883	$0.13
2026	$27,319	189,700	$0.14
2027	$27,292	196,517	$0.14
2028	$27,324	200,561	$0.14
2029	$27,309	204,605	$0.13
2030	$27,278	208,649	$0.13
2031	$27,365	212,693	$0.13
2032	$27,330	216,737	$0.13
2033	$27,310	220,781	$0.12
2034	$27,305	224,825	$0.12
2035	$27,313	220,549	$0.12
2036	$27,300	229,064	$0.12
2037	$27,299	237,579	$0.11
2038	$1,323	246,093	$0.01
2039	$1,323	254,608	$0.01
2040	$1,323	263,123	$0.01
2041	$1,323	271,638	$0.00
2042	$1,323	280,153	$0.00
2043	$1,323	288,668	$0.00
Total	**$380,253**		**$1.81**
		Discount Rate	3.00%
		Total Credit	**$1**

EXISTING IMPACT FEE FUND BALANCE CREDIT EVALUATION

To ensure that the impact fee is calibrated to growth's burden on the City of Bentonville a credit is included for the existing balance of collected fire impact fees that will be used to fund future capital expansions. Listed in Figure 38 the growth-related capital expansion plan for fire infrastructure is $5.7 million and there is an existing fire impact fee balance of $1.7 million ($995,000 has been reduced from the fund balance to account for an additional engine being purchase this year). As a result, there is a 30 percent credit included in the final fire impact fee calculation.

Figure 38. Credit for Fire Impact Fee Fund Balance

	7-Year Need to Accommodate Growth			
Infrastructure	**Square Feet**	**Units**	**Total Cost**	
Fire Station	10,000	-	$4,500,000	
Fire Vehicles	-	4.0	$1,200,000	
Total	**10,000**	**4.0**	**$5,700,000**	
		Existing Impact Fee Fund Balance	**$1,695,872**	**30%**
		Future Funding Needs	**$4,004,128**	**70%**

FIRE IMPACT FEE SUMMARY

The maximum supportable fire impact fees are shown in Figure 39. For residential development, fire impact fees are based on persons per housing unit. For example, the single family detached impact fee is $532 (2.80 persons per housing unit x $190 net cost per person = $532 (rounded)). The nonresidential fees are the product of vehicle trips per 1,000 square feet multiplied by the net capital cost per nonresidential vehicle trip. The current fire impact fee is included in the figure illustrating an increase of $214 for single family detached development. Importantly, the increase reflects the addition of fire stations in the impact fee program.

The City may adopt fees that are less than the amounts shown. However, a reduction in impact fee revenue will necessitate an increase in other revenues, a decrease in planned capital expenditures, and/or a decrease in levels of service.

Figure 39. Maximum Supportable Fire Impact Fees

Fee Component	Cost per Person	Cost per Nonres. Vehicle Trips
Fire Station	$220	$58
Fire Vehicles	$59	$16
Gross Total	$279	$74
Credit for Debt Payments	($6)	($1)
Credit for Fund Balance (30%)	($83)	($22)
Net Total	**$190**	**$51**

Residential

Development Type	Persons per Housing Unit	Maximum Supportable Fee	Current Fee	Increase/ (Decrease)
Residential (per housing unit)				
Single Family Detached	2.80	**$532**	$318	$214
Single Family Attached	2.24	**$426**	-	-
Multifamily	1.55	**$295**	$200	$95

Nonresidential

Development Type	Vehicle Trips	Maximum Supportable Fee	Current Fee	Increase/ (Decrease)
Noresidential (per 1,000 Square Feet)				
Retail	14.06	**$717**	$357	$360
Office	5.42	**$276**	$135	$141
Industrial	2.38	**$121**	$47	$74
Institutional	5.39	**$275**	-	-

CASH FLOW PROJECTIONS FOR MAXIMUM SUPPORTABLE IMPACT FEE

This section summarizes the potential cash flow to the City if the development impact fees are implemented at the maximum supportable amounts. The cash flow projections are based on the assumptions detailed in this chapter and the development projections discussed in Appendix B: Demographic Data.

The summary provides an indication of the impact fee revenue generated by new development. Shown at the bottom of the figure, the maximum supportable fire impact fee is estimated to generate $3.9 million in revenue while there is a growth-related cost of $5.7 million. The revenue is able to mitigate 68 percent of growth-related costs. The remaining funding gap is the result of the credit for future debt payments and the existing impact fee fund balance.

Figure 40. Cash Flow Summary for Maximum Supportable Impact Fees

Infrastructure Costs for Fire Facilities

	Total Cost	Growth Cost
Fire Station	$4,500,000	$4,500,000
Fire Vehicles	$1,200,000	$1,200,000
Total Expenditures	**$5,700,000**	**$5,700,000**

Projected Development Impact Fee Revenue

		Single Family $532 per unit	Multifamily $295 per unit	Retail $717 per KSF	Office $276 per KSF	Industrial $121 per KSF	Institutional $275 per KSF
Year		Housing Units	Housing Units	KSF	KSF	KSF	KSF
Base	2023	16,929	7,406	6,905	9,750	3,117	2,722
Year 1	2024	17,205	7,820	7,117	9,819	3,204	2,813
Year 2	2025	17,489	8,245	7,328	10,399	3,292	2,904
Year 3	2026	17,781	8,682	7,539	10,980	3,379	2,995
Year 4	2027	18,081	9,132	7,751	11,560	3,466	3,086
Year 5	2028	18,389	9,595	7,962	11,629	3,553	3,177
Year 6	2029	18,706	10,071	8,174	11,698	3,641	3,268
Year 7	2030	19,032	10,561	8,385	11,767	3,728	3,359
Seven-Year Increase		2,103	3,155	1,480	2,017	611	637
Projected Revenue		$1,118,668	$930,796	$1,061,228	$556,601	$73,894	$175,151

Projected Revenue =>	**$3,916,000**
Total Expenditures =>	**$5,700,000**
Non-Impact Fee Funding =>	**$1,784,000**

Appendix A: Land Use Definitions

RESIDENTIAL DEVELOPMENT

As discussed below, residential development categories are based on data from the U.S. Census Bureau, American Community Survey. Importantly, the occupancy (owner or renter) of the housing unit does not influence the housing type determination.

Single Family Detached:

- Single family detached is a one-unit structure detached from any other house, that is, with open space on all four sides. Such structures are considered detached even if they have an adjoining shed or garage. A one-family house that contains a business is considered detached as long as the building has open space on all four sides.
- Mobile home includes both occupied and vacant mobile homes, to which no permanent rooms have been added, are counted in this category. Mobile homes used only for business purposes or for extra sleeping space and mobile homes for sale on a dealer's lot, at the factory, or in storage are not counted in the housing inventory.

Single Family Attached:

- Single family attached (townhouse) is a one-unit structure that has one or more walls extending from ground to roof separating it from adjoining structures. In row houses (sometimes called townhouses), double houses, or houses attached to nonresidential structures, each house is a separate, attached structure if the dividing or common wall goes from ground to roof.

Multifamily:

- 2+ units (duplexes and apartments) are units in structures containing two or more housing units, further categorized as units in structures with "2, 3 or 4, 5 to 9, 10 to 19, 20 to 49, and 50 or more apartments."
- Boat, RV, Van, etc. includes any living quarters occupied as a housing unit that does not fit the other categories (e.g., houseboats, railroad cars, campers, and vans). Recreational vehicles, boats, vans, railroad cars, and the like are included only if they are occupied as a current place of residence.

NONRESIDENTIAL DEVELOPMENT

The proposed general nonresidential development categories (defined below) can be used for all new construction within Bentonville. Nonresidential development categories represent general groups of land uses that share similar average weekday vehicle trip generation rates and employment densities (i.e., jobs per thousand square feet of floor area).

Retail: Establishments primarily selling merchandise, eating/drinking places, and entertainment uses. By way of example, *Retail* includes shopping centers, supermarkets, pharmacies, restaurants, bars, nightclubs, automobile dealerships, and movie theaters, hotels, and motels.

- Examples of respective land use codes in the Institute of Transportation Engineers Trip Generation Manual, 2021: 820, 815, 823, 850, 875, 880

Office: Establishments providing management, administrative, professional, or business services; By way of example, *Office* includes business offices, headquarter buildings, business parks, and research and development centers.

- Examples of respective land use codes in the Institute of Transportation Engineers Trip Generation Manual, 2021: 710, 712, 714, 750, 770

Industrial: Establishments primarily engaged in the production, transportation, or storage of goods. By way of example, *Industrial* includes manufacturing plants, distribution warehouses, trucking companies, utility substations, power generation facilities, and telecommunications buildings.

- Examples of respective land use codes in the Institute of Transportation Engineers Trip Generation Manual, 2021: 110, 130, 150, 154, 160, 170

Institutional: Establishments providing management, administrative, professional, or business services; By way of example, *Institutional* includes assisted living facilities, nursing homes, hospitals, medical offices, veterinarian clinics, schools, universities, churches, daycare facilities, government buildings, and prisons.

- Examples of respective land use codes in the Institute of Transportation Engineers Trip Generation Manual, 2021: 520, 560, 565, 575, 580, 590

Appendix B: Demographic Data

As part of our Work Scope, TischlerBise has prepared documentation on demographic data and development projections that will be used in the City of Bentonville Impact Fee Study. The data estimates and projections are used in the study's calculations and to illustrate the possible future pace of service demands on the City's infrastructure. Furthermore, the memo demonstrates the history of development and base year development levels in Bentonville. The demographic assumptions are used in the impact fee calculations to determine current and future levels of service.

The factors provide assumptions for the final impact fee model, and once finalized, this memo will become part of the final report and/or model documentation.

This memo includes discussion and findings on:

- Household/housing unit size
- Current population and housing unit estimates
- Residential projections
- Current employment and nonresidential floor area estimates
- Nonresidential projections
- Functional population
- Vehicle trip generation and projections

Note: calculations throughout this technical memo are based on an analysis conducted using Excel software. Results are discussed in the memo using one-and two-digit places (in most cases), which represent rounded figures. However, the analysis itself uses figures carried to their ultimate decimal places; therefore, the sums and products generated in the analysis may not equal the sum or product if the reader replicates the calculation with the factors shown in the report (due to the rounding of figures shown, not in the analysis).

POPULATION AND HOUSING CHARACTERISTICS

Impact fees often use per capita standards and persons per housing unit or persons per household to derive proportionate share fee amounts. Housing types have varying household sizes and, consequently, a varying demand on City infrastructure and services. Thus, it is important to differentiate between housing types and size.

When persons per housing unit (PPHU) is used in the development impact fee calculations, infrastructure standards are derived using year-round population. In contrast, when persons per household (PPHH) is used in the development impact fee calculations, the fee methodology assumes all housing units will be occupied, thus requiring seasonal or peak population to be used when deriving infrastructure standards. In this case, TischlerBise recommends that fees for residential development in Bentonville be imposed according to persons per housing unit.

Based on housing characteristics, TischlerBise recommends using two housing unit categories for the impact fee study: (1) Single Family and (2) Multifamily. Each housing type has different characteristics which results in a different demand on City facilities and services. Figure 41 shows the US Census American Community Survey 2021 5-Year Estimates data for the City of Bentonville. Single family units have a household size of 2.80 persons and multifamily units have a household size of 1.55 persons. Additionally, there is a housing mix of 70 percent single family and 30 percent multifamily.

The estimates in Figure 41 are for household size calculations. Base year population and housing units are estimated with another, more recent data source.

Figure 41. Persons per Housing Unit

Housing Type	Persons	Housing Units	Persons per Housing Unit	Households	Persons per Household	Housing Unit Mix
Single Family [1]	41,678	14,877	2.80	14,128	2.95	70%
Multifamily [2]	10,078	6,508	1.55	5,445	1.85	30%
Total	51,756	21,385	2.42	19,573	2.64	

[1] Includes attached and detached single family homes and mobile homes
[2] Includes structures with 2+ units
Source: U.S. Census Bureau, 2021 American Community Survey 5-Year Estimates

BASE YEAR POPULATION AND HOUSING UNITS

The City releases its annual *Development Report* to provide the public with a profile of growth and development in the city. Based on the report, Bentonville population in December 31, 2022 was 58,890. The year-end population is used in the impact fee analysis to capsulate the level of service at the start of the 2023 calendar year.

Furthermore, based on the average PPHU listed in Figure 41 (2.42 persons per housing unit) there is an estimated 24,335 housing units in Bentonville. Additionally, based on the 70/30 housing mix, there is an estimated 16,929 single family units and 7,406 multifamily units.

Figure 42. Base Year Housing Units

City of Bentonville	Base Year 2023
Population [1]	58,890
Housing Units [2]	
Single Family	16,929
Multifamily	7,406
Total Housing Units	24,335

[1] Source: Bentonville Development Report 2022; Population estimate for December 31, 2022 is used for the beginning of 2023.
Source: U.S. Census Bureau, 2021 American Community Survey 5-Year Estimates

RESIDENTIAL CONSTRUCTION TREND

There has been a consistent and significant amount of residential growth in Bentonville. Since 2018, despite the recessionary fears during covid-19, there has been an annual total of 655 to 1,671 housing units constructed. On average, 409 single family and 599 multifamily units have been constructed annually. Varying from the current housing stock in the city, the development trend has been more multifamily construction than single family construction. This is anticipated to continue and the 40/60 housing mixture is incorporated in the housing growth projections.

With that said, the 5-year annual average of 1,008 units is considered to be slightly skewed too high because of the spike in multifamily growth in 2019. Removing 2019, the city has been averaging about 840 units per year.

Figure 43. 5-Year New Housing Unit Totals

Housing Type	2018	2019	2020	2021	2022	Total	Average	% of Total
Single Family	494	461	405	277	410	2,047	**409**	40%
Multifamily	404	1,210	524	378	478	2,994	**599**	60%
Total	898	1,671	929	655	888	5,041	**1,008**	100%

Source: Bentonville Development Report 2022

HOUSING UNIT AND POPULATION PROJECTIONS

In the Bentonville *Community Plan* are future population estimates. The estimates were calculated in 2018, before the recent acceleration in development. Consequently, the estimates are slightly lower than the present population. However, the annual growth rates are still considered appropriate. Over the next ten years, the Bentonville population is estimated to grow to nearly 74,500 residents, a 26.5 percent increase from the base year. Following the population growth, 7,613 new housing units are projected (40 percent single family/60 percent multifamily).

Annually, the housing projections average 760 new homes, less than the recent construction activity. However, the conservative estimate allows for market adjustments over the next ten years and possible land capacity limits within the current city boundaries.

Figure 44. Residential Development Projections

City of Bentonville	Base Year 2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total Increase
Population	58,890	60,304	61,758	63,253	64,791	66,371	67,996	69,668	71,237	72,846	74,496	**15,606**
Percent Increase		*2.4%*	*2.4%*	*2.4%*	*2.4%*	*2.4%*	*2.4%*	*2.5%*	*2.3%*	*2.3%*	*2.3%*	*26.5%*
Housing Units												
Single Family	16,929	17,205	17,489	17,781	18,081	18,389	18,706	19,032	19,338	19,652	19,974	**3,045**
Multifamily	7,406	7,820	8,245	8,682	9,132	9,595	10,071	10,561	11,020	11,491	11,974	**4,568**
Total Housing Units	24,335	25,025	25,734	26,463	27,213	27,984	28,777	29,593	30,358	31,143	31,948	**7,613**

Source: Population and housing development projections are based on annual growth rates calculated from estimates in Bentonville *Community Plan* and PPHU factors by type of housing unit.

CURRENT EMPLOYMENT AND NONRESIDENTIAL FLOOR AREA

Base year employment estimates are produced with data from the Northwest Arkansas Regional Planning Commission (NWARPC) Travel Demand Model. The GIS-based database provides employment estimates for years 2018, 2025, 2035, and 2045 at the traffic analysis zone (TAZ) level. The City of Bentonville TAZs are summed and the 2023 estimates are found with a straight-line calculation from 2018 to 2025. Shown in Figure 45, there is a total of 60,101 jobs in Bentonville, over half in office industries.

The employment estimates are combined with density factors to calculate base year nonresidential floor area. The density factors are from the Institute of Transportation Engineers' *Trip Generation* Manual (2021) and the applied factors are found in Figure 46. For example, retail employment is combined with the density factor for the Shopping Center land use (471 square feet per employee) to find the total retail square footage in Bentonville (14,661 retail employees x 471 square feet per job = 6,905,097 square feet).

Figure 45. Base Year Employment and Nonresidential Floor Area

Employment Industries	Base Year Jobs [1]	Percent of Total	Sq. Ft. per Job [2]	Base Year Floor Area (sq. ft.)	Percent of Total
Retail	14,661	24%	471	6,905,097	31%
Office	31,759	53%	307	9,750,064	43%
Industrial	5,904	10%	528	3,117,170	14%
Institutional	7,778	13%	350	2,722,149	12%
Total	**60,101**	**100%**		**22,494,479**	**100%**

[1] Source: Northwest Arkansas Regional Planning Commission Travel Demand Model; TischlerBise analysis

[2] Source: Institute of Transportation Engineers, *Trip Generation*, 10th Edition (2017)

Figure 46. Institute of Transportation Engineers (ITE) Employment Density Factors

Employment Industry	ITE Code	Land Use	Demand Unit	Emp Per Dmd Unit	Sq Ft Per Emp
Retail	820	Shopping Center	1,000 Sq Ft	2.12	471
Office	710	General Office	1,000 Sq Ft	3.26	307
Industrial	140	Manufacturing	1,000 Sq Ft	1.89	528
Institutional	610	Hospital	1,000 Sq Ft	2.86	350

Source: *Trip Generation*, Institute of Transportation Engineers, 11th Edition (2021)

EMPLOYMENT AND NONRESIDENTIAL FLOOR AREA PROJECTIONS

Following the NWARPC Travel Demand Model, employment and floor area projections are provided in Figure 47. Additionally, Walmart is constructing a new headquarters which is estimated to house 15,000 office employees. Currently, there is an estimated 10,000 employees at the existing headquarters in Bentonville, thus the expansion will be a net positive of 5,000 new office employees. This specific expansion was not included in the Travel Demand Model, so the net new jobs are included in the projections over three years starting in 2025.

Overall, there is a projected increase of 16,000 jobs in Bentonville over the next ten years, an increase of 27 percent from the base year. The employment projections have been combined with the employee density factors to estimate the new nonresidential floor area. As a result, 6.1 million square feet are estimated over the next ten years, including over 2 million square feet in both office and retail development.

Figure 47. Employment and Nonresidential Floor Area Projections

Industry	Base Year 2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total Increase
Jobs [1]												
Retail	14,661	15,109	15,558	16,007	16,456	16,905	17,354	17,803	18,252	18,701	19,150	**4,489**
Office	31,759	31,983	33,874	35,765	37,656	37,880	38,104	38,328	38,552	38,776	39,001	**7,241**
Industrial	5,904	6,069	6,234	6,399	6,565	6,730	6,895	7,060	7,226	7,391	7,556	**1,652**
Institutional	7,778	8,038	8,297	8,557	8,817	9,077	9,337	9,597	9,857	10,117	10,377	**2,600**
Total	60,101	61,199	63,964	66,729	69,494	70,592	71,690	72,789	73,887	74,985	76,083	**15,983**
Nonresidential Floor Area (1,000 sq. ft.) [2]												
Retail	6,905	7,117	7,328	7,539	7,751	7,962	8,174	8,385	8,597	8,808	9,020	**2,114**
Office	9,750	9,819	10,399	10,980	11,560	11,629	11,698	11,767	11,836	11,904	11,973	**2,223**
Industrial	3,117	3,204	3,292	3,379	3,466	3,553	3,641	3,728	3,815	3,902	3,990	**872**
Institutional	2,722	2,813	2,904	2,995	3,086	3,177	3,268	3,359	3,450	3,541	3,632	**910**
Total	22,494	22,953	23,923	24,893	25,863	26,322	26,780	27,239	27,697	28,156	28,614	**6,120**

[1] Source: Northwest Arkansas Regional Planning Commission Travel Demand Model; TischlerBise analysis

[2] Source: Institute of Transportation Engineers, _Trip Generation_, 10th Edition (2017)

[3] The Walmart HQ expansion project is estimated to have 15,000 total office jobs. Currently, there is an estimated 10,000 office jobs at the existing HQ. The 5,000 additional jobs are assumed over three years beginning in 2025.

FUNCTIONAL POPULATION

Both residential and nonresidential developments increase the demand on City services and facilities. To calculate the proportional share between residential and nonresidential demand on service and facilities, a functional population approach is used. The functional population approach allocates the cost of the facilities to residential and nonresidential development based on the activity of residents and workers in the city through the 24 hours in a day.

Residents that do not work are assigned 20 hours per day to residential development and 4 hours per day to nonresidential development (annualized averages). Residents that work in City of Bentonville are assigned 14 hours to residential development and 10 hours to nonresidential development. Residents that work outside the city are assigned 14 hours to residential development, the remaining hours in the day are assumed to be spent outside of the city working. Inflow commuters are assigned 10 hours to nonresidential development. Based on the most recent functional population data (2018), residential development accounts for 58 percent of the functional population, while nonresidential development accounts for 42 percent.

Figure 48. City of Bentonville Functional Population

Bentonville, AR (2018)					
Residential				*Demand Hours/Day*	*Person Hours*
Population*	46,112				
Residents Not Working		24,984		20	499,680
Employed Residents		21,128			
Employed in Bentonville			9,351	14	130,914
Employed outside Bentonville			11,777	14	164,878
			Residential Subtotal		795,472
			Residential Share =>		**58%**
Nonresidential					
Non-working Residents		24,984		4	99,936
Jobs Located in Bentonville		48,378			
Residents Employed in Bentonville			9,351	10	93,510
Non-Resident Workers (inflow commuters)			39,027	10	390,270
			Nonresidential Subtotal		583,716
			Nonresidential Share =>		**42%**
			TOTAL		1,379,188

Source: U.S. Census Bureau, OnTheMap 6.1.1 Application and LEHD Origin-Destination Employment Statistics.
* Source: U.S. Census Bureau, American Community Survey, 2018

VEHICLE TRIP GENERATION

Residential Vehicle Trips by Housing Type

A customized trip rate is calculated for the single family and multifamily units in Bentonville. In Figure 49, the most recent data from the US Census American Community Survey is inputted into equations provided by the ITE to calculate the trip ends per housing unit factor. A single family unit is estimated to generate 12.30 trip ends and a multifamily unit is estimated to generate 4.50 trip ends on an average weekday.

Figure 49. Customized Residential Trip End Rates by Housing Type

Tenure	Vehicles Available (1)	Households (2) Single Family*	Multifamily Units	Total HHs	Vehicles per HH by Tenure
Owner-occupied	20,872	9,929	39	9,968	2.09
Renter-occupied	13,316	4,199	5,406	9,605	1.39
Total	**34,188**	**14,128**	**5,445**	**19,573**	**1.75**
Housing Units (6) =>		14,877	6,508	21,385	
Persons per Housing Unit =>		2.80	1.55	2.42	

Housing Type	Persons (3)	Trip Ends (4)	Vehicles by Type of Housing	Trip Ends (5)	Average Trip Ends	Trip Ends per Housing Unit	ITE Trip Ends Per Unit
Single Family*	41,678	116,134	26,612	248,693	182,414	12.30	9.44
Multifamily	10,078	22,998	7,576	36,093	29,545	4.50	5.44
Total	**51,756**	**139,132**	**34,188**	**284,786**	**211,959**	**10.80**	

** Includes Single Family Detached, Attached, and Manufactured Homes*

(1) Vehicles available by tenure from Table B25046, 2017-2021 American Community Survey 5-Year Estimates.
(2) Households by tenure and units in structure from Table B25032, American Community Survey, 2017-2021.
(3) Persons by units in structure from Table B25033, American Community Survey, 2017-2021.
(4) Vehicle trips ends based on persons using formulas from Trip Generation (ITE 2021). For single family housing (ITE 210), the fitted curve equation is EXP(0.96*LN(persons)+1.43). To approximate the average population of the ITE studies, persons were divided by 221 and the equation result multiplied by 221. For multifamily housing (ITE 221), the fitted curve equation is (2.29*persons)-81.02.
(5) Vehicle trip ends based on vehicles available using formulas from Trip Generation (ITE 2021). For single family housing (ITE 210), the fitted curve equation is EXP(0.99*LN(vehicles)+1.93). To approximate the average number of vehicles in the ITE studies, vehicles available were divided by 191 and the equation result multiplied by 191. For multifamily housing (ITE 220), the fitted curve equation is (3.94*vehicles)+293.58 (ITE 2012).
(6) Housing units from Table B25024, American Community Survey, 2017-2021.

Residential Vehicle Trips Adjustment Factors

A vehicle trip end is the out-bound or in-bound leg of a vehicle trip. As a result, so to not double count trips, a standard 50 percent adjustment is applied to trip ends to calculate a vehicle trip. For example, the out-bound trip from a person's home to work is attributed to the housing unit and the trip from work back home is attributed to the employer.

However, an additional adjustment is necessary to capture city residents' work bound trips that are outside of the city. The trip adjustment factor includes two components. According to the National Household Travel Survey, home-based work trips are typically 31 percent of out-bound trips (which are 50 percent of all trip ends). Also, utilizing the most recent data from the Census Bureau's web application "OnTheMap", 56 percent of Bentonville workers travel outside the city for work. In combination, these factors account for 9 percent of additional production trips (0.31 x 0.50 x 0.56 = 0.09). Shown in Figure 50, the total adjustment factor for residential housing units includes attraction trips (50 percent of trip ends) plus the journey-to-work commuting adjustment (9 percent of production trips) for a total of 59 percent.

Figure 50. Residential Trip Adjustment Factor for Commuters

Employed Bentonville Residents (2018)	21,128
Residents Working in the City (2018)	9,351
Residents Commuting Outside of the City for Work	11,777
Percent Commuting Out of the City	56%
Additional Production Trips	**9%**

Standard Trip Adjustment Factor	**50%**
Residential Trip Adjustment Factor	**59%**

Source: U.S. Census, OnTheMap Application, 2018

Nonresidential Vehicle Trips

Vehicle trip generation for nonresidential land uses are calculated by using ITE's average daily trip end rates and adjustment factors found in their recently published 11th edition of Trip Generation. To estimate the trip generation in Bentonville, the weekday trip end per 1,000 square feet factors listed in Figure 51 are used.

Figure 51. Institute of Transportation Engineers Nonresidential Factors

Employment Industry	ITE Code	Land Use	Demand Unit	Wkdy Trip Ends Per Dmd Unit	Wkdy Trip Ends Per Employee
Retail	820	Shopping Center	1,000 Sq Ft	37.01	17.42
Office	710	General Office	1,000 Sq Ft	10.84	3.33
Industrial	140	Manufacturing	1,000 Sq Ft	4.75	2.51
Institutional	610	Hospital	1,000 Sq Ft	10.77	3.77

Source: _Trip Generation_ , Institute of Transportation Engineers, 11th Edition (2021)

For nonresidential land uses, the standard 50 percent adjustment is applied to office, industrial, and institutional. A lower vehicle trip adjustment factor is used for retail land uses because this type of development attracts vehicles as they pass-by on arterial and collector roads. For example, when someone stops at a convenience store on their way home from work, the convenience store is not their primary destination.

In Figure 52, the ITE land use code, daily vehicle trip end rate, trip adjustment factor, and the daily vehicle trip rate is listed for each land use.

Figure 52. Daily Vehicle Trip Factors

Land Use	ITE Codes	Daily Vehicle Trip Ends	Trip Adj. Factor	Daily Vehicle Trips
Residential (per housing unit)				
Single Family	210	12.30	59%	7.26
Multifamily	220	4.50	59%	2.66
Nonresidential (per 1,000 square feet)				
Retail	820	37.01	38%	14.06
Office	710	10.84	50%	5.42
Industrial	140	4.75	50%	2.38
Institutional	610	10.77	50%	5.39

Source: Institute of Transportation Engineers, *Trip Generation*, 11th Edition (2021); National Household Travel Survey, 2009

VEHICLE TRIP PROJECTIONS

The base year vehicle trip totals and vehicle trip projections are calculated by combining the vehicle trip end factors, the trip adjustment factors, and the residential and nonresidential assumptions for housing stock and floor area. Citywide, residential land uses account for 142,606 vehicle trips and nonresidential land uses account for 172,022 vehicle trips in the base year (Figure 53).

Through 2033, it is projected that daily vehicle trips will increase by 83,016 trips with the majority of the growth being generated by retail (36 percent) and single family (27 percent) development.

Figure 53. Vehicle Trip Projections

Development Type	Base Year 2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total Increase
Residential Trips												
Single Family	122,906	124,908	126,970	129,090	131,268	133,504	135,806	138,172	140,394	142,674	145,011	**22,105**
Multifamily	19,699	20,801	21,932	23,094	24,291	25,523	26,789	28,092	29,313	30,566	31,851	**12,152**
Subtotal	142,606	145,710	148,902	152,184	155,559	159,027	162,594	166,265	169,707	173,240	176,862	**34,257**
Nonresidential Trips												
Retail	97,086	100,059	103,031	106,004	108,977	111,950	114,923	117,896	120,869	123,842	126,814	**29,729**
Office	52,845	53,218	56,364	59,511	62,657	63,030	63,403	63,776	64,149	64,522	64,895	**12,049**
Industrial	7,419	7,626	7,834	8,042	8,249	8,457	8,665	8,872	9,080	9,288	9,495	**2,076**
Institutional	14,672	15,163	15,653	16,144	16,634	17,124	17,615	18,105	18,596	19,086	19,577	**4,904**
Subtotal	172,022	176,066	182,883	189,700	196,517	200,561	204,605	208,649	212,693	216,737	220,781	**48,759**
Vehicle Trips												
Grand Total	314,628	321,776	331,785	341,885	352,077	359,588	367,200	374,914	382,400	389,976	397,643	**83,016**

Source: Institute of Transportation Engineers, *Trip Generation*, 11th Edition (2021)

City of Bentonville, Arkansas Agenda Item Form

Item Details

Council Meeting Date:	9/13/2023	**Submitted By:**	Hadi Dudley
Phone:	479-271-3194	**For Department(s):**	Library
Email:	hdudley@bentonvillear.com		

Item Type (Check all that apply)

- [ ] Informational
- [ ] Bid Award
- [ ] Enter into an Agreement
- [ ] Change Order
- [ ] Recognizing Funds
- [x] Budget Adjustment
- [ ] Waiver of Bid
- [ ] Emergency Clause
- [ ] Ordinance
- [x] Resolution
- [ ] Informational

Title, Recommendation & Justification

Title:	Impact Fees for Library Collections
Action Recommendation & Justification:	Resolution approving a Budget Adjustment transferring impact fees totaling $160,000.00 for library collections and processing materials. A Budget Adjustment is needed.
Additional Comments for Consideration (Optional):	Collection purchases to sustain the library's level of service for our growing community.
Amount for Approval:	$ 160,000.00

Budget Impact

Is this Item Budgeted? [ ] YES [ ] NO [ ] ITEM HAS NO COST [x] OTHER: Use of designated impact fees for library

Budget Adjustment *(to be completed by Finance when applicable)*

Account Number (ORG-OBJECT)	Account Description	Expense	Revenue
255050-49110	Transfer Out - General	$ 160,000.00	$
105050-39192	Transfer In - Impact/Capacity	$	$ 160,000.00
105050-42090	Other Operating Supplies	$ 150,000.00	$
105050-42110	Office Supplies	$ 10,000.00	$

Fund(s) Impacted (check all that apply): [x] General Fund [ ] Utility Fund [ ] Street Fund [x] Other(s): Impact Fees

Budget Impact Notes for Consideration (Optional):

RESOLUTION NO. _______________

A RESOLUTION ADJUSTING THE 2023 BUDGET TO APPROPRIATE ONE HUNDRED SIXTY THOUSAND DOLLARS ($160,000.00) FROM ACCOUNT #255050-49150 – TRANSFER OUT-GENERAL INTO ACCOUNT #105050-39192 – TRANSFER IN-IMPACT/CAPACITY; FURTHER ADJUSTING THE SAME INTO VARIOUS EXPENSE ACCOUNTS; AND FOR OTHER PURPOSES.

WHEREAS, to sustain the Bentonville Public Library's current level of service, collection purchases need to be made from collected impact fees;

WHEREAS, this was an oversight during the 2023 budget process; and

WHEREAS, this Resolution will correct that error.

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

Section 1: The 2023 Budget is amended to appropriate one hundred sixty thousand dollars ($160,000.00) from Account #255050-49110 – Transfer Out-General into Account #105050-39192 – Transfer In-Impact/Capacity;

Section 2: The 2023 Budget is further amended to adjust one hundred fifty thousand dollars ($150,000.00) from Account #105050-39192 – Transfer In-Impact/Capacity into Account #105050-42090 – Other Operating Supplies;

Section 3: The 2023 Budget is further amended to adjust ten thousand dollars ($10,000.00) from Account #105050-39192 – Transfer In-Impact/Capacity into Account #105050-42110 – Office Supplies;

Section 4 - Severability Provision: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

Section 5 - Repeal of Conflicting Resolutions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

PASSED this _______ day of ____________________, 2023.

APPROVED:

____
STEPHANIE ORMAN, MAYOR

ATTEST:

____
KIRBY ROMINES, CITY CLERK

City of Bentonville, Arkansas Agenda Item Form

Item Details

Council Meeting Date:	9/26/2023	**Submitted By:**	Justin Scantlin
Phone:	479-271-5927	**For Department(s):**	Fire Department
Email:	jscantlin@bentonvillear.com		

Item Type (Check all that apply)

- ☐ Informational
- ☐ Bid Award
- ☐ Enter into an Agreement
- ☐ Change Order
- ☐ Recognizing Funds
- ☑ Budget Adjustment
- ☐ Waiver of Bid
- ☐ Emergency Clause
- ☐ Ordinance
- ☑ Resolution
- ☐ Informational

Title, Recommendation & Justification

Title:	Vehicle Maintenance Budget Adjustment
Action Recommendation & Justification:	Resolution requesting a Budget Adjustment to the Vehicle Repairs and Maintenance budget to finish out 2023. A Budget Adjustment is needed.
Additional Comments for Consideration (Optional):	There have been a few unexpected expensive repairs that needed to be completed so far this year. We have started to out source the preventative maintenance due to liability issues. Not receiving donated supplies any more kept it cost prohibitive to do ourselves. We have also started to rely more on the maintenance rep. from our dealer to come to our department to repair vehicles. This has greatly decreased the amount of time that we have vehicles out of service.
Amount for Approval:	$ 45,000.00

Budget Impact

Is this Item Budgeted? ☐ YES ☑ NO ☐ ITEM HAS NO COST ☐ OTHER:________________

Budget Adjustment *(to be completed by Finance when applicable)*

Account Number (ORG-OBJECT)	Account Description	Expense	Revenue
102020-44420	Vehicle Repairs & Maintenance	$ 45,000.00	$
		$	$
		$	$
		$	$

Fund(s) Impacted (check all that apply): ☑ General Fund ☐ Utility Fund ☐ Street Fund ☐ Other(s):________________

Budget Impact Notes for Consideration (Optional):

RESOLUTION NO._______________

A RESOLUTION ADJUSTING THE 2023 BUDGET TO APPROPRIATE FORTY-FIVE THOUSAND DOLLARS ($45,000.00) FROM GENERAL FUND BALANCE TO ACCOUNT #102020-44420 – VEHICLE REPAIRS AND MAINTENANCE; AND FOR OTHER PURPOSES.

WHEREAS, additional funds are required to cover unexpected vehicle repairs for the Bentonville Fire Department; and

WHEREAS, a budget adjustment will be needed.

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

Section 1: The 2023 Budget is amended to appropriate forty-five thousand dollars ($45,000.00) from General Fund Balance to Account #102020-44420 – Vehicle Repairs and Maintenance;

Section 2 - Severability Provision: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

Section 3 - Repeal of Conflicting Provisions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

PASSED AND APPROVED THIS ________ DAY OF _______________, 2023.

APPROVED:

____
STEPHANIE ORMAN, MAYOR

ATTEST:

____
KIRBY ROMINES, CITY CLERK

City of Bentonville, Arkansas Agenda Item Form

Item Details

Council Meeting Date:	9/26/2023	**Submitted By:**	Dennis Birge
Phone:	479-271-6840	**For Department(s):**	Transportation
Email:	dbirge@bentonvillear.com		

Item Type (Check all that apply)

- ☐ Informational
- ☐ Bid Award
- ☑ Enter into an Agreement
- ☐ Change Order
- ☐ Recognizing Funds
- ☑ Budget Adjustment
- ☐ Waiver of Bid
- ☐ Emergency Clause
- ☐ Ordinance
- ☑ Resolution
- ☐ Informational

Title, Recommendation & Justification

Title:	Professional Services Agreement with Garver, LLC for Title I Design Services, RFQ-23-31
Action Recommendation & Justification:	Resolution requesting a Budget Adjustment to accept ARDOT STBGP Grant Funds and entering into a Professional Service Agreement with Garver, LLC to perform Title I design services for the Highway 12-SW Regional Airport Blvd./Highway 279-S. Vaughn Rd. intersection improvements Project. A Budget Adjustment is needed.
Additional Comments for Consideration (Optional):	The City of Bentonville has received federal funds for reimbursement in the amount of $500,000.00 (80% Federal) with a City match of $125,000.00 (20% Local), for a total of $625,000.00. Contract ceiling price for Title I services with Garver is set at $613,416.00. ARDOT selection procedures for professional services were used to select Garver.
Amount for Approval:	$ 613,416.00

Budget Impact

Is this Item Budgeted? ☐ YES ☑ NO ☐ ITEM HAS NO COST ☐ OTHER:

Budget Adjustment *(to be completed by Finance when applicable)*

Account Number (ORG-OBJECT)	Account Description	Expense	Revenue
203810-47380	Street Construction	$ 613,416.00	$
203810-33110	Federal Direct Grant	$	$ 500,000.00
		$	$
		$	$

Fund(s) Impacted (check all that apply) ☐ General Fund ☐ Utility Fund ☑ Street Fund ☐ Other(s):

Budget Impact Notes for Consideration (Optional):

NORTHWEST ARKANSAS REGIONAL PLANNING COMMISSION

1311 Clayton St., Springdale, Arkansas, 72762

• (479) 751 7125 • Fax: (479) 751 7150 • http://nwarpc.org

August 31, 2021

Mayor Stephanie Orman
City of Bentonville
117 West Central Ave.
Bentonville, AR 72712

Re Hwy 12-SW Regional Airport Blvd. / Hwy 279-S. Vaughn Rd. Intersection Improvements
Engineering and Environmental Phase
FFY 2022 Surface Transportation Block Grant Program - Attributable (STBGP-A)
Total NWARPC Federal Funds Awarded to Hwy 12-SW-Hwy 279 Intersection: $500,000

Dear Mayor Orman:

I am pleased to inform you the Project was selected by the Northwest Arkansas Regional Planning Commission on August 25, 2021 for FFY 2022 STBGP-A funding. The STBGP-A funds awarded and the required local match are shown below:

STBGP-A	**$ 500,000 (80% Federal)**
City Match	**$ 125,000 (20% Local)**
Total	**$ 625,000**

The STBGP-A funding is subject to an obligation limitation and the total available funds may change after final FFY 2022 funding is published.

These funds are required to be obligated by the end of the Federal Fiscal Year which ends on September 30, 2022. All required ARDOT submittals and required approvals for this project should be completed by August 15, 2022 in order to allow sufficient time to obligate the STBGP-A funds for this project.

Please note that STBGP-A projects "...must comply with applicable provisions in Title 23, such as project agreements, authorization to proceed prior to incurring costs, prevailing wage rates (Davis-Bacon), competitive bidding, and other contracting requirements, regardless of whether the projects are located within the right-of-way of a Federal-aid highway."

Please let us know if you have any questions or need additional information regarding this program.

Sincerely,

[redacted]
Director

Cc: Mr. Chris Dillaha, ARDOT
Mr. Sunny Farmahan, ARDOT

RECEIVED OCT 31 2022

ARKANSAS DEPARTMENT OF TRANSPORTATION

ARDOT.gov | IDriveArkansas.com | Lorie H. Tudor, P.E., Director

10324 Interstate 30 | P.O. Box 2261 | Little Rock, AR 72203-2261
Phone: 501.569.2000 | Voice/TTY 711 | Fax: 501.569.2400

October 21, 2022

The Honorable Stephanie Orman
Mayor of Bentonville
305 SW "A" Street
Bentonville, AR 72712

Re: Job 090613
F.A.P. STPU-9036(29)
Hwys. 12/279 Inters. Impvts.
(Bentonville) (S)
Benton County
Hwy. 12, Sec. 2
Hwy. 279, Sec. 0

Dear Mayor Orman:

State and Federal-aid job numbers have been assigned for the referenced project. Enclosed is your copy of the executed Agreement of Understanding. It is now requested that the City submit a check, made payable to the Arkansas Department of Transportation, in the amount of $1,000 to be matched with $4,000 in Federal-aid funds for the Department administrative costs associated with preliminary engineering.

If you have any questions, please contact Carlos Meredith in our Program Management Division at (501) 569-2481 or Carlos.Meredith@ardot.gov.

Sincerely,

[redacted]

Jared D. Wiley
Assistant Chief Engineer – Planning

Enclosure

c: Deputy Director and Chief Engineer
Assistant Chief Engineer – Design
Program Management
Roadway
Transportation Planning and Policy
District 9
Job 090613 'C' File
Mr. Jeff Hawkins, Executive Director, NWA Regional Planning Commission

AGREEMENT OF UNDERSTANDING
BETWEEN
THE CITY OF BENTONVILLE
AND
THE ARKANSAS DEPARTMENT OF TRANSPORTATION

In Cooperation with the
U.S. Department of Transportation, Federal Highway Administration

RELATIVE TO

Implementation of the **Highway 12/Highway 279 Intersection Improvements Project,** (hereinafter called the "Project") as a Federal-aid Surface Transportation Block Grant Program Attributable (STBGP>200K) project.

WHEREAS, funding in Infrastructure Investment and Jobs Act (IIJA) includes 80% Federal-aid funds to be matched with 20% non-federal funds for certain local projects; and

WHEREAS, the City of Bentonville (hereinafter called "Sponsor") has expressed its desire to use Federal-aid funds for the eligible Project and to provide necessary matching cash share for such funds; and

WHEREAS, the Sponsor has transmitted to the Arkansas Department of Transportation (hereinafter called the "Department") Resolution No. 7-13-21 H from the City Council authorizing the Sponsor's Chief Executive Officer (CEO) to execute agreements and contracts with the Department for the Project; and

WHEREAS, funding participation will be as follows, subject to a limit of $500,000 maximum Federal-aid funds approved for the Project:

	Maximum Federal %	Minimum Sponsor %
Preliminary Engineering by Consultant	80	20
Right-of-Way/Utilities	80	20
Construction	80	20
Construction Engineering by Consultant	80	20
Department Administrative Costs	80	20

WHEREAS, the Sponsor knows of no legal impediments to the completion of the Project; and

WHEREAS, it is understood that the Sponsor and the Department will adhere to the General Requirements for Recipients and Sub-Recipients Concerning Disadvantaged Business Enterprises (DBEs) (Form LPA-001) and that, as part of these requirements, the Department may set goals for DBE participation in the Project, ranging from 0% to 100%, that are practical and related to the potential availability of DBEs in desired areas of expertise.

WHEREAS, the Department has published the Arkansas Local Public Agency Project Manual (available at ARDOT.gov) which outlines procedures and requirements which must be followed during development and construction of the Project; and

WHEREAS, the parties agree, unless specifically stated otherwise, that the provisions of this agreement are not intended to create or confer a third party benefit or right in any person or entity, not a party to this agreement.

IT IS HEREBY AGREED that the Sponsor and the Department, in cooperation with the Federal Highway Administration (FHWA), will participate in a cooperative program for implementation of the Project and will accept the responsibilities and assigned duties as described hereinafter.

THE SPONSOR WILL:

1. Notify the Department in writing who the Sponsor designates as its full-time employee to be in responsible charge of the day to day oversight of the Project (Form LPA-005). If the designated full-time employee changes, the Sponsor must notify the Department by resubmitting Form LPA-005. The duties and functions of this person are:
   - Oversee project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;
   - Maintain familiarity of day to day project operations, including project safety issues;
   - Make or participate in decisions about changed conditions or scope changes that require change orders and/or supplemental agreements;
   - During construction, visit and review the project on a daily basis;
   - Review financial processes, transactions, and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse;
   - Direct project staff, Sponsor or consultant, to carry out project administration and contract oversight, including proper documentation;
   - Be aware of the qualifications, assignments and on-the-job performance of the Sponsor and consultant staff at all stages of the project.

2. Initially submit to the Department $1,000 (20%) to be matched by $4,000 (80%) Federal-aid funds for Department administrative costs associated with state preliminary engineering, which include but are not limited to, on site meetings, environmental review, and plan and specification review. The Sponsor's final cost for this phase will be determined by actual Department charges to preliminary engineering.

3. Be responsible for hiring a consultant engineering firm(s) in accordance with the Local Agency Consultant Selection Procedures (Form LPA-002) to provide engineering services which include environmental documentation, preliminary engineering, and construction engineering for the Project. **NOTE: FHWA authorization and Department approval must be given prior to issuing a work order to the consultant for federal funds to be allowed in this phase.**

4. Prepare plans, specifications, and a cost estimate for construction. A registered professional engineer must sign the plans and specifications for the Project. (See Form LPA-003 for items to be included in the bid proposal.)

5. Make periodic payments to the consultant for preliminary engineering for the Project and request reimbursement from the Department. Reimbursement requests should be submitted, at minimum, every three (3) months and not more than once per month.

6. Understand that **expenditures for preliminary or construction engineering performed by the Sponsor's forces are not eligible for reimbursement with federal funds.**

7. Prepare the necessary environmental documentation as required by FHWA and conduct any required public involvement meetings and public hearings.

8. Ensure that the plans and specifications are developed using the Department's standard drawings and Standard Specifications for Highway Construction (latest edition).

9. Ensure that the plans and specifications comply with the Americans with Disabilities Act (ADA), the American Association of State Highway and Transportation Officials (AASHTO) design standards, and all other applicable state and federal regulations, including airport clearance when necessary, for the type of work involved.

10. Before acquiring property or relocating utilities, contact the Department's Right of Way Division to obtain the procedures for acquiring right-of-way and adjusting utilities in compliance with federal regulations. **NOTE: Failure to notify the Department prior to initiating these phases of work may result in all project expenditures being declared non-participating in federal funds.**

11. Acquire property in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (commonly referred to as the "Uniform Act").

12. Ensure the preparation of utility adjustment and right-of-way plans are in accordance with Arkansas State Highway Commission Policy.

13. Provide a copy of the registered deed or other approved documentation and an appropriate certification stating the Sponsor's clear and unencumbered title to any right-of-way to be used for the Project (Form LPA-007). If property has been acquired for the Project, use Form LPA-006 for certification of the right-of-way. **NOTE: Any property that is to become Department right-of-way must be acquired in the Department's name.**

14. Submit plans at 30%, 60%, and 90% completion stages for Department review.

15. Submit a certification letter (Form LPA-008), including all items noted, to the Department when requesting authority to advertise the Project for construction bids.

16. Advertise for bids in accordance with federal procedures as shown in Form LPA-010. **NOTE: FHWA authorization and Department approval must be given prior to advertising for construction bids.**

17. Forward a copy of all addenda issued for the Project during the advertisement to the Department.

18. After bids are opened and reviewed, submit a Certification Letter Requesting Concurrence in Award (Form LPA-013), including all items noted, to the Department.

19. Prior to awarding the construction contract, submit a check for $1,000 (20%) to be matched by $4,000 (80%) Federal-aid funds for Department administrative costs on the Project during construction. The Sponsor's final share of cost for this phase will be determined by actual Department charges to construction engineering.

20. Prior to issuing the notice to proceed to the Contractor, the Sponsor must hold a pre-construction meeting with the Contractor and **must invite the Department's Resident Engineer assigned to the Project.**

21. Ensure that all work, material testing and acceptance, and inspection is conducted in accordance with the Department's Standard Specifications for Highway Construction (latest

edition), Manual of Field Sampling and Testing Procedures, and Resident Engineer's Manual and with the plans, specifications, and all other applicable FHWA and Department procedures for the Project.

22. Make periodic payments to the consultant for construction engineering for the Project and request reimbursement from the Department. Reimbursement requests should be submitted, at minimum, every three (3) months and not more than once per month.

23. Make payments to the contractor for work accomplished in accordance with the plans and specifications and then request reimbursement from the Department on the Construction Certification and Reimbursement Request (CCRR) form (Form LPA-014). Reimbursement requests should be submitted, at minimum, every three (3) months and not more than once per month.

24. Attach LPA Report of Daily Work Performed (Form LPA-015) for all days that correspond with each CCRR submittal.

25. Prior to executing the work, submit change orders (Form LPA-022) to the contract to the Department's Resident Engineer assigned to the project for review and approval for program eligibility.

26. Upon completion of the Project, hold a final acceptance meeting for the Project and submit the LPA Final Acceptance Report form certifying that the Project was accomplished in accordance with the plans and specifications (Form LPA-016). This form must be signed by the engineer performing construction inspection on the Project, the Department's Resident Engineer assigned to the project, the Sponsor's full-time employee in responsible charge, and the Sponsor's CEO.

27. Maintain accounting records to adequately support reimbursement with Federal-aid funds and be responsible for the inspection, measurement and documentation of pay items, and certification of all work in accordance with the plans and specifications for the Project and for monitoring the Contractor and subcontractor(s) for compliance with the provisions of FHWA-1273, Required Contract Provisions, Federal-aid Construction Contracts, and Supplements.

28. Pay all unpaid claims for all materials, labor, and supplies entered into contingent or incidental to the construction of said work or used in the course of said work including but not limited to materials, labor, and supplies described in and provided for in Act Nos. 65 and 368 of 1929, Act No. 82 of 1935, and Acts amendatory thereof.

29. Agree that any and all claims for damages to property or injury to persons caused by any act or omission, negligence, or misconduct from the performance of work by the Sponsor's contractor on the Project shall be the sole responsibility of the Sponsor's contractor and in this regard the Sponsor shall require the contractor on the Project to procure and maintain a General Public Liability Insurance Policy during the duration of the Project which shall be endorsed to include broad form general liability and complete operations coverage on the Project. The contractor shall furnish the Sponsor with documentation of proof of liability insurance coverage with submission of the signed contract.

30. Agree that any claims, liability, costs, expenses, demands, settlements, or judgments arising from misconduct or the negligent acts or omissions of the Sponsor, its employees, agents or contractors in the performance of the Project and this Agreement must be presented to the Sponsor. Further, the Sponsor by acceptance of this grant, agrees that the Department and the Arkansas State Highway Commission, as the pass-through entity, have no duty or responsibility for the design, construction, maintenance or operation of the Project that is the subject of this grant, and, therefore shall have no liability related to the design, construction, maintenance or operation of the Project. The Sponsor also agrees to assume all risks associated with the work to be performed by its agents, employees, and contractors under this grant and Agreement and the Department and the Arkansas State Highway Commission, as the pass-through entity, shall not be responsible or liable for any damages whatsoever from the actions of the Sponsor, its employees, agents and contractors.

31. Assure that its policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, religion, sex, national origin, age, or disability in compliance with the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, The Americans with Disabilities Act of 1990, as amended, and Title 49 of the Code of Federal Regulations Part 21 (49 CFR 21), Nondiscrimination in Federally-Assisted Programs of the Department of Transportation.

32. Retain all records relating to inspection and certification, the Contractor's billing statements, and any other files necessary to document the performance and completion of the work in accordance with requirements of 2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Form LPA-017).

33. Grant the right of access to the Sponsor's records pertinent to the Project and the right to audit by the Department and Federal Highway Administration officials.

34. Be responsible for 100% of all project costs incurred:

    - should the Project not be completed as specified;
    - should the Project be declared non-participating in federal funds, including any such award by the State Claims Commission; or
    - not provided by the Federal Highway Administration.

35. Sign and transmit to the Department the Certification for Grants, Loans, and Cooperative Agreements (Form LPA-018), which is necessary for Project participation.

36. Repay to the Department the federal share of the cost of any portion of the Project if, for any reason, federal participation is removed due to actions or inactions of the Sponsor, its agents, its employees, or its assigns or the Sponsor's consultants or contractors or their agents. Such actions or inactions shall include, but are not limited to, federal non-participation arising from problems with design plans, specifications, construction, change orders, construction inspection, or contractor payment procedures. The Sponsor understands and agrees that the Department may cause necessary funds to be withheld from the Sponsor's Motor Fuel Tax allotment should the Sponsor fail to pay to the Department any required funds, fail to complete the Project as specified, or fail to adequately maintain or operate the Project.

37. Retain total, direct control over the Project throughout the life of all project improvements outside of the Department's right-of-way and **not, without prior approval from the Department:**
    - sell, transfer, or otherwise abandon any portion of the Project;
    - change the intended use of the Project;
    - make significant alterations to any improvements constructed with Federal-aid funds; or
    - cease maintenance or operation of a project due to the Project's obsolescence.

38. Be responsible for satisfactory maintenance and operation of all improvements and for adopting regulations and ordinances as necessary to ensure this. Failure to adequately maintain and operate the Project in accordance with Federal-aid requirements may result in the Sponsor's repayment of federal funds and may result in withholding all future Federal-aid.

39. Submit to the Department a Single Audit in accordance with the Office of Management and Budget (OMB) Circular A-133 each fiscal year that the Sponsor expends more than $500,000 of Federal-aid from any federal source including, but not limited to, the U.S. Department of Transportation. The fiscal year used for the reporting is based on the Sponsor's fiscal year. The $500,000 threshold is subject to change after OMB periodic reviews.

40. Promptly notify the Department if the Project improvements outside of the Department's right-of-way are rendered unfit for continued use by natural disaster or other cause.

41. Complete and transmit to the Department both pages of the Federal Funding Accountability and Transparency Act (FFATA) Reporting Requirements (Form LPA-019).

42. After each quarter of the calendar year, complete and transmit to the Department the LPA Project Quarterly Report Form (Form LPA-020) until the project is complete.

THE DEPARTMENT WILL:

1. Maintain an administrative file for the project and be responsible for administering Federal-aid funds.
2. Review environmental documentation as prepared by the Sponsor.
3. Review plans and specifications submitted by the Sponsor.
4. Notify the Sponsor when right-of-way and/or utility plans are approved and the Sponsor may proceed with right-of-way acquisition and/or utility adjustments.
5. Upon receipt of the Sponsor's certification of right-of-way (property) ownership, provide the appropriate documentation to the file.
6. Ensure substantial compliance with federal contracting requirements through review of the bidding proposal for inclusion of required federal forms, review of the administration of the DBE program provisions, and general compliance with 23 CFR 635.
7. Advise the Sponsor when to proceed with advertisement of the Project for construction bids.
8. Review bid tabulations and concur in award of the construction contract for the Project.
9. Ensure that the Sponsor and the Sponsor's consultant provide adequate supervision and inspection of the Project by performing periodic inspections with the Sponsor's representatives and their consultant to verify that the work being performed by the Sponsor's contractor, and documented and certified by the Sponsor, meets the requirements of the Project plans, specifications, and all applicable FHWA and Department procedures. The Department intends to perform these inspections, at a minimum, when the construction work is approximately 10% and 50% completed. The Department will also participate in the final inspection of the Project.
10. Review and approve any necessary change orders for project/program eligibility.
11. Reimburse the Sponsor 80% (Federal-aid share) for eligible construction costs approved in the CCRR form (Form LPA-014). This reimbursement will be limited to the maximum Federal-aid amount and to the federal amount available at the time payment is requested. If the payment requested exceeds the Federal-aid available at the time, the difference will be reimbursed as additional Federal-aid for the Project becomes available.
12. Subject to the availability of Federal-aid allocated for the Project, pay the Sponsor the remaining amount due upon completion of the Project and submittal of the certified LPA Final Acceptance Report form (Form LPA-016).
13. Provide all form updates via email to the contact as shown on Form LPA-005.
14. Be reimbursed for costs involved in performing all the services listed above.

IT IS FURTHER AGREED that the Department reserves the right to cancel the Project without liability against the Department for any reason including, but not limited to, unreasonable delay or lack of progress, the Sponsor is unable to provide an audit-worthy reason for the substantial delay in the project development or completion process, or the Sponsor is unresponsive to the Department's requests.

IT IS FURTHER AGREED that should the Sponsor fail to fulfill its responsibilities and assigned duties as related in this Agreement, such failure may disqualify the Sponsor from receiving future Federal-aid highway funds.

IT IS FURTHER AGREED, that should the Sponsor fail to pay to the Department any required funds due for project implementation or fail to complete the Project as specified in this Agreement, or fail to adequately maintain or operate the Project, the Department may cause such funds as may be required to be withheld from the Sponsor's Motor Fuel Tax allotment.

IN WITNESS WHEREOF, the parties thereto have executed this Agreement this 22 day of July, 20 22

ARKANSAS DEPARTMENT OF TRANSPORTATION	THE CITY OF BENTONVILLE
[redacted]	[redacted]
Lorie H. Tudor, P.E. Director	Stephanie Orman Mayor
Jow W	[redacted]
	George Spence City Attorney

All Forms referenced in this Agreement are available in digital format on the Department's webpage www.ardot.gov/lpa.

ARKANSAS DEPARTMENT OF TRANSPORTATION
NOTICE OF NONDISCRIMINATION

The Arkansas Department of Transportation (Department) complies with all civil rights provisions of federal statutes and related authorities that prohibit discrimination in programs and activities receiving federal financial assistance. Therefore, the Department does not discriminate on the basis of race, sex, color, age, national origin, religion (not applicable as a protected group under the Federal Motor Carrier Safety Administration Title VI Program), disability, Limited English Proficiency (LEP), or low-income status in the admission, access to and treatment in the Department's programs and activities, as well as the Department's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Department's nondiscrimination policies may be directed to Joanna P. McFadden Section Head - EEO/DBE (ADA/504/Title VI Coordinator), P. O. Box 2261, Little Rock, AR 72203, (501) 569-2298, (Voice/TTY 711), or the following email address: joanna.mcfadden@ardot.gov.

Free language assistance for Limited English Proficient individuals is available upon request.

This notice is available from the ADA/504/Title VI Coordinator in large print, on audiotape and in Braille.

Form LPA-001

GENERAL REQUIREMENTS
FOR
RECIPIENTS AND SUB-RECIPIENTS
CONCERNING DISADVANTAGED BUSINESS ENTERPRISES

It is the policy of the U. S. Department of Transportation that disadvantaged business enterprises (DBEs) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this Agreement.

The recipient or its contractor agrees to ensure that DBEs as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

If as a condition of assistance the recipient has submitted and the Department has approved a disadvantaged business enterprise affirmative action program, which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program, the Department shall impose such sanctions as noted in 49 CFR Part 26, Subpart F, which sanctions may include termination of the Agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance.

The recipient shall advise each sub-recipient, contractor or subcontractor that failure to carry out the requirements set forth in 49 CFR Part 26, Subsections 26.101 and 26.107 shall substitute a breach of contract and after the notification of the Department, may result in termination of the agreement or contract by the recipient or such remedy as the recipient deems appropriate.

(NOTE: Where appropriate, the term "recipient" may be modified to mean "sub-recipient", and the term "contractor" modified to include "subcontractor".)

LOCAL AGENCY

CONSULTANT SELECTION PROCEDURES

Section I – Application *(These procedures do not apply to Design-Build Contracts.)*

These procedures apply to federally and state funded contracts for engineering and design related services for projects and are issued to ensure that a qualified consultant is obtained through an equitable qualifications-based selection procurement process and that the prescribed work is properly accomplished in a timely manner at a fair and reasonable cost.

Engineering and design related services are defined in 23 Code of Federal Regulations (CFR) Part 172 to include program management, construction management, preliminary engineering, design engineering, surveying mapping, or architectural related services with respect to a highway construction project. These services also include professional services of an architectural or engineering nature, as defined by State law, which are required to or may logically or justifiably be performed or approved by a person licensed, registered, or certified to provide the services with respect to a highway construction project. Contracts for these services that are paid with Federal-aid highway program (FAHP) funding will be awarded following these selection procedures.

The federal laws and regulations that govern the procurement of engineering and design related services with FAHP funds are:

- 23 United States Code (U.S.C.) 106 "Project approval and oversight"
- 23 U.S.C. 112 "Letting of contracts"
- 23 U.S.C. 114(a) "Construction Work In General"
- 23 U.S.C. 302 "State transportation department"
- 23 U.S.C. 315 "Rules, regulations, and recommendations"
- 23 U.S.C. 402 "Highway safety programs"
- 40 U.S.C. Chapter 11 – Selection of Architects and Engineers, §§1101 *et seq.*, commonly called the "Brooks Act"
- 2 CFR Part 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"
- 23 CFR Part 172 "Procurement, Management, and Administration of Engineering and Design Related Services"
- 48 CFR Part 31 "Contract Cost Principles and Procedures"
- 49 CFR Part 1.48(b) "The Federal Highway Administrator is delegated authority to administer the following provisions of title 23, Highways, U.S.C."

In accordance with the above federal laws and regulations, the Arkansas Department of Transportation (Department) has approved these procedures for use by the Local Agency for the "competitive negotiation" (qualifications-based selection) method of procurement as defined in 23 CFR §172.7, Procurement Methods and Procedures that complies with the Brooks Act (40 U.S.C. §§1101, *et seq.*).

The Local Agency will use these procedures for Federal-aid contracts and may elect to use them for non-Federal-aid contracts.

Section II – Advertisement for Letters of Interest

The Local Agency may employ a consultant engineering firm when a need exists for engineering services, and it is in the Local Agency's best interest to employ an engineer or engineering firm.

As a minimum, the Local Agency will advertise in a statewide newspaper, the Department's website and the Local Agency's website (if available), advising that consultant engineering services are being sought. In addition, the Local Agency may advertise in appropriate national trade magazines or websites for specialized services.

Interested firms must furnish:

1. A cover letter with the firm's response including primary contact information.
2. The firm's completed Architect-Engineer Qualifications Standard Form (SF) 330 Parts I and II (48 CFR §53.236-2(b)). (SF 330 is available on the Department's website.) http://arkansashighways.com/consultant_services/advertisements/advertisements.aspx
3. A current copy of the firm's equal employment opportunity policy required per Arkansas Code Annotated (Ark. Code Ann.) §19-11-104.
4. The firm's current copy (within 12 months) of the Department and Finance and Administration (DFA) Illegal Immigrant Contractor Disclosure Form (Ark. Code Ann. §19-11-105). https://www.ark.org/dfa/immigrant/index.php/user/welcome

Advertisements may be for either a specific single project; a group of projects; or for an on-call or indefinite delivery/indefinite quantity (IDIQ) for an established contract period (not to exceed 5 years), to be determined at a later date with specific task orders issued for each project. (23 CFR §172.9(a))

When advertising a specific project, the advertisement will describe the work in general terms allowing firms to evaluate their interest in performing the desired services.

When advertising a group of projects, a general description of work will be furnished. Firms will be asked to specify the projects they are interested in performing. When the Local Agency decides to proceed with a certain project, those firms having expressed interest in that project will be considered for selection.

When advertising for an on-call / IDIQ projects with later specified task orders, the advertisement will include a general description of work for the project task and the number of consultants anticipated to be selected.

If a solicitation fails to yield three qualified respondents, then the Local Agency may proceed with evaluation and selection if the Local Agency and the Department determines that the solicitation did not contain conditions or requirements that arbitrarily limited competition. Alternatively, the Local Agency may pursue procurement following the noncompetitive method when competition is determined to be inadequate and it is determined to not be feasible or practical to re-compete under a new solicitation. (23 CFR §172.7(a)(1)(iv)(D))

Solicitations will include language to comply with state procurement laws, rules, and regulations including but not limited to Ethical Standards (Ark. Code Ann. §19-11-708), Employee and Relative Disclosure, and Equal Opportunity Policy.

Interested firms are advised that in order to comply with state and federal requirements that the Local Agency will verify suspension and debarment actions and eligibility status of consultants in accordance with 2 CFR Part 1200 and 2 CFR Part 180.

Ark. Code Ann. §§19-11-701 through 19-11-714 addresses ethics and conflicts of interest. Federal regulations about conflicts of interest are described in 2 CFR §200.112, 23 CFR §1.33, and provisions of 23 CFR §172.7(4). No Local Agency employee may participate in selection, award or administration of a contract in which the Local Agency employee or any member of his or her immediate family has a financial, prospective financial, or other interest. Additionally, in accordance with Ark. Code Ann. §19-11-704(b) it is a breach of ethical standards for any person, including potential consultants, or parties to subagreements to engage in any conduct or behavior with other consultants, contractors, cities, counties, state agencies, or metropolitan/local planning organizations that may influence any public employee to breach the standards of ethical conduct provided by state and federal laws.

Section III – Selection Committee

The Local Agency will designate a Selection Committee (Committee) to evaluate and analyze the letters of interest (LOI) and proposals.

Section IV – Evaluation of Letters of Interest

The Committee will evaluate each consultant firm based on the criteria provided in the detailed LOIs in general as follows:

No.	Evaluation Factors for LOIs	Maximum Points Possible
1	Professional staff including the education, experience, number of personnel available, and any partnerships with sub-consultants	10
2	General and professional reputation, including responsiveness to civil rights and equal employment opportunity requirements and opportunities	10
3	*Past work performance	10
4	Experience with projects of a similar nature as those advertised	10
	Total Points for LOI	40

*Past performance or evaluations from other clients will be considered when the firm has not worked for the Local Agency previously.

Following their review, the Committee will prepare a short list (minimum of three) of the top ranked engineering firms and recommend that these firms submit detailed proposals for further evaluation.

Section V – Request for Proposal

The Local Agency will prepare a scope of work statement and request proposals from the engineering firms on the short list. For projects with FHWA oversight, which are identified by FHWA as Projects of Division Interest (PoDI) projects, the Local Agency will forward the scope of work statement to the Department and FHWA for review and approval before soliciting request for proposals (RFPs). A Local Agency's scope of work will typically include the following:

1. A detailed purpose and description of the work,
2. Services that will be furnished by the Local Agency,
3. Services that will be furnished by the consultant,
4. Deliverables to be provided,
5. Project conditions of the work,
6. Schedule for performance of the work,
7. Special conditions of the work including applicable standards, specifications, and policies, and
8. Assurance of participation of certified Disadvantaged Business Enterprises (DBE) in Federal-aid projects as Department goals for the Project are established.

The short-listed firms should submit proposals that contain the following:

1. A cover letter with primary contact information,
2. A detailed work plan that identifies the major tasks of work,
3. A list of major concerns associated with completing the work,
4. A detailed work schedule for specific projects as requested,
5. A manpower estimate for specific projects as requested, and
6. Updated Standard Form 330 Parts I and II, if necessary.

The Committee will review the proposals with particular attention to the five (5) listed evaluation factors for the proposals and will also consider the results determined in Section IV. The evaluation factors and their relative importance will be listed in the RFP if any of the factors are different from the list below.

No.	Evaluation Factors for Proposals	Maximum Points Possible
1	Obvious indication that the scope of work is clearly understood	20
2	Comprehensive, coherent, and detailed work plan	20
3	Realistic work schedule when applicable	10
4	Proposed working office location, need for a local office, and any local representative*	5
5	Identification of sub-consultants and responsiveness to DBE goals and opportunities	5
6	Total Points for LOI	40
	Total Points for Proposals	100

*Locality preference shall not be based on political or jurisdictional boundaries and may be applied on a project-by-project basis for contracts where a need has been established for a consultant to provide a local presence, a local presence will add value to the quality and efficiency of the project, and application of this criteria leaves an appropriate number of qualified consultants, given the nature and size of the project. (Consultants indicating that it will satisfy this factor in some manner, such as establishing a local project office, shall be considered to have satisfied this factor.)

Based on these evaluation factors, the Committee will rank the consultants based on the total score and submit the list to the Local Agency who will either:

1. Select one (1) firm to enter negotiations with; or
2. Select
   a. Multiple firms for an IDIQ contract; or
   b. Three or more firms to interview (a firm may present additional information concerning their proposal at the interview). After the interviews, the Committee will re-evaluate the firms based on the interview and the same evaluation factors as noted previously. The ranking list will be submitted to the Local Agency for review and final selection.

The Local Agency's contract file will contain records of the rankings and supporting data; however, the rankings will not be public information. Copies of the LOI advertisement, the rankings, and supporting data shall be submitted to the Department.

Notification must be provided to all responding consultants of the final selection of the most qualified consultant including the ranking of the top three consultants on projects where only one consultant is selected.

Section VI – Negotiation and Contract Preparation

Once a firm is selected for negotiation for a specific job or a group of projects, it will prepare a draft contract including a cost estimate for the project(s). The other firms on the short list will be advised of the firm selected, subject to successful negotiations. Prior to receipt or review of the draft contract and cost estimate, the Local Agency shall prepare a detailed independent estimate with an appropriate breakdown of the work or labor hours, types or classifications of labor required, other direct cost and consultant's fixed fee for the defined scope of work. The independent estimate shall serve as the basis for negotiation to ensure a fair and reasonable cost is obtained.

More than one firm may be selected for an on-call or IDIQ contract. The contract will establish a maximum ceiling price for work issued under the contract as well as an expiration date not to exceed 5 years, per 23 CFR Part 172. Individual task order cost estimates will be negotiated when issued.

The selected firm will prepare a draft contract based on a sample contract furnished by the Department. In accordance with the principles of 23 CFR 172, the draft contract must include an overhead rate that is approved by the Department. If the contract exceeds $250,000, in accordance with the Department's Indirect Cost Rate Audit Requirements, the indirect cost rate shall be verified through an audit performed by a certified public accountant on behalf of the consultant. If the contract is less than $250,000, and at least one of these conditions applies:

1. When there is insufficient knowledge of the consultant's accounting system
2. When there is previous unfavorable experience regarding the reliability of the consultant's accounting system
3. When the contract involves procurement of new equipment or supplies for which cost experience is lacking

then the Consultant shall provide the indirect cost rate verified through an audit performed by a certified public accountant on behalf of the consultant. The certified audit shall be provided by the selected firm prior to the submission of the final draft contract.

Pursuant to this requirement, the Department will notify the Local Agency if an audit by a certified public accountant for the selected firm is necessary. The certified audit needs to be provided by the selected firm prior to the submission of the final draft contract.

The Local Agency will review the draft contract proposal and either approve it as submitted or enter into negotiations with the selected firm to establish a contract and contract ceiling price that the Local Agency deems is fair and reasonable. If a satisfactory contract cannot be negotiated with the selected firm, negotiations will be formally terminated. The Local Agency will then enter into negotiations with the second ranked firm. If negotiations with that firm fail, the Local Agency will formally terminate those negotiations and begin to negotiate with the third ranked firm, and so on. If the Local Agency cannot negotiate a satisfactory contract with any of the firms on the short list, the Local Agency shall either:

1. Request proposals from additional firms who have submitted LOIs and are considered competent and qualified; evaluate and rank the firms based on the criteria described in Section V; and continue the negotiation process, or
2. Terminate all negotiations and begin the selection process again, or
3. Pursue procurement following the noncompetitive method when competition is determined to be inadequate and it is determined to not be feasible or practical to re-compete under a new solicitation. (23 CFR §172.7(a)(1)(iv)(D))

When the Local Agency and the consultant agree the negotiated contract is fair and reasonable, the consultant will prepare a final draft and submit it to the Local Agency and the Department for review. After review and a determination that it is acceptable, the consultant will sign the contract. The Local Agency will then execute the contract. The contract will subsequently be submitted to the Department for final review and approval including funding. When approved, copies of the signed contract will be distributed within the Local Agency and to the consultant.

For projects with FHWA oversight and for on-call or IDIQ contracts where the consultant performs a management role utilizing federal funds, the Department will forward the initial and final drafts of the contract to FHWA for review and comment. The FHWA approves the final executed contract by stamp and signature and retains a copy.

After the Local Agency executes an on-call or IDIQ contract, it will assign specific projects by task order for the duration of the contract period. The consultant will prepare each task order based on the scope of work furnished by the Local Agency. The task order will include a manpower estimate and cost. The Local Agency will review the task order and approve it as submitted or negotiate with the consultant to establish a task order and task order amount that the Local Agency deems is fair and reasonable. After review and a determination that the task order is acceptable, the consultant will sign the task order. The Local Agency will then execute the task order. The task order will subsequently be submitted to the Department for final review and approval including funding. When approved, copies of the signed task order will be distributed within the Local Agency and to the consultant.

For PoDI projects, the Department will forward the initial and final drafts of the task order to FHWA for review, comment, and approval. Upon FHWA approval, the final task order is executed.

Section VII – Monitoring the Contract

The Local Agency may designate staff members as key liaisons for specific projects or for technical matters during the administration of the contract period.

The Local Agency will:

1. Maintain the contract files,
2. Arrange and attend periodic progress meetings,
3. Coordinate reviews and approval actions with other agencies when necessary,
4. Review progress payments,
5. Coordinate questions from the consultant,
6. Negotiate any change or amendment to the contract and submit to the Department for review and approval, and
7. Prepare an evaluation of the consultant's performance after completion of the contract. A copy of the evaluation shall be submitted to the Department.

Section VIII – Consultant Liability

The Local Agency will include a contract requirement that the consultant will warrant that all services and work products provided as part of the contract are performed in accordance to the prevailing industry standards, including standards of conduct and care, format and content, meet the satisfaction of the Local Agency, and conform to the requirements of the Agreement. This warrant is effective regardless of the degree of inspection and acceptance by the Local Agency or others.

If the consultant is required to correct or re-perform any work or services, the work will be performed at no cost to the Local Agency, and any work or services corrected or re-performed by the consultant shall also be warranted that it is free from defects in workmanship in accordance with industry standards. If the consultant fails or refuses to correct or re-perform, the Local Agency may, by contract or otherwise, correct or replace the deficient items or services with similar work or services, and charge the cost to the consultant or make an equitable adjustment in the consultant's reimbursement.

Acceptance is an act of an authorized representative of the Local Agency by which the Local Agency approves specific services, as partial or complete performance of the contract. Correction is the elimination of a defect.

REQUIRED CONTENTS OF BIDDING PROPOSALS
FEDERAL-AID PROJECTS

1) **FHWA-1273**

Each set of contract documents shall include FHWA-1273, "Required Contract Provisions, Federal-aid Construction Contracts," and such supplements that may modify the FHWA-1273. Copies of FHWA-1273 and supplements will be provided by the Department.

2) **Anti-Collusion and Debarment Certification**

The certification shall either be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the State to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the law of the United States. The required form for the Anti-Collusion and Debarment Certification will be provided by the Department. The certification includes:

- Anti-collusion - A statement executed by, or on behalf of the person, firm, association, or corporation submitting the bid certifying that such person, firm, association, or corporation has not, either directly or in-directly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted bid.

- Debarment - A statement regarding debarment, suspension, ineligibility and voluntary exclusion as required by Title 2 of the United States Code of Federal Regulations, Part 180 (2 CFR Part 180).

Failure to submit the executed Certification as part of the bidding documents will make the bid nonresponsive and not eligible for award consideration.

3) **Lobbying Certification**

This certification is required by 49 CFR 20. The form for this certification will be provided by the Department.

4) **Davis-Bacon Pre-determined Minimum Wage Rates**

Davis-Bacon requirements apply to all projects greater than $2,000 that are physically located within the existing right-of-way of a functionally classified city street or highway. The Davis-Bacon wage rates will be provided by the Department.

5) **"Buy America" Provisions**

Because federal highway funds are included in this project, "Buy America" requirements, as specified in Title 23 of the United States code Section 313 and Title 23 of the code of Federal Regulations Section 635.410, apply to this project. This requirement applies to all iron and steel products used on the project. A section of the bidding documents should specify these requirements as part of the project and it should at least be noted in the advertisement for bids.

Form LPA-005

THE CITY OF BENTONVILLE

June 1, 2022

Ms. Jessie Jones
Division Engineer – Program Management
Arkansas Department of Transportation
P. O. Box 2261
Little Rock, AR 72203

Re: Highway 12/Highway 279 Intersection
Improvements Project
Benton County

Dear Ms. Jones:

The full-time employee in responsible charge of the day to day oversight for the referenced project will be Dennis Birge, Transportation Director of City of Bentonville. This letter certifies that the employee is aware of the duties and functions they are in charge of as outlined in the Agreement of Understanding. This employee may be reached by phone at 479-271-5964 or by email at dbirge@bentonvillear.com.

Sincerely,

[redacted]

Stephanie Orman
Mayor, City Of Bentonville

SPONSOR LETTERHEAD

JOB NUMBER
JOB NAME
COUNTY

Title to the right of way necessary for the construction of this project has been acquired, *or will be acquired*, in accordance with applicable Federal Highway Administration procedures.

↓ indicate total number in each category here. Delete any categories not used in this job.

___ Tract(s)
___ Options(s)
___ Paid
___ Donation(s)
___ Negotiation Pending* - include tract number(s) and statement: *"It is anticipated that this/these tract(s) will be acquired by (date)."*
___ Condemnation(s) – (include Order of Possession date or date the Court Order was filed)
___ Condemnation(s) Pending* - include tract number(s) and anticipated filing date

* If applicable

↓delete the statement in each pair that does not apply
There are no displacees on this project.

-Or-

Relocation Assistance has been provided in accordance with applicable Federal Highway Administration procedures and all displacees have moved from this project. There was/were # displaced (residence(s)/business(es)/personal property/etc) on the project.

There are no structures located within the right of way area.

-Or-

All structures have been removed from this project, except for those to be included as demolition items in the highway contract.

No conflicting utilities are known to exist in the right of way area.

-Or-

Necessary utility relocation has been, or will be, completed as shown in the attached Utility Status Report.

There are no railroads involved on this project

-OR-

Tract(s) #___ shown above include(s) #____ (Permanent/Temporary Construction Easements) for __________ Railroad.

No right of way in excess of that needed for construction or future maintenance of this project was acquired.

Certified by:__________________________ Date:______________
(Type name)
(Type title)

Form LPA-007

SPONSOR LETTERHEAD

JOB NUMBER
JOB NAME
COUNTY

Title to the right of way necessary for the construction of this project was in public ownership prior to project development. No additional right of way was acquired.

There are no displacees on this project.

There are no structures located within the right of way area.

There are no railroads involved on this project.

No known conflicting utilities exist within the right of way area.

Certified by:_______________________ Date:_____________
(Type name)
(Type title)

Form LPA-008

PLEASE PRINT ON SPONSOR LETTERHEAD
CERTIFICATION LETTER
REQUESTING AUTHORITY TO ADVERTISE

DATE

Mr. Rex Vines
Deputy Director and Chief Engineer
Arkansas Department of Transportation
P. O. Box 2261
Little Rock, AR 72203

Re: ***Job #***
Job Name
County

Dear Mr. Vines:

The following documents are submitted concerning the referenced project:

1. One set of plans and specifications.
2. A copy of the preliminary estimate of cost.
3. An unexecuted copy of the bid proposal form.

I certify that the plans, specifications and estimate were prepared by or under the direct supervision of a Professional Engineer licensed to practice in the State of Arkansas and that the plans and specifications comply with the Americans with Disabilities Act (ADA), the American Association of State Highway and Transportation Officials (AASHTO) design standards, and all other applicable state and federal regulations, including airport clearance when necessary, for the type of work involved.

I understand that if any project items are declared non-participating in federal funds due to failure to comply with any State or federal requirements, the ***(Sponsor Name)*** will promptly repay such funds to the Arkansas Department of Transportation (ARDOT). Further, I hereby authorize the Director of the Arkansas State Department of Finance and Administration to transfer such funds from the ***(Sponsor Name)'s*** Motor Fuel Tax allotment to the ARDOT's RRA Fund upon notification by the ARDOT Director of that such funds are due ARDOT and have not been paid by the ***(Sponsor Name)***.

Approval to proceed with advertisement of the project for bids is requested.

Sincerely,

NAME & OFFICE
(Sponsor's CEO)

Enclosures

GUIDELINES FOR ADVERTISING AND OPENING BIDS
FEDERAL-AID PROJECTS

Upon receipt of written authorization from the Arkansas Department of Transportation (Department), the project may be advertised for bids. The following minimum guidelines for advertising must be met:

- The minimum advertising period is three weeks (21 days).
- In addition to meeting the State requirements for advertising for construction projects, the project must be advertised a minimum of two times in a statewide newspaper (online or print versions are acceptable).
- The notice must contain: (1) the time, date, and place that sealed bids are to be accepted, opened, and publicly read; (2) a brief description of the kind or type of work contemplated; and (3) the place at which prospective bidders may obtain plans and specifications.
- The Sponsor will forward a copy of the approved advertisement to the Department once advertisement starts. Any addenda will also be sent to the Department during the advertisement period.
- The Sponsor will include the following language in the solicitation for bids:

  "The **(INSERT SPONSOR NAME)** hereby notifies all bidders that this contract is subject to applicable labor laws, non-discrimination provisions, wage rate laws and other federal laws including the Fair Labor Standards Acts of 1938. The Work Hours Act of 1962 and Title VI of the Civil Rights Act of 1964 also apply."

  "'Buy America' provisions apply to this project."

  "Registration and good standing in the System for Award Management (SAM) will be required prior to contract execution."

- All bids received in accordance with the terms of the advertisement shall be publicly opened and at a minimum, the total amount bid must be read aloud (the sponsor may choose to read the bids item by item).
- If any bid received is not read aloud, the name of the bidder and the reason for not reading the bid aloud shall be publicly announced at the letting.
- In accordance with 23 CFR 635.110, any procedures and requirements for qualifying and licensing contractors must be approved by the Federal Highway Administration.
- **Negotiation with contractors during the period following the opening of bids and before the award of the contract is strictly prohibited.**

PLEASE PRINT ON SPONSOR LETTERHEAD
CERTIFICATION LETTER
REQUESTING CONCURRENCE IN AWARD OF THE CONTRACT

DATE

Mr. Rex Vines
Deputy Director and Chief Engineer
Arkansas Department of Transportation
P. O. Box 2261
Little Rock, AR 72203

Re: ***Job #***
Job Name
County

Dear Mr. Vines:

The following documents are submitted concerning the referenced project:

1. One set of bid tabulations.
2. Justification of award (if low bid amount is greater than 10% over the estimate).
3. A check for $1,000 for ARDOT construction involvement.

I certify that the referenced project was advertised and bids were received in accordance with the regulations governing Federal-aid projects and all other applicable state and federal regulations, and that this process has been reviewed and approved by the ***(Sponsor Name)*'s** Attorney. Additionally, I certify that the bid is being awarded to the lowest responsive and qualified bidder and that there has not been, nor will there be, any negotiations with the contractor or other bidders regarding the amount bid.

Your concurrence in the award of this contract to ***(INSERT CONTRACTOR NAME)*** for ***(INSERT LOW BID AMOUNT)*** is requested.

Sincerely,

____
Sponsor's CEO

____
Sponsor's Attorney

Enclosures

Revised: 12/11/20

CONSTRUCTION CERTIFICATION AND REIMBURSEMENT REQUEST

PAGE 1 OF 2 PAGES

Job No.: ______
FAP: ______
County: ______
Job Name.: ______

Payee/Sponsor: ______
address ______

Federal Tax ID No.: ______

DATE: ______
PAY REQUEST # ______
FROM: ______ TO: ______

SPONSOR'S REQUEST FOR PAYMENT

1 Maximum Approved Federal-aid Amount ______

2 Original Contract Amount ______
3 Net Changes by Change Orders ______
4 Present Contract Total ______

5 Present Federal-aid Amount (80% of Line 4 or Amount on Line 1, whichever is less) ______
6 Work Completed to Date ______

7 Federal Match (80% of Line 6 or amount on Line 5, whichever is less) ______
8 Previous Reimbursements (Federal) ______

9 ***Amount Due this Estimate*** (subtract Line 8 from Line 7) ______

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes previously approved		
Total approved this Request Period		
TOTALS		
NET CHANGES by Change Order (Line 3 above)		

Designated Full Time Employee In Responsible Charge

The information provided in this document is true and correct and I recommend that payment be made to the Contractor for this work.

By: ______ Date: ______

Title: ______

Sponsor's CEO

Payment is requested from the Arkansas Department of Transportation for the Amount Due. I certify that the Contractor and/or subcontractor(s) are complying with the provisions of FHWA-1273, Required Contract Provisions, Federal-aid Construction Contracts, and Supplements; that the work has been completed by the Contractor in accordance with the plans and specifications; and that the Contractor has been paid for this work.

By: ______ Date: ______

Title: ______

DEPARTMENT USE ONLY

Recommended for Payment in Accordance with Project Agreement	Approved for Payment	PAID
______ Resident Engineer	______ State Construction Engineer	Voucher No. ______ Date:

Form LPA-014

CONSTRUCTION CERTIFICATION AND REIMBURSEMENT REQUEST

Revised: 12/11/20

DETAIL ESTIMATE

PAGE 2 OF 2 PAGES

JOB NUMBER: ____________

FAP: ____________

JOB NAME: ____________

SPONSOR: ____________

REQUEST NO: ____________ DATE: ____________

FROM: ____________ TO: ____________

CONTRACTOR: ____________

A	B	C	D	E	F	G	H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STOCKPILED (NOT IN D or E)	TOTAL COMPLETED & STOCKPILED TO DATE (D+E+F)	% COMPLETED (G ÷ C)	BALANCE TO FINISH (C - G)
			PREVIOUS REQUESTS	THIS PERIOD				
	GRAND TOTALS							

Form LPA-014

Form LPA-015

Sponsor
LPA Report of Daily Work Performed

Job Name: ______________________________ Job No.: ____________

FAP No.: __________________ Contractor: ______________________

Date: __________ Hours Worked: _____ – _____ Report No.: _____

Project Conditions

Site Conditions	Weather	Number of Contractor's Personnel
____ Useable	____ Sunny	____ Laborers
____ Partly Useable	____ Partly Cloudy	____ Carpenters
____ Not Useable	____ Rain	____ Concrete Laborers
Min Temp. (F) ____ Max Temp. (F) ____	Rainfall Amt. (in.) ____	____ Equip. Operators
Comments		____ Electricians
		____ Plumbers
		____ Foreman
		____ Other __________
		____ Other __________

Location and Description of Work Performed

Special Instructions and/or Conversations

Signed: ______________________________
Designated Full-time Employee

Form LPA-016

SPONSOR
LPA Final Acceptance Report

Job Name:		**Date:**
Job No:	**FAP No:**	
County:	**Route:**	
Contractor:		
Date Work Began:	**Date Work Completed:**	
Attendees:		
Remarks:		

Project Completed in Substantial Compliance with Plans and Specifications and Recommended for Final Acceptance by Sponsor ________________________ **Engineer**	**Recommended for Acceptance in Accordance with Project Agreement** ________________________ **ARDOT Resident Engineer**

Project Recommended for Acceptance

Designated Full-time Employee: ________________________

I certify that the Contractor and/or subcontractor(s) have complied with the provisions of FHWA-1273, Required Contract Provisions, Federal-aid Construction Contracts, and Supplements; that the project has been completed by the Contractor in accordance with the plans and specifications; that the Contractor has been paid for this work, and the project is hereby accepted.

____

SPONSOR's **CEO**

2 CFR Part 200

UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Subpart D - Post Federal Award Requirements
Record Retention and Access

§200.334 Retention requirements for records.

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:

(a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

(b) When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.

(c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.

(d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.

(e) Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.

(f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: Indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) *If submitted for negotiation.* If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(2) *If not submitted for negotiation.* If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

§200.335 Requests for transfer of records.

The Federal awarding agency must request transfer of certain records to its custody from the non-Federal entity when it determines that the records possess long-term retention value. However, in order to avoid duplicate recordkeeping, the Federal awarding agency may make arrangements for the non-Federal entity to retain any records that are continuously needed for joint use.

§200.336 Methods for collection, transmission, and storage of information.

The Federal awarding agency and the non-Federal entity should, whenever practicable, collect, transmit, and store Federal award-related information in open and machine-readable formats rather than in closed formats or on paper in accordance with applicable legislative requirements. A machine-readable format is a format in a standard computer language (not English text) that can be read automatically by a web browser or computer system. The Federal awarding agency or pass-through entity must always provide or accept paper versions of Federal award-related information to and from the non-Federal entity upon request. If paper copies are submitted, the Federal awarding agency or pass-through entity must not require more than an original and two copies. When original records are

2 CFR Part 200

UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Subpart D - Post Federal Award Requirements
Record Retention and Access

electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.

§200.337 Access to records.

(a) *Records of non-Federal entities.* The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.

(b) *Extraordinary and rare circumstances.* Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the non-Federal entity and the Federal awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the Federal awarding agency or delegate.

(c) *Expiration of right of access.* The rights of access in this section are not limited to the required retention period but last as long as the records are retained. Federal awarding agencies and pass-through entities must not impose any other access requirements upon non-Federal entities.

§200.338 Restrictions on public access to records.

No Federal awarding agency may place restrictions on the non-Federal entity that limit public access to the records of the non-Federal entity pertinent to a Federal award, except for protected personally identifiable information (PII) or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency. The Freedom of Information Act (5 U.S.C. 552) (FOIA) does not apply to those records that remain under a non-Federal entity's control except as required under §200.315. Unless required by Federal, state, local, and tribal statute, non-Federal entities are not required to permit public access to their records. The non-Federal entity's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.

CERTIFICATION FOR GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies to the best of his knowledge and belief that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including sub grants, and contracts and subcontracts under grants, sub grants, loans and cooperative agreements) which exceed $100,000, and that all such sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

City of Bentonville

Sponsor

[redacted]

Signature

Stephanie Orman, Mayor

Name (Sponsor's CEO)

Federal Funding Accountability and Transparency Act (FFATA)

Reporting Requirements

(For more information go to https://www.fsrs.gov/)

FFATA was signed on September 26, 2006. The intent is to empower every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. The FFATA legislation requires information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is www.USASpending.gov.

A Prime Grant Recipient (Arkansas Department of Transportation (hereinafter called ARDOT)) awarded a new Federal grant greater than or equal to $25,000 as of October 1, 2010 is subject to FFATA sub-award reporting requirements as outlined in the Office of Management and Budget guidance issued August 27, 2010. **ARDOT is required to file a FFATA sub-award report for any sub-grant awarded to a sub-awardee greater than or equal to $25,000.** As a sub-awardee, City of Bentonville shall provide the following information to ARDOT in order to fulfill FFATA reporting requirements:

- ✔ A unique identifier (Dun & Bradstreet DUNS Number) of the sub-awardee receiving the award and the parent entity of the recipient, should the sub-awardee be owned by another entity;
- ✔ The names and total compensation of the five most highly compensated officers of the sub-awardee if the sub-awardee in the preceding Federal fiscal year received 80 percent or more of its annual gross revenues in Federal awards; and $25,000,000 or more in annual gross revenues from Federal awards; and the public does not have access to information about the compensation of the senior executives of the sub-awardee through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. See FFATA § 2(b)(1).

Required Sub-Awardee Information

(A) Sub-Awardee – DUNS Number: 075663237

Parent (if applicable) – DUNS Number: ______________________

(B) In the preceding completed Federal fiscal year, did your business or organization (the legal entity to which the DUNS number entered above belongs) receive (1) 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; and (2) $25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

Yes ○ No ◉

If "Yes" is selected, answer (C).

(C) Does the public have access to information about the compensation of the executives in your business or organization (the legal entity to which the DUNS number entered above belongs) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

Yes ○ No ○

If "Yes" is selected, visit http://www.sec.gov/edgar.shtml for reference. If "No" is selected, answer (D).

(D) **If "No" was selected in Question "C"**, complete the following information for the five (5) most highly compensated executives in your business or organization (the legal entity to which the DUNS number entered above belongs). Amount should reflect the Total Compensation Amount in the preceding completed Federal fiscal year in U.S. whole dollars.

Sub-Awardee Names and Compensation of Most Highly Compensated Officers

1. Name: ______________________ Amount: $____________
2. Name: ______________________ Amount: $____________
3. Name: ______________________ Amount: $____________
4. Name: ______________________ Amount: $____________
5. Name: ______________________ Amount: $____________

Form LPA-020

LPA Project Quarterly Report Form

Date:

Job No.:	**Job Name:**			
F.A.P.:	**Funding Program:**		**Year:**	**Quarter:**
Sponsor:		**Submitted By:**		
Sponsor Phone:		**Sponsor Email:**		

Progress Report:

CURRENT PROJECT STATUS

Construction Plans:	☐ 30%	☐ 60%	☐ 90%	☐ Final	
Environmental Clearance:	☐ ARDOT to Handle	☐ Preliminary	☐ Partially Complete	All Permits Received ☐ Date:	Final Clearance ☐ Date:
Right of Way Acquisition:	☐ No Acquisition Needed	☐ ROW Plans in Progress	ROW Plans Approved ☐ Date:	Acquisition Documents ☐ Approved Date:	
	☐ Acquisition Underway	Acquisition Complete ☐ Date:	Right of Way Certification Submitted ☐ Conditional ☐ Final Date:		
Utility Relocation:	☐ Utility Relocation Not Necessary	Relocation Plans Prepared ☐ Date:	☐ Relocation Underway	Relocation Complete ☐ Date:	
Authority to Advertise:	Request Submitted ☐ Date:	ARDOT Approval Received ☐ Date:	Bid Opening Date:		
Concurrence in Award:	Request Submitted ☐ Date:	ARDOT Approval Received ☐ Date:	Contract Executed ☐ Date:		
Construction:	Progress (%) 0%	Estimated Completion Date:	Project Completed ☐ Date:		

ARDOT Contact:

Rev. 08-19-2021

CHANGE ORDER FORM

Form LPA-022

ARDOT JOB NO.: ____________ F.A.P. No.: ____________ **CHANGE ORDER NO.:** ________

JOB NAME: ____________ DATE PREPARED: ________

OWNER: ____________ PREPARED BY: ________

CONTRACTOR: ____________

DESCRIPTION OF CHANGE(S):

JUSTIFICATION / REASON FOR CHANGE(S):

SUMMARY

ITEM NO.	ITEM	UNIT	UNIT PRICE	PRESENT		REVISED	
				QUANTITY	AMOUNT	QUANTITY	AMOUNT
				TOTALS:			

CHANGE ORDER FORM

Form LPA-022

CHANGES TO CONTRACT PRICE:

ORIGINAL CONTRACT PRICE ______

CURRENT CONTRACT PRICE ADJUSTED BY PREVIOUS CHANGE ORDERS ______

THE CONTRACT PRICE DUE TO THIS CHANGE ORDER WILL BE (INCREASED) / (DECREASED) BY $ -

THE NEW CONTRACT PRICE, INCLUDING THIS CHANGE ORDER, WILL BE $ -

CHANGES TO CONTRACT TIME:

THE CONTRACT TIME WILL BE (INCREASED) / (DECREASED) BY ______ DAYS

THE CONTRACT PERIOD, INCLUDING THIS CHANGE ORDER, SHALL BE ______ DAYS

APPROVALS:

ENGINEER: [INSERT ENGINEER NAME HERE]

______
Signature Date

CONTRACTOR: [INSERT CONTRACTOR NAME HERE]

______
Signature Date

OWNER: [INSERT OWNER NAME HERE]

______
Signature Date

ARDOT RESIDENT ENGINEER CONCURS

______
Signature Date

ARDOT PROGRAM MANAGEMENT APPROVES

______
Signature Date

RESOLUTION NO. 7-13-21 H

A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF BENTONVILLE TO UTILIZE FEDERAL-AID SURFACE TRANSPORTATION BLOCK GRANT PROGRAM – ATTRIBUTABLE (STBG-A) (FFY 2022) FUNDS ADMINISTERED BY THE NORTHWEST ARKANSAS REGIONAL PLANNING COMMISSION (NWARPC) TO BEGIN ENVIRONMENTAL AND INITIAL DESIGN TO IMPROVE THE INTERSECTION OF SW REGIONAL AIRPORT BLVD. AND S. VAUGHN RD.

WHEREAS, the City of Bentonville understands Federal-aid Surface Transportation Block Grant Program - Attributable (STBG-A) (FFY 2021) funds are available at 80% federal participation and 20% local match to begin environmental and initial design for improvements to the intersection of SW Regional Airport Blvd. and S. Vaughn Rd.; and

WHEREAS, the City of Bentonville understands that Federal-aid Funds are available for this project on a reimbursable basis, requiring work to be accomplished and proof of payment prior to actual monetary reimbursement; and

WHEREAS, the City of Bentonville understands that there will be no reimbursement for any work accomplished prior to the issuance by the Arkansas Department of Transportation of an official Notice to Proceed; and

WHEREAS, this project, using federal funding, will be open and available for use by the general public and maintained by the applicant; and

WHEREAS, the current application requests $625,000 to be put toward the environmental studies and initial design work; and,

WHEREAS, the local match required for this amount would total 20% of the requested funding which is $125,000; and,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF BENTONVILLE CITY COUNCIL THAT:

Section 1. The City of Bentonville will participate in accordance with its designated responsibility.

Section 2. The City of Bentonville Mayor is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the environmental and initial design of the above stated project.

Section 3. The City of Bentonville pledges its full support and hereby authorizes the City of Bentonville to cooperate with the Northwest Arkansas Regional Planning Commission to initiate action to implement this project.

Section 4. The required matching funds in the amount of $125,000 for the environmental and initial design work for improvements to the intersection of SW Regional Airport Blvd. and S. Vaughn Rd are hereby committed out of the street construction account pending the approval of the application.

THIS RESOLUTION adopted this 13 day of [redacted], 2021.

[redacted]

Stephanie Orman, Mayor

ATTEST: [redacted]

Kirby Romines, City Clerk

(SEAL)

NORTHWEST ARKANSAS REGIONAL PLANNING COMMISSION

1311 Clayton St., Springdale, Arkansas, 72762

• (479) 751 7125 • Fax: (479) 751 7150 • http://nwarpc.org

August 31, 2021

Mayor Stephanie Orman
City of Bentonville
117 West Central Ave.
Bentonville, AR 72712

Re Hwy 12-SW Regional Airport Blvd. / Hwy 279-S. Vaughn Rd. Intersection Improvements
Engineering and Environmental Phase
FFY 2022 Surface Transportation Block Grant Program - Attributable (STBGP-A)
Total NWARPC Federal Funds Awarded to Hwy 12-SW-Hwy 279 Intersection: $500,000

Dear Mayor Orman:

I am pleased to inform you the Project was selected by the Northwest Arkansas Regional Planning Commission on August 25, 2021 for FFY 2022 STBGP-A funding. The STBGP-A funds awarded and the required local match are shown below:

STBGP-A	**$ 500,000 (80% Federal)**
City Match	**$ 125,000 (20% Local)**
Total	**$ 625,000**

The STBGP-A funding is subject to an obligation limitation and the total available funds may change after final FFY 2022 funding is published.

These funds are required to be obligated by the end of the Federal Fiscal Year which ends on September 30, 2022. All required ARDOT submittals and required approvals for this project should be completed by August 15, 2022 in order to allow sufficient time to obligate the STBGP-A funds for this project.

Please note that STBGP-A projects "...must comply with applicable provisions in Title 23, such as project agreements, authorization to proceed prior to incurring costs, prevailing wage rates (Davis-Bacon), competitive bidding, and other contracting requirements, regardless of whether the projects are located within the right-of-way of a Federal-aid highway."

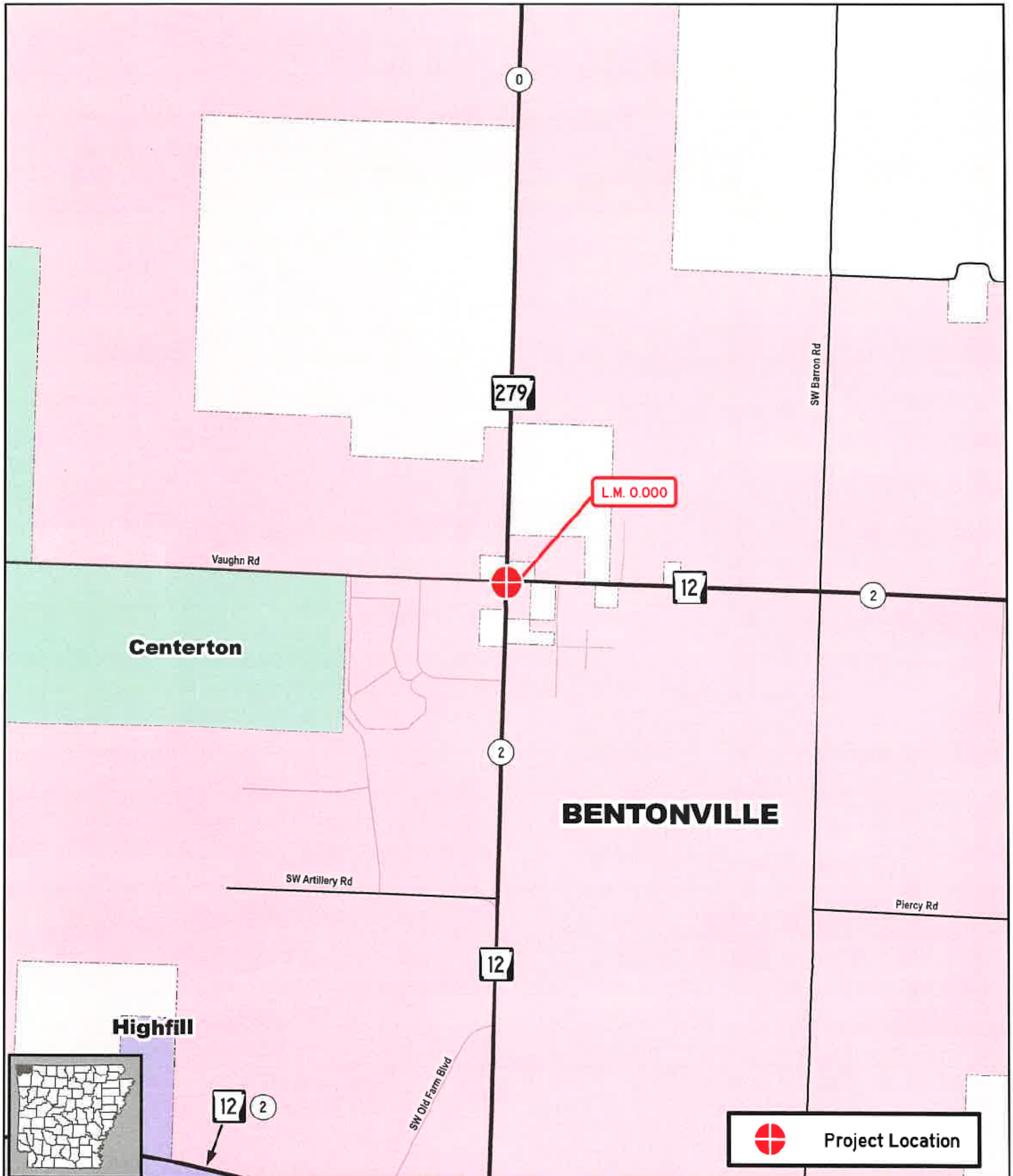
Please let us know if you have any questions or need additional information regarding this program.

Sincerely,

[redacted]

Jeff Hawkins
Director

Cc: Mr. Chris Dillaha, ARDOT
Mr. Sunny Farmahan, ARDOT



Job 090613

Hwys. 12/279 Inters. Impvts. (Bentonville) (S)

Hwy. 12, Sec. 2
Hwy. 279, Sec. 0
Benton County

ARKANSAS DEPARTMENT OF TRANSPORTATION

0 0.06 0.13 0.25
Mile

AGREEMENT
FOR
ENGINEERING SERVICES
(LOCAL VERSION – COST PLUS FEE)

JOB NO. 090613 HWYS. 12/279 INTERS. IMPVTS. (BENTONVILLE)
F.A.P. STPU-9036(29), BENTON COUNTY

CITY OF BENTONVILLE, ARKANSAS

PREAMBLE

THIS AGREEMENT, entered into this ____ day of _________________, 2023, by and between the City of Bentonville, in Benton County, Arkansas ("Owner"), and Garver, LLC ("Consultant"), a corporation existing under the laws of the State of Arkansas, with principal offices at 2049 E. Joyce Boulevard, Fayetteville, Arkansas.

WITNESSETH:

WHEREAS, the Owner is planning to improve the intersection of Highway 12 and Highway 279 and,

WHEREAS, the Owner's forces are fully employed on other urgent work that prevents their early assignment to the aforementioned work; and,

WHEREAS, the Consultant's staff is adequate and well qualified, and it has been determined that its current workload will permit completion of the project on schedule.

NOW THEREFORE, it is considered to be in the best public interest for the Owner to obtain the assistance of the Consultant's organization in connection with engineering services. In consideration of the faithful performance of each party of the mutual covenants and agreements set forth hereinafter, it is mutually agreed as follows:

1. PRELIMINARY MATTERS

1.1. "Consultant's Representative" shall be Ron Petrie, P.E., until written notice is provided to the Owner designating a new representative.

1.2. "Contract Ceiling Price." The Contract Ceiling Price for this Agreement is **$613,416**. The Contract Ceiling Price is the maximum aggregate amount of all payments that the Owner may become obligated to make under this Agreement. In no event, unless modified in writing, shall total payments by the Owner under this Agreement exceed the Contract Ceiling Price. The Consultant shall not be entitled to receive adjustment, reimbursement, or payment, nor shall the Owner, its officers, agents, employees, or representatives, incur any liability for, any fee or cost, exceeding the Contract Ceiling Price.

1.3. "Contract Price" is aggregate amount of allowable costs and fees to be paid by the Owner under this Agreement.

1.4. "Default" means the failure of the Consultant to perform any of the provisions of this Agreement. *Default includes, but is not limited to, failure to complete phases of the work according to schedule or failure to make progress in the work so as to endanger timely performance of this Agreement, failure to pay subcontractors in a timely manner, failure* *to comply with federal and state laws, and failure to comply with certifications made in or pursuant to this Agreement.*

1.5. "Department" or "ARDOT" means the Arkansas Department of Transportation.

1.6. "DOT" means the United States Department of Transportation.

1.7. "FAR" means the Federal Acquisition Regulations, codified in 48 CFR.

1.8. "Owner" means, City of Bentonville.

1.9. "Fee" whether fixed or otherwise is a dollar amount that includes the Consultant's profit on the job.

1.10. "FHWA" means the Federal Highway Administration.

1.11. "Indirect Cost Rate." The Indirect Cost Rate is defined in the provisions of 48 CFR Part 31, and is also subject to any limitations contained herein. The Indirect Cost Rate for the Consultant under this Agreement shall be 191.01 percent plus Facilities Capital Cost of Money (FCCM) 0.29 percent until acceptance of an updated audited indirect cost rate by the Department. If applicable, the Indirect Cost Rate for each subconsultant shall be listed in Appendix B.

1.12. Title I Services" are those services provided by the Consultant before the award of the contract for construction of the Project, consisting primarily of engineering services for the planning or design of the Project.

1.13. "Title I Services Ceiling Price." The Title I Services Ceiling Price for this Agreement is **$613,416**. The Title I Services Ceiling price is the maximum aggregate amount of all payments that the Owner may become obligated to make under this Agreement for fees and costs related to Title I Services. In no event, unless modified in writing, shall total payments by the Owner related to Title I Services exceed the Title I Services Ceiling Price. The Consultant shall not be entitled to receive adjustment, reimbursement, or payment for, nor shall the Owner, its officers, agents, employees, or representatives, incur any liability for, any fee or cost related to, Title I Services exceeding the Title I Services Ceiling Price.

1.14. "Title II Services" are those services provided by the Consultant after the award of the contract for the construction of the Project, consisting primarily of engineering services during the construction of the Project.

1.15. "Title II Services Ceiling Price". The Title II Services Ceiling Price for this Agreement is **$0**. The Title II Services Ceiling price is the maximum aggregate amount of all payments that the Owner may become obligated to make under this Agreement for fees and costs related to Title II Services. In no event, unless modified in writing, shall total payments by the Owner related to Title II Services exceed the Title II Services Ceiling Price. The Consultant shall not be entitled to receive adjustment, reimbursement, or payment for, nor shall the Owner, its officers, agents, employees, or representatives, incur any liability for, any fee or cost related to, Title II Services exceeding the Title II Services Ceiling Price.

1.16. "Title II Multiplier" (if applicable) is the mark-up by which the fee and indirect costs associated with Title II services are calculated. The Title II Multiplier, which accounts for the fee and indirect costs, is multiplied by the salary rate, as shown on the Schedule of Salary Ranges, of the particular individual(s) performing the Title II services. The Title II Multiplier under this Agreement is **3.20** until acceptance of an updated audited indirect cost rate by the Department.

2. TYPE OF AGREEMENT

2.1. This Agreement is a cost-plus-fixed-fee contract. The Consultant is being hired to perform professional engineering services in connection with the Project as set forth herein. In consideration for Title I services performed, the Owner will reimburse the Consultant for allowable direct and indirect costs, as defined herein, and pay the Consultant a fixed fee. If Title II services are to be performed, the Owner will reimburse the Consultant for allowable direct costs and also pay the Consultant an amount determined by multiplying the salary rate of the individual(s) performing the Title II services, as shown on the Schedule of Salary Ranges, by the Title II Multiplier.

2.2. The Project to be performed under this Agreement is a federally-assisted project and federal funds will be used, in part, to pay the Consultant. Therefore, notwithstanding any provision of this Agreement, all payments, costs, and expenditures are subject to the requirements and limitations of FAR, and the Consultant shall certify the accuracy of all invoices and requests for payment, along with supporting documentation and any information provided in determining the Indirect Cost Rates.

3. COSTS, FEES, AND PAYMENT

3.1. *Allowable costs*.

3.1.1. Allowable costs are subject to the limitations, regulations, and cost principles and procedures in FAR, which are expressly incorporated into this Agreement by reference. For the purpose of reimbursing allowable costs (except as provided in subparagraph 2 below, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term *costs* includes only—

3.1.1.1. Those recorded costs that, at the time of the request for reimbursement, the Consultant has paid by cash, check, or other form of actual payment for items or services purchased directly for the Agreement;

3.1.1.2. When the Consultant is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for—

- Materials issued from the Consultant's inventory and placed in the production process for use in its performance under this Agreement;
- Direct labor;
- Direct travel;
- Other direct in-house costs; and
- Properly allocable and allowable indirect costs, as shown in the records maintained by the Consultant for purposes of obtaining reimbursement under government contracts; and
- The amount of progress payments that have been paid to the Consultant's subcontractors under similar cost standards.

3.1.2. Consultant's contributions to any pension or other post-retirement benefit, profit-sharing or employee stock ownership plan funds that are paid quarterly or more often may be included in indirect costs for payment purposes; *provided*, that the Consultant pays the contribution to the fund within 30 days after the close of the period covered. Payments made 30 days or more after the close of a period shall not be included until the Consultant actually makes the payment. Accrued costs for such contributions that are paid less often than quarterly shall be excluded from indirect costs for payment purposes until the Consultant actually makes the payment.

3.1.3. Allowable costs for travel are reimbursed for actual expenses incurred and are subject to the limitations, regulations, and cost principals and procedures in FAR and the State of Arkansas Travel Regulations as adopted by the Department Accounting Manual, which are expressly incorporated into this Agreement by reference.

3.1.4. Notwithstanding the audit and adjustment of invoices or vouchers, allowable indirect costs under this Agreement shall be obtained by applying Indirect Cost Rates established in accordance with Subsection 3.3 below.

3.1.5. Any statements in specifications or other documents incorporated in this Agreement by reference designating performance of services or furnishing of materials at the Consultant's expense or at no cost to the Owner shall be disregarded for purposes of cost-reimbursement.

3.2. *Salaries*. The following schedule covers the classification of personnel and the salary ranges for all personnel anticipated to be assigned to this project by the Consultant:

3.2.1. SCHEDULE OF SALARY RANGES

Description	Billing Class	Min. Hourly	Max. Hourly
Designer	D-1	$30.00	$45.00
Sr. Designer	D-2	$40.00	$55.00
Sr. Designer II	D-3	$45.00	$60.00
Sr. Designer Manager	D-4	$50.00	$70.00
Design Engineer	E-1	$33.00	$48.00
Sr. Design Engineer	E-2	$40.00	$55.00
Project Eng. / Resident Eng.	E-3	$50.00	$65.00
Sr. Proj. Eng. / Sr. Rsdnt. Eng.	E-4	$60.00	$75.00
Proj. Mngr. / Sr. Proj. Mngr.	E-5	$70.00	$85.00
Sr. Proj. Mngr.	E-6	$80.00	$105.00
Principal	E-7	$90.00	$145.00
Environmental Scientist or Specialist I	ES-1	$22.00	$38.00
Environmental Scientist or Specialist II	ES-2	$30.00	$47.00
Environmental Designer I	ES-3	$45.00	$60.00
Environmental Designer II	ES-4	$52.00	$68.00
Environmental Project Manager I	ES-5	$70.00	$85.00
Environmental Project Manager II	ES-6	$78.00	$108.00
Sr. Environmental Project Manager I	ES-7	$100.00	$135.00
Sr. Environmental Project Manager II	ES-8	$130.00	$152.00
Planner	P-1	$38.00	$55.00
Project Planner	P-2	$48.00	$68.00
Sr. Project Planner	P-3	$60.00	$85.00
Planner Project Manager	P-4	$70.00	$94.00
Sr. Planner Project Manager	P-5	$84.00	$105.00
Project Controls Specialist	PC-1	$25.00	$38.00

Communications Specialist/Graphic Designer/ Project Controls Specialist	PC-2	$34.00	$50.00
Budget Manager/Scheduler	PC-3	$46.00	$62.00
Scheduler/Scheduling Manager	PC-4	$55.00	$78.00
Lead Project Controls Specialist	PC-5	$68.00	$95.00
Program Controls Project Manager	PC-6	$92.00	$116.00
Program Controls Sr. Manager	PC-7	$115.00	$150.00
Resource Specialist	RS-1	$25.00	$35.00
Graphic Designer/Communications	RS-2	$34.00	$48.00
Graphic Designer/Communications II	RS-3	$45.00	$66.00
Lead Resource Specialist	RS-4	$64.00	$90.00
Lead Resource Specialist II	RS-5	$86.00	$114.00
Resource Specialist Project Manager	RS-6	$110.00	$136.00
Resource Specialist Sr. Manager	RS-7	$130.00	$155.00
Technician/Rodman	S-1	$16.00	$25.00
Instrument Man	S-2	$20.00	$30.00
Party Chief	S-3	$25.00	$40.00
Project Surveyor	S-4	$35.00	$54.00
Sr. Project Surveyor	S-5	$45.00	$65.00
Surveyor Manager	S-6	$55.00	$75.00
Technician or Intern	T-1	$20.00	$36.00
Technician II	T-2	$28.00	$42.00
Sr. Technician I	T-3	$36.00	$50.00
Sr. Technician II	T-4	$42.00	$64.00
Administrative Assistant	AM-1	$20.00	$28.00
Sr. Administrative Asst.	AM-2	$25.00	$35.00
Executive Assistant	AM-3	$32.00	$50.00

3.2.2. The Owner shall reimburse the Consultant for overtime costs only when the overtime has been authorized in writing by the Owner. When authorized, overtime shall be reimbursed at the rate of time and one-half for all nonexempt employees. Notwithstanding this provision, the Consultant must comply with all federal and state wage and hour laws and regulations, regardless whether the overtime is considered reimbursable under this Agreement.

3.2.3. Invoices shall be submitted by mail or email (if emailed submit in pdf or other formats that cannot be altered) to:

City of Bentonville
Attn: Jarrod Brightwell, PE
3200 SW Municipal Drive
Bentonville, AR 72712

3.3. *Indirect Cost Rates.*

3.3.1. Allowable indirect costs incurred by the Consultant shall also be reimbursed by the Owner at the Indirect Cost Rate. The Indirect Cost Rate of the Consultant for this Agreement shall be the rate as set forth in subsection **1.10**. If applicable, the Indirect Cost Rate for subcontractors shall be determined in the same manner and subject to the same limitations as the Consultant, and shall be listed for each subcontractor identified in Appendix **B**. The Indirect Cost Rate, or any adjustment thereto, shall not change any monetary ceiling, contract obligation, or specific cost allowance, or disallowance provided for in this Agreement except as provided for in sections 3.3.4.

and 3.3.5. The Indirect Cost Rate must reflect the allowable indirect costs pursuant to FAR.

3.3.2. In establishing the Indirect Cost Rate or proposing any adjustment thereto, the Consultant shall, upon request, submit to the Owner, ARDOT, FHWA, or their representatives an audited indirect cost rate and supporting cost data in accordance with the requirements set forth in the current *Arkansas Department of Transportation Indirect Cost Rate Audit Requirements.*

3.3.3. During the term of this Agreement, if an audit of a subsequent accounting period of the Consultant demonstrates that the Consultant has incurred allowable indirect costs at a different rate than the Indirect Cost Rate, the Indirect Cost Rate shall be adjusted. Any adjustment is subject to the audit and documentation requirements of the FAR and the current *Arkansas Department of Transportation Indirect Cost Rate Audit Requirements*. Except in the case of a provisional Indirect Cost Rate, as provided in the following subparagraphs, or the disallowance of cost following a subsequent audit, any adjustment to the Indirect Cost Rate shall be effective only prospectively from the date that the adjustment is accepted.

3.3.4. In order to expedite some projects, when an audited indirect cost rate has not yet been submitted and approved, the Owner may extend a temporary waiver and accept a provisional indirect cost rate. This provisional rate must be reviewed by, and receive a positive recommendation from the Arkansas Department of Transportation. The provisional cost proposal must be accompanied by written assurance from an independent CPA that he/she has been engaged to audit the costs in accordance with the above requirements. The anticipated audit must be based on costs incurred in the most recently completed fiscal year for which the cost data is available, with the audit scheduled to begin within a reasonable time frame. If the date of the initial cost proposal is within the last quarter of the current fiscal year, the audit may be delayed until the current fiscal year is closed and the final cost data is available. The written assurance from the CPA that he or she has been engaged to perform the audit at an appropriate time is still required.

3.3.5. Once an audited indirect cost rate is approved, the ceiling prices provided for in the initial agreement using the provisional indirect cost rate will be adjusted with a supplemental agreement to implement the resulting increase or decrease from revising the indirect cost rate, and all amounts paid the consultant prior to receipt and acceptance of an audited indirect cost rate will be retroactively adjusted for changes in the indirect cost rate. However, no changes in hours, fixed fees, or other costs will be allowed as a result of applying the audited indirect cost rate.

3.4. *Fees*. The justification for the fees and cost is contained in Appendix A-1. In addition to reimbursement of the allowable costs as set forth above, the Owner shall pay to the Consultant a fee of **$61,901**. For Title II Services the Owner shall reimburse the Consultant for allowable direct costs and also pay to the Consultant an amount determined by multiplying the salary rate of the individual(s) performing the Title II Services, as shown on the Schedule of Salary Ranges, by the Title II Multiplier. The Title II Multiplier shall account for all fees and indirect costs associated with Title II services.

3.5. *Invoices, Reimbursement, and Partial Payments*. Submission of invoices and payment of the fees shall be made as follows, unless modified by the written agreement of both parties:

3.5.1. Not more often than once per month, the Consultant shall submit to the Owner, in such form and detail as the Owner may require, an invoice or voucher supported by a statement of the claimed allowable costs for performing this Agreement, and estimates of the amount and value of the work accomplished under this Agreement. The invoices for costs and estimates for fees shall be supported by any data requested by the Owner.

3.5.2. In making estimates for fee purposes, such estimates shall include only the amount and value of the work accomplished and performed by the Consultant under this Agreement which meets the standards of quality established under this Agreement. The Consultant shall submit with the estimates any supporting data required by the Owner. At a minimum, the supporting data shall include a progress report in the form and number required by the Owner.

3.5.3. Upon approval of the estimate by the Owner, payment upon properly executed vouchers shall be made to the Consultant, as soon as practicable, of 100 percent of the allowed costs, and of 90 percent of the approved amount of the estimated fee, less all previous payments. Notwithstanding any other provision of this Agreement, only costs and fees determined to be allowable by the Owner in accordance with subpart 31.2 of the Federal Acquisition Regulations (FAR) in effect on the date of this Agreement and under the terms of this Agreement shall be reimbursed or paid.

3.5.4. Before final payment under the Agreement, and as a condition precedent thereto, the Consultant shall execute and deliver to the Owner a release of all claims which are known or reasonably could have been known to exist against the Owner arising under or by virtue of this Agreement, other than any claims that are specifically excepted by the Consultant from the operation of the release in amounts stated in the release.

3.6. *Title I Services, Title II Services Ceiling Price and Contract Ceiling Price*. The parties agree that aggregate payments under this Agreement, including all costs and fees, shall not exceed the Contract Ceiling Price. The parties further agree that aggregate payments for Title I and Title II services under this Agreement, including all costs and fees, shall not exceed the Title I and Title II Services Ceiling Price, respectively. No adjustment of the Indirect Cost Rate, other adjustment, claim, or dispute shall affect the limits imposed by these ceiling prices. No payment of costs or fees shall be made above these ceiling prices unless the Agreement is modified in writing.

3.7. *Final payment*.

3.7.1. The Consultant shall submit a completion invoice or voucher, designated as such, promptly upon completion of the work, but no later than forty-five (45) days (or longer, as the Owner may approve in writing) after the completion date. Upon approval of the completion invoice or voucher, and upon the Consultant's compliance with all terms of this Agreement, the Owner shall promptly pay any balance of allowable costs and any retainage owed to the Consultant. After the release of said retainage Consultant agrees that it will continue to provide consultation services to the Owner as needed through supplemental agreement(s) with respect to the contracted services under this Agreement until all work is completed under both Title I and Title II.

3.7.2. The Consultant shall pay to the Owner any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the Consultant or any assignee under this Agreement, to the extent that those amounts are properly allocable to costs for which the Consultant has been reimbursed by the Owner. Reasonable expenses incurred by the Consultant for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Owner. Before final payment under this Agreement, the Consultant and each assignee whose assignment is in effect at the time of final payment shall execute and deliver—

- An assignment to the Owner, in form and substance satisfactory to the Owner, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the Consultant has been reimbursed by the Owner under this Agreement; and,

- A release discharging the Owner, its officers, agents, and employees from all liabilities, obligations, and claims which were known or could reasonably have been known to exist arising out of or under this Agreement.

3.8. *Owner's Right to Withhold Payment*. The Owner may withhold payment to such extent as it deems necessary as a result of: (1) third party claims arising out of the services of the Consultant and made against the Owner; (2) evidence of fraud, over-billing, or overpayment; (3) inclusion of non-allowable costs; (4) failure to make prompt payments to subcontractors in the time provided by this Agreement; (5) payment requests received including fees for unapproved subcontractors; and/or (6) the Consultant's default or unsatisfactory performance of services. The withholding of payment under this provision shall in no way relieve the Consultant of its obligation to continue to perform its services under this Agreement.

4. DISALLOWANCE OF COSTS

4.1. Notwithstanding any other clause of this Agreement, the Owner may at any time issue to the Consultant a written notice of intent to disallow specified costs incurred or planned for incurrence under this Agreement that have been determined not to be allowable under the contract terms.

4.2. Failure to issue a notice under this Section shall not affect the Owner's rights to take exception to incurred costs.

4.3. If a subsequent audit reveals that: (1) items not properly reimbursable have, in fact, been reimbursed as direct costs; or (2) that the Indirect Cost Rate contains items not properly reimbursable under the FAR; then, in the case of indirect costs, the Indirect Cost Rate shall be amended retroactively to reflect the actual allowable indirect costs incurred, and, in the case of both direct and indirect costs, the Owner may offset, or the Consultant shall repay to Owner, any overpayment.

5. RECORDS & AUDITS

5.1. *Records* includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

5.2. *Examination.* The Consultant shall maintain, and the Owner, ARDOT, FHWA, and their authorized representatives shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs (direct and indirect) claimed to have been incurred or anticipated to be incurred in performance of this Agreement. This right of examination shall also include examination and audit of any records considered, relied upon, or relating to the determination of the Indirect Cost Rate or any certification thereof, including any CPA audit relied upon to establish the rate. This right of examination shall also include inspection at all reasonable times of the Consultant's offices and facilities, or parts of them, engaged in performing the Agreement.

5.3. *Supporting Data.* If the Consultant has been required to submit data in connection with any action relating to this Agreement, including the negotiation of or pre-negotiation audit of the Indirect Cost Rate, the negotiation of the Fee, request for cost reimbursement, request for payment, request for an adjustment, or assertion of a claim, the Owner, ARDOT, FHWA, or their authorized representatives, in order to evaluate the accuracy, completeness, and accuracy of the data, shall have the right to examine and audit all of the Consultant's records, including computations and projections, related to—

- The determination or certification of the Indirect Cost Rate, including any independent CPA audit or certification thereof;
- Any proposal for the Agreement, subcontract, or modification;
- Discussions conducted on the proposal(s), including those related to negotiating;
- Fees or allowable costs under the Agreement, subcontract, or modification;
- Performance of the Agreement, subcontract or modification; or,
- The amount and basis of any claim or dispute.

5.4. *Audit*. The Owner, ARDOT, FHWA, or their authorized representatives, shall have access to and the right to examine any of the Consultant's records involving transactions related to this Agreement or a subcontract hereunder.

5.5. *Reports.* If the Consultant is required to furnish cost, funding, or performance reports, the Owner, ARDOT, FHWA, or their authorized representatives shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating (1) the effectiveness of the Consultant's policies and procedures to produce data compatible with the objectives of these reports and (2) the data reported.

5.6. *Availability.* The Consultant shall retain and make available at its office at all reasonable times the records, materials, and other evidence described in this Section and Section 29, Disputes and Claims, for examination, audit, or reproduction, until five years after final payment under this Agreement, or for any longer period required by statute or by other clauses of this Agreement. In addition—

5.6.1. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be retained and made available for five years after the termination; and,

5.6.2. Records relating to any claim or dispute, or to litigation or the settlement of claims arising under or relating to this Agreement shall be retained and made available until after any such claims or litigation, including appeals, are finally resolved.

5.7. The Consultant shall insert a clause containing all the terms of this Section in all subcontracts under this Agreement.

6. DESCRIPTION OF THE PROJECT

6.1. The City of Bentonville has programmed a project for the improvement of the intersection of State Highways 12 and 279. The project will typically include a determination of the preferred intersection type, geometric improvements to all intersection approaches that takes into account projected traffic volumes, and pedestrian improvements consistent with the City Bike/Pedestrian Plan. The project is defined as Job 090613, Hwys. 12/279 Intersection Improvements.

7. INFORMATION AND TITLE I SERVICES TO BE PROVIDED BY CONSULTANT

7.1. See Appendix A-1.

8. INFORMATION TO BE PROVIDED BY THE OWNER

8.1. See Appendix A-1.

9. TITLE II SERVICES TO BE PROVIDED BY CONSULTANT

Title II Services are excluded from the scope of services for this project.

10. COORDINATION WITH OWNER

10.1. Throughout the Project, coordination meetings will be conducted on an as needed basis. These meetings shall include the Consultant, the Owner, ARDOT, and others, as appropriate. The Consultant shall schedule these meetings with the City and ARDOT concurrence, and compile and distribute meeting minutes, as required.

11. OFFICE LOCATION FOR REVIEW OF WORK

11.1. Review of the work as it progresses and all files and documents produced under this Agreement may be made by representatives of the Owner, the ARDOT, and the FHWA at the project office of the Consultant located in Fayetteville, Arkansas or at the regional offices of the Consultant located in Rogers, Arkansas.

12. ACCESS TO PROPERTY

12.1. The Consultant's services to the Owner may require entry upon private property. The Owner will present or mail to private landowners a letter of introduction and explanation, describing the work, which shall be drafted by the Consultant. The Consultant will make reasonable attempts to notify resident landowners who are obvious and present when the Consultant is in the field. The Consultant is not expected to provide detailed contact with individual landowners. The Consultant is not expected to obtain entry by means other than the consent of the landowner. If the Consultant is denied entry to private property by the landowner, the Consultant will not enter the property. If denied entry to the property, the Consultant shall notify the Owner and advise the Owner of an alternate evaluation method if one is feasible. The Owner shall decide on the course of action to obtain access to the property.

13. DELIVERABLES

13.1. Location/Design Alternatives (10%)
- 13.1.1. Strip Map(s) for Design Alternatives
- 13.1.2. Public Meeting Exhibits
- 13.1.3. Cost Estimates

13.2. Conceptual Design Phase (30%)
- 13.2.1. Roadway and Culvert Design Criteria
- 13.2.2. Traffic Study Report

- 13.2.3. Geotechnical Report (Preliminary Version)
- 13.2.4. Hydraulic Analysis Report
- 13.2.5. 30% Complete Roadway Plans

13.3. Preliminary Design Phase (50%)

- 13.3.1. Geotechnical Report (Final Version)
- 13.3.2. Hydraulic and Scour Analysis Report (if applicable)
- 13.3.3. 50% Complete Roadway Plans
- 13.3.4. 50% Drainage Report
- 13.3.5. 60% Right of Way Strip Map
- 13.3.6. 90% Right of Way Plans
- 13.3.7. Warranty deed descriptions
- 13.3.8. Final Right of Way Plans
- 13.3.9. Meeting Minutes from Coordination Meetings

13.4. Final Design Phase (90%/100%)

- 13.4.1. 90% Complete Roadway Design Plans
- 13.4.2. 100% Drainage Report
- 13.4.3. Final half-size Roadway Design Plans signed and sealed by an Arkansas Registered Professional Engineer
- 13.4.4. Provide Special Provisions and complete Project Manual for bidding
- 13.4.5. Provide transportation management plan, if required
- 13.4.6. Provide construction cost estimate
- 13.4.7. Meeting minutes from Coordination Meetings
- 13.4.8. Electronic files of the project design and plans in AutoCad/Civil 3D format that is fully indexed (all reference files attached and set to load automatically). This includes the electronic copies of Roadway submittals, electronic files of the Project Manual, Special Provisions, design calculations, drainage report, geotechnical report, cost estimates, etc. in Adobe Acrobat PDF format and in Word and Excel format, as applicable.

14. SUBCONTRACTING

14.1. Unless expressly disclosed in Appendix B, the Consultant may not subcontract any of the services to be provided herein without the express written approval of the Owner. All subcontractors, including those listed in Appendix B, shall be bound by the terms of this Agreement. All subcontractors shall be subject to all contractual and legal restrictions concerning payment and determination of allowable costs, and subject to all disclosure and audit provisions contained herein and in any applicable federal or state law.

14.2. Unless the consent or approval specifically provides otherwise, neither consent by the Owner to any subcontract nor approval of the Consultant's purchasing system shall constitute a determination (1) of the acceptability of any subcontract terms or conditions, (2) of the acceptability of any subcontract price or of any amount paid under any subcontract, or (3) to relieve the Consultant of any responsibility, obligation, or duty under this Agreement.

14.3. No subcontract placed under this Agreement shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement subcontracts shall not exceed the fee limitations of the FAR.

14.4. Furthermore, notwithstanding any other provision within this Agreement, no reimbursement or payment for any markup of the cost of any subcontract shall be considered by the Owner without the express written agreement of the Owner.

14.5. *Prompt Payment*. The Consultant shall pay subcontractors for satisfactory performance of their subcontracts within 30 days of receipt of each payment by the Owner to the Consultant. Any retainage payments held by the Consultant must be returned to the subcontractor within 30 days after the subcontractor's work is completed. Failure to comply with this provision shall be considered a Default by the Consultant. If the Consultant fails to comply with this provision, in addition to any other rights or remedies provided under this Agreement, the Owner, at its sole option and discretion, may:

- make payments directly to the subcontractor and offset such payments, along with any administrative costs incurred by the Owner, against reimbursements or payments otherwise due the Consultant;

- notify any sureties; and/or,

- withhold any or all reimbursements or payments otherwise due to the Consultant until the Consultant ensures that the subcontractors have been and will be promptly paid for work performed.

14.6. The Consultant shall insert a clause containing all the terms of this Section in all subcontracts under this Agreement.

15. <u>RESPONSIBILITY OF THE CONSULTANT</u>

15.1. Neither the employees of the Consultant, or of its subcontractors, shall be deemed employees of the Owner for the purposes of this Agreement.

15.2. The Consultant and its subcontractors agree that it will have no interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under this Agreement. Furthermore, the Consultant and its subcontractors shall not enter into any other contract during the term of this Agreement that would create or involve a conflict of interest with the services provided herein or other contracts that may be adverse to the Owner, State, City or County as it relates to this Agreement.

15.3. Notwithstanding any review, approval, acceptance, or payment by the Owner, the Consultant shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Consultant under this Agreement. The Consultant shall, without additional compensation above the Contract Price, correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services.

15.4. The Consultant shall demonstrate to the Owner's Representative the presence and implementation of quality assurance in the performance of the Consultant's work. The Consultant shall identify individual(s) responsible, as well as methods used to determine the completeness and accuracy of drawings, specifications, and cost estimates.

15.5. The Consultant further agrees that in its performance of work under this Agreement, it shall adhere to the requirements in the Design Standards of the ARDOT and FHWA, which shall be incorporated herein by reference.

15.6. The Owner shall have the right at any time and in its sole discretion to submit for review all or any portion of the Consultant's work to consulting engineers engaged by the Owner for that purpose. The Consultant shall fully cooperate with any such review.

15.7. The Consultant and any subcontractor shall employ qualified and competent personnel to perform the work under this Agreement.

15.8. Neither the Owner's review, approval, or acceptance of, nor payment for, the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, or of any cause of action arising out of the performance of this Agreement. The Consultant shall be and remain liable to the Owner for all damages to the Owner caused by the Consultant's negligent performance of any of the services furnished under this Agreement.

15.9. The rights and remedies of the Owner provided under this Agreement are in addition to any other rights and remedies provided by law.

15.10. If the Consultant is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

16. <u>WARRANTY OF SERVICES</u>

16.1. *Definitions*. *Acceptance,* as used in this Agreement, means the act of an authorized representative of the Owner by which the Owner approves specific services, as partial or complete performance of the Agreement. *Correction,* as used in this Agreement, means the elimination of a defect.

16.2. Notwithstanding inspection and acceptance by the Owner or any provision concerning the conclusiveness thereof, the Consultant warrants that all services performed and work product under this Agreement will, at the time of acceptance, conform to the requirements of this Agreement, meet the satisfaction of the Owner, and are performed in accordance to the prevailing industry standards, including standards of conduct and care, format and content.

16.3. If the Consultant is required to correct or re-perform, it shall be at no additional cost to the Owner above the Contract Price, and any services corrected or re-performed by the Consultant shall be subject to this Section to the same extent as work initially performed. If the Consultant fails or refuses to correct or re-perform, the Owner may, by contract or otherwise, correct or replace with similar services and charge to the Consultant the cost occasioned to the Owner thereby, or make an equitable adjustment in the Contract Price.

16.4. If the Owner does not require correction or re-performance, the Owner shall make an equitable adjustment in the Contract Price.

16.5. Nothing within this Section shall constitute a waiver or exclusion of any other right or remedy that the Owner may possess at law or under this Agreement.

17. <u>TERM, COMMENCEMENT, AND COMPLETION</u>

17.1. This Agreement shall commence on the effective date set forth above and remain in effect until the completion of the Consultant's Scope of Services, as defined herein, to be completed by **September 30, 2025,** unless extended or terminated by the Owner in accordance with this Agreement.

17.2. The Consultant shall begin work under the terms of this Agreement within ten (10) days of receiving written notice to proceed. [If services are to be performed in subsequent phases, then each phase shall be commenced upon the Owner's approval of the previous phase. The Consultant shall not be entitled to any compensation or reimbursement for services performed in a phase unless and until it has received approval from the Owner to proceed with such services.]

17.3. It is further agreed that time is of the essence in performance of this Agreement. The Consultant shall complete the work, or each phase, as scheduled, and the Owner shall provide any required approval of the work or phase meeting the requirements contained herein in a reasonable and timely manner. The Project shall be completed as follows:

[See Appendix D]

18. TERMINATION

18.1. The Owner may terminate this Agreement in whole or, from time to time, in part, for the Owner's convenience or because of the Default of the Consultant.

18.2. The Owner shall terminate this Agreement by delivering to the Consultant written notice of the termination.

18.3. Upon receipt of the notice, the Consultant shall:

- Immediately discontinue all services affected (unless the notice directs otherwise).
- Deliver to the Owner all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Agreement, whether completed or in process.
- Terminate all subcontracts to the extent they relate to the work terminated.
- In the sole discretion and option of the Owner, and if and only if requested to do so, assign to the Owner all right, title, and interest of the Consultant under the subcontracts terminated, in which case the Owner shall have the right to settle any claim or dispute arising out of those subcontracts without waiver of any right or claim the Owner may possess against the Consultant.
- With approval or ratification by the Owner, settle all outstanding liabilities arising from the termination of subcontracts, the cost of which would be allowable in whole or in part, under this Agreement.
- Complete performance of any work not terminated.
- Take any action that may be necessary, or that the Owner may direct, for the protection and preservation of the property related to this Agreement which is in the possession of the Consultant and in which the Owner has or may acquire an interest.

18.4. If the termination is for the convenience of the Owner, the Owner shall make an equitable adjustment in the Contract Price, subject to the Ceiling Prices and Funding Limitations provisions, *but shall allow no anticipated fee or profit on unperformed services.* The Owner, upon its own determination, shall pay the Consultant in addition to payment for services rendered and reimbursable costs incurred, for all expenses the Owner determines to have been reasonably incurred by the Consultant in connection with the orderly termination of this Agreement including but not limited to demobilization, reassignment of personnel, associated indirect costs and all other expenses directly resulting from termination.

18.5. If the termination is for the Consultant's Default, the Owner may complete the work by contract or otherwise and the Consultant shall be liable for any reasonable and necessary additional cost incurred by the Owner to the extent caused by Consultant's default.

18.6. Disputes and claims arising from termination of this Agreement shall be governed by Section 29, Disputes and Claims.

18.7. The rights and remedies of the Owner provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement, and shall not constitute a waiver of any other such right or remedy.

19. STOP WORK ORDERS

19.1. The Owner may, at any time, by written order to the Consultant, require the Consultant to stop all, or any part, of the work called for by this Agreement for a period of up to 90 days after the order is delivered to the Consultant, and for any further period to which the parties may agree. Upon receipt of the order, the Consultant shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop work order is delivered to the Consultant, or within any extension of that period to which the parties shall have agreed, the Owner shall either—

19.1.1. Cancel the stop work order; or

19.1.2. Terminate the work pursuant to Section 18, Termination.

19.2. If a stop work order issued under this Section is canceled or the period of the order or any extension thereof expires, the Consultant shall resume work. The Owner shall make an equitable adjustment in the delivery schedule or Contract Price, or both, and the Agreement shall be modified in writing accordingly, if—

- The stop work order was not issued because of Consultant's Default in its performance of its obligations under any part of this Agreement; and,
- The stop work order results in an increase in the time required for, or in the Consultant's cost properly allocable to, the performance of any part of this Agreement; and,
- The Consultant provides Notice of Potential Claim pursuant to Section 29, Disputes and Claims.

20. CHANGES

20.1. The Owner may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this Agreement, including but not limited to: (1) drawings, designs, or specifications; (2) time of performance (i.e., hours of the day, days of the week, etc.); and (3) places of inspection, delivery, or acceptance.

20.2. If any such change causes an increase *or decrease* in the cost of, or the time required for, performance of any part of the work under this Agreement, whether or not changed by the order, the Owner shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fee; and (3) other affected terms.

20.3. All claims and disputes shall be governed by the Section 29, Disputes and Claims. As provided in Section 28, the Consultant must provide written notice of its intention to make a claim for additional compensation before beginning the work on which the claim is based. If such notice is not given, the Consultant hereby agrees to waive any claim for such additional compensation.

20.4. Failure to agree to any adjustment shall be a dispute under Section 29, Disputes and Claims. *However, nothing in this Section or any other provision of this Agreement shall excuse the Consultant from proceeding with the Agreement as changed.*

21. OWNERSHIP OF DOCUMENTS & DATA

21.1. Except for any pre-existing intellectual property, all project documents and data, regardless of form and including but not limited to original drawings, disks of CADD drawings, cross-sections, estimates, files, field notes, and data, shall be the property of the Owner. The Consultant shall further provide all documents and data to the Owner upon the Owner's request. The Consultant may retain reproduced copies of drawings and other documents. In the event that any patent rights or copyrights are created in any of the documents, data compilations, or any other work product, the Owner shall have an irrevocable license to use such documents, or data compilations, or work product.

22. PATENT AND COPYRIGHT INFRINGEMENT

22.1. The Consultant shall report to the Owner, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Agreement of which the Consultant has knowledge.

22.2. In the event of any claim or suit against the Owner on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any supplies furnished or work or services performed under this Agreement, the Consultant shall furnish to the Owner, when requested by the Owner, all evidence and information in possession of the Consultant pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Consultant.

22.3. The Consultant agrees to include, and require inclusion of, the provisions of this Section in all subcontracts at any tier for supplies or services.

22.4. The Consultant shall indemnify the Owner and its officers, agents, and employees against liability, including costs and attorneys' fees, for infringement of any United States patent or copyright arising from the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property under this Agreement, or out of the use or disposal by or for the account of the Owner of such supplies or construction work.

22.5. This indemnity shall not apply unless the Consultant shall have been informed within ten (10) business days following the Owner's receipt of legal notice of any suit alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further, this indemnity shall not apply to (1) an infringement resulting from compliance with specific written instructions of the Owner directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the Agreement not normally used by the Consultant, (2) an infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance, or (3) a claimed infringement that is unreasonably settled without the consent of the Consultant, unless required by final decree of a court of competent jurisdiction.

23. BANKRUPTCY

23.1. In the event the Consultant enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Consultant agrees to furnish, by certified mail, written notice of the bankruptcy to the Owner. This notice shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notice shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of ARDOT job numbers and FAP numbers for all contracts with Owner against which final payment has not been made. This obligation remains in effect until final payment under this Agreement.

24. FUNDING LIMITATIONS

24.1. The Owner's obligations under this Agreement are contingent upon the availability of appropriated funds from which payments under the terms of this Agreement can be made in this and each subsequent fiscal year for the duration of the Agreement. No legal liability on the part of the Owner of any kind whatsoever under this Agreement shall arise until funds are made available to the Owner for performance of this Agreement, including those to be appropriated and provided by the State of Arkansas and those to be provided by the United States.

25. RESTRICTIONS ON EMPLOYMENT OF PRESENT AND FORMER EMPLOYEES

25.1. Not Applicable.

26. SUCCESSORS AND ASSIGNS

26.1. This Agreement shall be binding upon the parties and their successors and assigns, and except as expressly set forth herein, neither the Owner nor the Consultant may assign, delegate, or transfer any benefit or obligation under this Agreement without the express written consent of the other party. Nothing herein shall be construed as a waiver of any immunity or as creating any personal liability on the part of any officer or agent of the Owner or any other governmental entity either made a party to, or having any interest in, this Agreement.

27. INDEMNITY AND RESPONSIBILITY FOR CLAIMS AND LIABILITY

27.1. *Indemnity*. The Consultant shall hold harmless and indemnify the Owner and the ARDOT, their officers, employees and agents and all other governmental agencies with an interest in the Project, from and for all claims and liabilities stemming from any negligent acts, errors or omissions in the services performed in this Agreement on the part of the Consultant and its subcontractors, and their agents and employees.

27.2. *No Personal Liability*. No director, officer, manager, employee, agent, assign, or representative of the Owner or the ARDOT shall be liable to the Consultant in a personal or individual capacity under any term of this Agreement, because of any breach thereof, or for any act or omission in its execution or performance.

27.3. *Independent Consultant Relationship*. The parties intend that the Consultant shall be an independent consultant of the Owner and that the Consultant shall be liable for any act or omission of the Consultant or its agents, employees, or subcontractors arising under or occurring during the performance of this Agreement. No act or direction of the Owner shall be deemed to be an exercise of supervision or control of the Consultant's performance.

28. INSURANCE

28.1. *Professional Liability Insurance Coverage.* The Consultant shall maintain at all times during the performance of services under this Agreement professional liability insurance coverage for errors, omissions, and negligent acts to the extent caused by the performance of professional services under this Agreement in an amount per claim of not less than five (5) times the original Contract Ceiling Price or $1,000,000, whichever is less. Such insurance shall extend to the Consultant and to its legal representatives in the event of death, dissolution, or bankruptcy, and shall cover the errors, omissions, or negligent acts of the Consultant's agents and employees. Such insurance shall extend to any errors, omissions, and negligent acts in the performance of services under this Agreement committed by the Consultant or alleged to have been committed by the Consultant or any person for whom the Consultant is legally responsible subject to the terms of the policy.

28.2. *Worker's Compensation Insurance.* The Consultant shall at all times during the Term of this Agreement maintain Worker's Compensation and Employers Liability Insurance as required under Arkansas law.

28.3. *Automobile and General Liability Insurance.* The Consultant shall at all times during the term of this Agreement maintain commercial general liability insurance coverage for bodily injury and property damage in the combined single limit of $1,000,000 per occurrence and aggregate, and comprehensive automobile liability insurance coverage for bodily injury and property damage in the combined single limit of $1,000,000, which shall cover all owned, hired, and non-owned vehicles.

28.4. *Valuable Papers Insurance.* The Consultant shall at all times during the term of this Agreement maintain Valuable Papers Insurance, whether as part of the General Liability Insurance referenced above or as a separate insurance, in an amount sufficient to cover all cost associated with repairing, restoring, or replacing any plans, drawings, field notes, and other documents kept or created by the Consultant as part of the services under this Agreement, in the event of casualty to or loss or theft of such papers.

28.5. *Insurance Policies and Certificates.* The Consultant shall provide the Owner upon request redacted copies of its insurance policies and evidence reasonably satisfactory to the Owner concerning the effectiveness and the specific terms of the insurance. Prior to the execution of this Agreement, the Consultant shall furnish to the Owner certificates of insurance reflecting policies in force, and it shall also provide certificates evidencing all renewals of any expiring insurance policy required hereunder prior to the expiration thereof. The Consultant's failure to provide and continue in force and effect any insurance required under this Article shall be deemed a Default for which Owner, in its sole discretion, may terminate this Agreement immediately or on such other terms as it sees fit.

28.6. *Additional Insurance Requirements.* All insurance maintained by the Consultant pursuant to this Section shall be written by insurance companies licensed to do business in Arkansas, in form and substance satisfactory to the Owner. The insurance will not be subject to cancellation, termination, or change during its term except upon thirty (30) days prior written notice to the Owner.

28.7. *Duration of Insurance Obligations.* The Consultant shall maintain its professional insurance coverage required under this Agreement in force and effect for a period not less than three years after the final acceptance of the project or the completion of the Consultant's services under this Agreement, whichever comes later. Comprehensive General Liability Insurance Coverage and Valuable Papers Insurance Coverage required under this Agreement shall be in full force and effect until the final acceptance or the completion of the Consultant's services, whichever comes later. All other insurance shall be maintained in full force and effect until final acceptance of the project or completion of the Consultant's services, whichever comes first.

28.8. *Consultant's Insurance Primary.* All insurance policies maintained by the Consultant pursuant to this Agreement shall provide that the consultant's insurance shall be primary and the Owner's own insurance shall be non-contributing.

28.9. *Additional Insured.* All liability insurance policies, except the professional liability policy and the workers' compensation policy, maintained by the Consultant pursuant to this Agreement shall be endorsed to include the Owner, its officers, directors, managers, employees, agents, assigns and representatives as additional insured, and all property damage insurance shall be endorsed with a waiver of subrogation by the insurer as to the Owner.

29. DISPUTES AND CLAIMS

29.1. *Notice of Potential Claim.* Whenever a Consultant deems that any additional compensation is due, the Consultant shall notify the Owner in writing of its intention to make a claim for additional compensation ("Notice of Potential Claim") ***before beginning the work that gives rise to the claim***.

29.2. *Time & Manner for Submitting Claim.* All disputes and claims shall first be submitted in writing to the Owner within 45 calendar days after the completion or termination date. ***The Consultant hereby agrees that the failure to submit the dispute or claim to the Owner prior to 45 calendar days after the completion or termination date shall constitute a waiver of the dispute or claim.***

29.3. *Form*. All disputes and claims must be submitted in writing and in sufficient detail to permit the Owner to determine the basis for entitlement and the actual allowable costs incurred. Each claim must contain:

- A detailed factual statement of the claim providing all necessary dates, locations, and items of work affected by the claim;
- The date the actions resulting in the claim occurred or conditions resulting in the claim became evident;
- A copy of the "Notice of Potential Claim";
- The name, title, and activity of each Owner's employee knowledgeable about facts that gave rise to such claim;
- The name, title, and activity of each Consultant, Subcontractor, or employee knowledgeable about the facts that gave rise to the claim;
- The specific provisions of the Agreement that support the claim and a statement why such provisions support the claim;

- The identification and substance of any relevant documents, things, or oral communications related to the claim;

- A statement whether the claim is based on provisions of the Agreement or an alleged breach of the Agreement;

- If an extension of time is sought, the specific number of days sought and the basis for the extension;

- The amount of additional compensation sought and a specific cost breakdown of the amount claimed; and,

- Any other information or documents that are relevant to the claim.

29.4. *Decision and Appeal.* The decision of the Owner shall be final and conclusive.

29.5. *Continued Performance*. Pending final resolution of a dispute or claim, unless the Owner has terminated this Agreement pursuant to Section 18 or issued a stop work order pursuant to Section 19, the Consultant shall proceed diligently with the performance of this Agreement in accordance with the Owner's decisions.

29.6. *Nonexclusive Remedies.* The rights and remedies of the Owner provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement, and shall not constitute a waiver of any other such right or remedy. If the Owner decides the facts justify the action, the Owner may, at its sole option and discretion, receive and act upon a proposal, dispute, or claim submitted at any time before final payment under this Agreement.

30. COVENANT AGAINST CONTINGENCY FEES

30.1. The Consultant warrants that no person or agency has been employed or retained to solicit or obtain this Agreement upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Owner shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Contract Price or consideration, or otherwise recover, the full amount of the contingent fee.

30.2. *Bona fide agency,* as used in this Section, means an established commercial or selling agency, maintained by the Consultant for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds itself out as being able to obtain any government contract or contracts through improper influence.

30.3. *Bona fide employee,* as used in this Section, means a person, employed by the Consultant and subject to the Consultant's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds out as being able to obtain any government contract or contracts through improper influence.

30.4. *Contingent fee,* as used in this Section, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a government contract.

30.5. *Improper influence,* as used in this Section, means any influence that induces or tends to induce a government employee or officer to give consideration or to act regarding a government contract on any basis other than the merits of the matter.

31. TITLE VI ASSURANCES (NONDISCRIMINATION)

During the performance of this Agreement, the Consultant, for itself, its successors, and its assigns, certifies and agrees as follows:

31.1. *Compliance with Regulations*. The Consultant shall comply with the Regulations relative to Title VI (Nondiscrimination in Federally-assisted programs of the Department of Transportation and its operating elements, especially Title 49 CFR Part 21, as amended, and hereinafter referred to as the Regulations). These regulations are herein incorporated by reference and made a part of this Agreement. Title VI provides that the recipients of Federal financial assistance will maintain and implement a policy of nondiscrimination in which no person shall, on the basis of race, color, or national origin be excluded from participation in, denied the benefits of, or subject to discrimination under any program or activity by recipients of Federal financial assistance or their assignees and successors in interest.

31.2. *Nondiscrimination*. The Consultant, with regard to the work performed by it during the term of this Agreement, shall not discriminate on the basis of race, color, or national origin in the selection and retention of subcontractors, including procurement of material and leases of equipment. The Consultant shall not participate either directly or indirectly in any discrimination prohibited by Section 21.5 of the Regulations, including employment practices.

31.3. *Solicitations for Subcontracts, Including Procurements of Material & Equipment*. In all solicitations, either by competitive bidding or negotiation, made by the Consultant for work to be performed under a subcontract, including procurement of materials and leases of equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

31.4. *Information and Reports*. The Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, and accounts, other sources of information, and its facilities by the Owner, the ARDOT, or the USDOT and its Affiliated Modes to be pertinent to ascertain compliance with such regulations and directives. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Owner, the ARDOT or the USDOT and its Affiliated Modes, as appropriate, and shall set forth the efforts made by the Consultant to obtain the records or information.

31.5. *Sanctions for Noncompliance*. In the event of the Consultant's noncompliance with the nondiscrimination provisions of this Agreement, the Owner shall impose such contract sanctions as it, the ARDOT, or the USDOT and its Affiliated Modes may determine to be appropriate, including but not limited to, withholding of payments to the Consultant under the Agreement until the Consultant complies with the provisions and/or cancellation, termination, or suspension of the Agreement, in whole or in part.

31.6. *Incorporation of Provisions*. The Consultant shall include the terms and conditions of this Section in every subcontract including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Consultant shall take such action with respect to any subcontract or procurement as the

Owner, the ARDOT, or the USDOT and its Affiliated Modes may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; *provided*, however that, in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Consultant may request the Owner or the ARDOT to enter into the litigation to protect the interests of the State and litigation to protect the interest of the United States.

32. DBE CLAUSE

32.1. The Consultant or subcontractor shall not discriminate on the basis of race, color, sex or in the performance of this Agreement. The Consultant shall comply with the applicable requirements of 49 CFR Part 26 and perform any actions necessary to maintain compliance in the award and administration of DOT-assisted contracts. Failure by the Consultant to comply with or perform these requirements is a material breach of this Agreement, which may result in the cancellation, termination, or suspension of this Agreement in whole or in part, or such other remedy that the Owner may determine appropriate.

32.2. The Consultant shall insert a clause containing all the terms of this Section in all subcontracts under this Agreement.

33. COMPLIANCE WITH ALL OTHER LAWS REGARDING NONDISCRIMINATION

33.1. The Consultant will comply with the provisions of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, Title VI of the Civil Rights Act of 1964, FHWA Federal Aid Project Guidance, and any other Federal, State, and/or local laws, rules and/or regulations.

33.2. The Consultant, during the term of this Agreement, shall not discriminate on the basis of race, color, sex, national origin, age, religion, or any other protected classes in admission or access to and treatment in programs and activities associated with this Agreement, or in the selection and retention of subcontractors, including procurement of material and leases of equipment. The Consultant shall not participate either directly or indirectly in any discrimination prohibited by the Regulations, including employment practices.

33.3. In accordance with Section 504 regulations 49 CFR Part 27.15, the Owner's Notice of Nondiscrimination is required in any bulletins, announcements, handbooks, pamphlets, brochures, and any other publications associated with this Agreement that are made available to the public, program participants, applicants or employees.

34. CERTIFICATION REGARDING LOBBYING

34.1. The Consultant certifies, to the best of their knowledge and belief, that:

34.1.1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

34.1.2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying”.

34.1.3. The Consultant shall require that the language of this certification be included in the agreement for all subcontracts and that all subcontractors shall certify and disclose accordingly.

35. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

35.1. The Consultant certifies, to the best of its knowledge and belief, that—

35.1.1. The Consultant and any of its Principals—

35.1.1.1. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal or state agency;

35.1.1.2. Have not, within a 3-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

35.1.1.3. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in Subsection 35.1.1.2; and,

35.1.1.4. The Consultant has not within a 3-year period preceding this offer, had one or more contracts terminated for default by any federal or state agency.

35.2. *Principals,* for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions). This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Section 1001, Title 18, United States Code, as well as any other applicable federal and state laws.

35.3. The Consultant shall provide immediate written notice to the Owner if, at any time prior to contract award, the Consultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

35.4. The certification in Subsection 33.1 is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Consultant knowingly rendered an erroneous certification, the Owner may terminate the contract resulting from this solicitation for default in addition to any other remedies available to the Owner.

36. MISCELLANEOUS

36.1. *General Compliance with Laws*. The Consultant shall comply with all Federal, State, and local laws, regulations, and ordinances applicable to the work, including but not limited to, the Americans with Disabilities Act and Occupational Safety and Health Act as amended.

36.2. *Registered Professional Engineer's Endorsement*. All plans, specifications, estimates, and engineering data provided by the Consultant shall be endorsed and recommended by an authorized representative of the Consultant, who shall be a registered Professional Engineer licensed in the State of Arkansas.

36.3. *Choice of Law*. This Agreement shall be governed by the laws of the State of Arkansas without consideration of its choice of law provisions.

36.4. *Choice of Forum*. The Consultant agrees that any cause of action stemming from or related to this Agreement, including but not limited to disputes or claims arising under this Agreement, for acts or omissions in the performance, suspension, or termination of this Agreement, whether sounding in contract or tort, equity or law, may only be brought in the appropriate forum within State of Arkansas.

36.5. *No Waiver of Immunity*. The Owner expressly does not waive any defense of immunity that it may possess under either federal or state law, and no provision in this Agreement shall be construed to constitute such a waiver in whole or in part.

36.6. *Conflicts Between Laws, Regulations, and Provisions*. In the event of conflicting provisions of law, the interpretation shall be governed by the following in this order, from most controlling to least: Federal law and regulations, State law and regulations, Department and FHWA Design Standards, and this Agreement.

36.7. *Severability*. If any term or condition of this Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, all remaining terms of this Agreement shall remain valid and enforceable unless one or both of the parties would be materially prejudiced.

36.8. *No-Waiver*. The failure of the Owner to strictly enforce any term of this Agreement shall not be construed as a waiver of the Owner's right to require the Consultant's subsequent performance of the same or similar obligation or duty.

36.9. *Modification and Merger*. This written Agreement and any provisions incorporated by reference reflect the entire agreement of the parties and may be modified only by the express written agreement of both parties.

36.10. *Force Majeure Clause*. Neither party to this Agreement shall be liable for any delay direct or indirect in performance caused by an unforeseen event such as acts of God, acts of governmental authorities, extraordinary weather conditions or other natural catastrophes, or any other cause beyond the reasonable control or contemplation of either party beyond such party's reasonable control. Each party will take reasonable steps to mitigate the impact of any force majeure.

36.11. *Authorization to Proceed.* Execution of this Agreement by the Owner will be made by written authorization to the Consultant. The Consultant and Subcontractors shall not seek reimbursement for work initiated prior to receiving notice to proceed or work order authorization.

37. CERTIFICATION OF AUTHORIZED REPRESENTATIVES

37.1. This Agreement and the certifications contained herein or attached hereto constitute the whole Agreement of the parties, and each party certifies that this Agreement and any attached certification have been executed by their duly authorized representatives.

38. CERTIFICATION REGARDING CONFLICT OF INTEREST

38.1. The Consultant certifies, that it has no financial interest in the proposed project or construction of the proposed project

38.2. The Consultant nor any of its Principals have no known conflicts with any of the following:

38.2.1.1. Any financial interest in work associated with this contract;

38.2.1.2. No ownership interest in work associated with this contract;

38.2.1.3. No Financial interest in the results of any agency decisions regarding approvals for work associated with this project;

38.2.1.4. Policies and procedures (provided statutory framework permits) for a contracting agency to pursue a range of civil actions and penalties including fines, suspension, or debarment associated with fraud, waste, abuse, and identified conflict of interest which were not disclosed.

38.3. For the duration of the contract, except for work expressly defined in this contract, the Consultant shall not be party to third party agreements for design or construction on projects associated with contract.

38.4. For the duration of the contract, except for work expressly defined in this contract, the Consultant shall not be party to enforceable promises or guarantees of future work associated with this contract.

39. NOTICE

39.1. All notices, approvals, requests, consents, or other communications required or permitted under this Agreement shall be addressed to either the Owner's Representative or the Consultant's Representative, and mailed or hand-delivered to:

39.1.1. To the Owner's Representative:

City of Bentonville
Attn: Dennis Birge, PE
3200 SW Municipal Drive
Bentonville, AR 72712

39.1.2. To the Consultant:

Garver, LLC
Attn: Ron Petrie, PE
2049 E. Joyce Blvd, Suite 400
Fayetteville, AR 72703

IN WITNESS WHEREOF, the parties execute this Agreement, to be effective upon the date set out above.

GARVER, LLC	CITY OF BENTONVILLE
BY: [redacted]__	BY: ___________________________
Ronald S. Petrie	Stephanie Orman
Vice President	Mayor

APPENDICES

APPENDIX A	A-1 GENERAL SCOPE OF WORK A-2 JUSTIFICATION OF FEE AND COSTS
APPENDIX B	SUBCONTRACTS B-1 TERRACON CONSULTANTS, INC.
APPENDIX C	STANDARD CERTIFICATIONS C-1 GARVER, LLC C-2 TERRACON CONSULTANTS, INC. C-3 CITY OF BENTONVILLE
APPENDIX D	PROJECT SCHEDULE
APPENDIX E	GENERAL AND DETAILED SCOPE OF WORK FOR CONTROL SURVEYS, DESIGN SURVEYS, AND LAND SURVEYS

JOB NO. 090613
HWYS. 12/279 INTERS. IMPVTS. (BENTONVILLE) (S)
F.A.P. STPU-9036(29), Benton County
APPENDIX A-1
SCOPE OF WORK

I. INFORMATION TO BE PROVIDED BY THE OWNER

1. Provide Ortho Rectified Aerial Photography and Mapping Data (if available).
2. Coordinate review of environmental documentation, construction plans and specifications with ARDOT.
3. Provide and coordinate the necessary public meetings while communicating with ARDOT Environmental Division to ensure compliance with federal requirements.
4. Publish and pay for public notices and legal notices.
5. Provide Spanish translation services at public meetings as necessary.
6. Provide existing right of way plans if available.
7. Pay Consultant for services.
8. Submit reimbursement requests to ARDOT at least once a quarter to keep federal funds active.

II. INFORMATION TO BE PROVIDED BY ARDOT

1. Provide sample environmental clearance documents.
2. Review draft and final Categorical Exclusion (CE) document prepared by the Consultant.
3. Provide guidance regarding public meetings to comply with federal requirements.
4. Coordinate with FHWA for tribal correspondence and document approvals.
5. Coordination with State Historic Preservation Office (SHPO) and other federal, state, and local agencies as necessary.
6. Review plans and specifications at 50%, 90% and final review level
7. Review and pay reimbursement requests from the City.

III. INFORMATION AND TITLE I SERVICES TO BE PROVIDED BY THE CONSULTANT

1. ENVIRONMENTAL CLEARANCE DOCUMENTATION

1.1. ENVIRONMENTAL DATA COLLECTION

The Consultant will develop an environmental study area and collect preliminary environmental data associated with the proposed project area will be assessed for the social, economic, and environmental impacts area, for one alternative including:

- 1.1.1. Air Quality
- 1.1.2. Noise Quality
- 1.1.3. Hazardous Materials
- 1.1.4. Wetlands and Stream Impacts
- 1.1.5. Water Quality, including Public Drinking Supplies
- 1.1.6. Farmland
- 1.1.7. Land Use and Land Cover
- 1.1.8. Migratory Birds
- 1.1.9. Terrestrial and Aquatic Communities
- 1.1.10. Endangered and Threatened Species
- 1.1.11. Economic

1.1.12. Community
1.1.13. Relocations, including Homes, Businesses, Non-profit Organizations and Tenants of all types
1.1.14. Environmental Justice and Title VI
1.1.15. Recreational Areas
1.1.16. Archeological and Historic Sites
1.1.17. Visual
1.1.18. Section 4(f) and 6(f) Properties
1.1.19. Secondary and Cumulative Impacts

1.2. ENVIRONMENTAL CONSTRAINTS MAP

All environmental data collected will be transferred to appropriately scaled aerial photographs to produce a map that indicates all known environmentally sensitive areas and provided to the Designers for avoidance and minimization of impacts. Environmentally sensitive areas and recreational facilities will be provided to the Roadway Designers for avoidance, and/or minimization of impacts and/or notation on the plans as a restraining condition of the Contractor, in accordance with Section 107.10 of the Standard Specifications for Highway Construction. Contract Special Provisions should be developed as necessary to provide protection for environmentally sensitive areas or features and to provide guidance to the Contractor.

1.3. LOCATION AND/OR DESIGN ALTERNATIVES

1.3.1. Prepare a conceptual design of the project which will include but not be limited to road alignment, major drainage structures and any intersection layout. Development of the one alternative shall include early and continuous coordination with the City, ARDOT, FHWA, and appropriate resource agencies. Electronic copies of the design shall be furnished to ARDOT in Bentley MicroStation “DGN” format and furnished to the City in AutoCad “DWG” format.
1.3.2. Prepare cost estimate.
1.3.3. After the preferred alternative has been reviewed by the City, ARDOT and FHWA, a final determination will be made as to which type of NEPA environmental document (Environmental Impact Statement, Environmental Assessment, or Categorical Exclusion) is warranted. For the purposes of this agreement, it is assumed that a Categorical Exclusion will be utilized for environmental documentation.

1.4. PUBLIC INVOLVEMENT MEETING

It is anticipated that the public involvement meeting will be combined with the Design Public Meeting.

1.4.1. Plan, coordinate, participate in, and assist the City in conducting one Public Involvement Meeting near the project area. Identify the logistics involved in selecting the meeting location and time with the City and ARDOT. The City will subsequently secure/reserve and pay any rental costs for such site and any necessary equipment.
1.4.1.1. Garver will provide mailings, send postcards, and hand-deliver flyers to stakeholders and property owners.
1.4.2. A project website will be developed through Garver’s transportation plan room and include a general project overview video, comment forms, and project materials. Spanish translation of materials is included as part of this scope of services.
1.4.3. Prepare and submit the notice of public involvement meeting to the City and ARDOT for review and approval. Place the approved notice in a local newspaper

in accordance with ARDOT policies and requirements. The approved notice will also be advertised in a radio spot. The City will be responsible for payment of the publication of legal notices and ads.

1.4.4. Prepare public involvement displays, sign-in sheets, comment sheets, and other materials for the Public Involvement meeting as necessary. Provide adequate numbers of handouts and displays for the public involvement meeting and will provide up to four (4) personnel members to support the Public Involvement Meeting by being prepared to answer questions and explain all concepts of the proposed project.

1.4.5. Compile comments received at the Public Meeting and document the same in the form of a synopsis that will include comment cards, letters, attendance sheets, summary of input, response to public comments, etc. This will include photographs or copies of informational displays, handouts, etc and submit a Title VI report.

1.5. CULTURAL RESOURCES AND HISTORIC PROPERTIES

1.5.1. Perform a cultural resources impact evaluation and comparison for the NEPA document based on state records research and on-site inspection of high probability sites, and a historic structures survey for all alternatives.

1.5.2. Conduct surveys, complete and submit a cultural resources report to SHPO. Cultural resources clearance will be required for the final environmental documentation.

1.5.3. Coordinate with FHWA through ARDOT for tribal consultation and correspondence.

1.6. BIOLOGICAL INVESTIGATIONS

1.6.1. Conduct wetland surveys and delineations to determine the limits of all jurisdictional waters of the United States and potential jurisdictional wetlands within the project limits. The area of project impact to jurisdictional waters, including wetland and streams, will be determined to permit the project under Section 404 of the Clean Water Act. Wetlands will be delineated using the U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual of 1987 and applicable supplemental guidance published by the USACE for the project location.

1.6.2. Contact the U.S. Fish and Wildlife (USFWS) to ensure all state and federally listed threatened and endangered species of concern are identified, as well as their habitat areas, to avoid/minimize impacts. This coordination will assist in providing guidelines from these agencies on existence, habitat and mitigation. If suitable habitat for any listed threatened or endangered species is encountered, it may be necessary to survey for these species. Presence and absence surveys for any listed threatened or endangered species are not included as a part of this scope.

1.7. HAZARDOUS/REGULATED MATERIALS

Conduct a literature and database review and a visual survey to identify potential hazardous/regulated material sites in the vicinity of the proposed project. The results of this effort shall be documented in the Environmental Documentation. The work shall include:

1.7.1. Overview and Summary of Hazardous Materials Sites within the Study Area – This initial screening will include a review and evaluation of applicable state and federal regulatory agency databases.

1.7.2. Identification of Sites of Concern – A review and evaluation of the following list will be performed for the reasonable and feasible alternatives. CERCLA, NPL, RCRA, RST, LRST, State Superfund, City Solid Waste Landfills.

1.7.3. Visual survey of study area.

1.8. ENVIRONMENTAL DOCUMENT

1.8.1. Prepare a Tier III Categorical Exclusion document. Include location studies, Biological Assessments (per Section 7 Endangered Species Act), noise analysis results, and Section 4(f) and Section 6(f) evaluations if necessary. An Environmental Assessment document is not anticipated to be required.

1.8.2. Submit draft environmental document in electronic format for review by the City and ARDOT.

1.8.3. Perform revisions necessary to respond to comments from the City and ARDOT.

1.8.4. Submit final draft to the City and ARDOT for FHWA approval.

1.8.5. Prepare designated number of copies of environmental document after FHWA approval and distribute as directed. An electronic copy of the approved environmental document in pdf format will be provided to the City and ARDOT.

1.8.6. Coordinate and obtain appropriate federal and state permits and clearances (Section 106, Section 404, STAA, etc.) necessary for environmental clearance and to construct the proposed project in compliance with the City and ARDOT procedures. A United States Army Corps of Engineers (USACE) Section 404 permit is not anticipated to be required.

1.9. LOCATION AND DESIGN PUBLIC HEARING(S)

It is anticipated that the public involvement meeting will be combined with the Public Design Public Hearing.

1.9.1. Coordinate with the City and ARDOT on time and location of the public hearing.

1.9.2. Prepare and submit notice of public hearing to the City and ARDOT for review and approval. Place the approved notices in a local newspaper in accordance with ARDOT policies and requirements.

1.9.3. Prepare public hearing displays and handouts for review and approval by the City and ARDOT. Provide adequate numbers of handouts and displays for the public hearing.

1.9.4. Conduct the hearing and assist the City by being prepared to answer questions and explain all concepts of the proposed alternatives.

1.9.5. Review and respond to public hearing transcripts and prepare a synopsis of location hearing comments for location decision.

1.10. FONSI DOCUMENTATION

The preparation of a Finding of No Significant Impact (FONSI) is not anticipated and is excluded from the scope of services.

1.11. CONSTRUCTION PLAN AND SPECIFICATIONS DEVELOPMENT

1.11.1. Prepare special provisions related to environmental commitments and protection. The Consultants' Environmental Staff shall work with the Roadway Designers to ensure all environmental commitments and regulatory requirements are incorporated into project plans and contracts by use of plan sheet notes, general notes and special provisions.

1.11.2. Close coordination should be maintained with ARDOT to ensure that all aspects of the environmental process meet ARDOT approval. This includes approval of deliverables and dates of delivery for each task.

2. FIELD SURVEYS AND MAPPING

Surveys will consist of performing design surveys and land surveys. All survey tasks will be performed under the supervision of an Arkansas Registered Professional Surveyor and in accordance with Arkansas minimum standards. The surveys to be performed will consist of one or more of the tasks that follow:

2.1. Design surveys tasks
2.2. Primary project horizontal control traverses
2.3. Elevation Control – Three Wire Level
2.4. Topography and Terrain Data Collection
2.5. Field Data Processing
2.6. Digital Terrain Modeling
2.7. Utility locations as marked by ARKUPS.
2.8. Land Surveys
2.9. Title Search
2.10. Parcel Surveys and work sheets
2.11. Right of Way Staking – The right of way will be staked at the beginning of land acquisition and prior to utility relocations.

3. ROADWAY DESIGN AND PLANS

3.1. TRAFFIC EVALUATION

3.1.1. Perform traffic counts at the intersection of Hwy 12 and Hwy 279 including peak hour turning movement counts to determine the current transportation demands within the study area.

3.1.2. The consultant will project the current traffic volumes to a 20-year horizon to determine the future traffic conditions.

3.1.3. Evaluate the proposed improvements including a two-lane roundabout in Vissim and SIDRA software to ensure that the number of lanes provided and length of turn bays is adequate for the future traffic needs.

3.1.4. Evaluate the proposed improvements including a standard signalized intersection in Syncrho software to ensure that the number of lanes provided and length of turn bays is adequate for the future traffic needs.

3.1.5. Prepare a final traffic report in memo form containing the results and conclusions of the traffic study and all necessary supporting documentation.

3.2. CONCEPTUAL ROADWAY DESIGN (30% SUBMITTAL)

3.2.1. Submit design criteria to be used in the design of the projects for approval by the City and ARDOT prior to beginning conceptual design work.

3.2.2. Provide a drainage study to determine the effects of the 25 and 100-year floods and recommend waterway openings for stream crossings. Hydraulic study design frequency shall be in accordance with the ARDOT Drainage Manual.

3.2.3. Submit 30% plans for review by the City to include at a minimum: the proposed alignment with horizontal curve data, grades with vertical curve data, limits of construction, existing property lines and right of way, floodway and floodplain limits, and existing aerial photography and/or topographic survey.

3.2.4. Review water/sewer available record drawings & survey to identify conflicts.
3.2.5. Develop water/sewer alternative layouts for relocations based on conceptual roadway layout.
3.2.6. Provide four (4) paper copies (half size 11 x 17), one electronic pdf, and AutoCad/Civil 3D files for plan review.

3.3. PRELIMINARY ROADWAY DESIGN (50% SUBMITTAL)

3.3.1. Make revisions necessary to respond to comments made at the 30% review.
3.3.2. Obtain geotechnical soil borings and provide soil testing for pavement design.
3.3.3. Provide pavement design alternatives according to the requirements of the Roadway Design Plan Development Guidelines using AASHTO design procedures and submit recommendation to the City and ARDOT for approval prior to submitting 50% plans.
3.3.4. The Consultant shall prepare all Public Meeting displays to be used at the Public Involvement Meeting as needed. This would include, but not be limited to, plans of the proposed route illustrating the proposed horizontal and vertical alignments.
3.3.5. Provide the roadway plan sheets. A field inspection for each project may be performed at the 50% and 90% review level. Preliminary plans shall be submitted at the 50% level for ARDOT approval of the geometric design, title sheet, and typical sections.
3.3.6. The 50% preliminary roadway plans shall show, as a minimum:
3.3.6.1. Title sheet that generally conforms to the ARDOT standard title sheet.
3.3.6.2. Typical sections of improvement that includes notes pertaining to slopes, tolerances, leveling, and other items. The typical sections will contain information depicting the width of the subgrade, all lanes, shoulders, and clear zones. The side slopes (run/rise) and finished grade cross slopes (ft./ft.) will also be shown. The point of profile will be defined and the location of pipe underdrains if needed will be illustrate along with the location and shape for all ditches. The approved pavement designs will be incorporated into the typical sections.
3.3.6.3. Special details as needed to properly construct elements of the job that are not covered in the standard drawings or other plan drawings.
3.3.6.4. Control detail sheets of the survey baseline and design centerline with control point data in accordance with the standard used by the Roadway Design Division of the ARDOT (if required).
3.3.6.5. Roadway plan and profile sheets showing:

- Proposed centerline and travel lanes Existing topography
- Existing utilities
- Horizontal geometry (curve data, PI's, bearings) North Arrow
- Lane and shoulder dimensions
- Taper dimensions
- Proposed driveways and side streets
- Proposed cross drains and related construction notes
- Proposed roadside safety items such as guardrail, impact attenuation barriers, etc.
- Turning radii
- Existing and Proposed Right of way and permanent/temporary construction easements
- Tentative construction limits
- Location of right of way points and benchmarks Floodplain limits

- Profiles showing proposed vertical geometry (including VPI's, grades, and ditch grades), superelevation station limits, benchmarks, existing ground profile, and drainage information
- Preliminary size of drainage structures

3.3.6.6. Maintenance of traffic signing and striping 50% plans that supplement ARDOT standard drawings TC-1, TC-2, TC-3, TC-4, and TC-5 showing:

- A sequence of construction to complete major phases of the project.
- Location of barricades
- Pavement marking removal
- Pavement markings to be placed prior to diversion of traffic
- Detour routes and the state required to maintain traffic during construction

3.3.6.7. Signing & Pavement Marking Plans (50%)

3.3.6.8. Culvert Diagrams (if applicable)

3.3.6.9. Water & Sewer Relocations Plan & Profile Sheets

3.3.6.10. Erosion control plans

3.3.7. Provide four (4) paper copies (half size 11x17), one electronic pdf, Bentley MicroStation and AutoCad/Civil 3D files of plans for right of way review and 60% plan review along with a preliminary construction cost estimate.

3.3.8. Prepare and provide a non-significant Transportation Management Plan (TMP). A significant TMP and a TMP meeting(s) is not anticipated.

3.3.9. Attend preliminary field inspection after 50% submittal if required. Provide sufficient number of plan copies for the preliminary field inspection.

3.3.10. Make revisions necessary to respond to comments made at the 30% review, 50% review and the preliminary field inspection.

3.4. FINAL ROADWAY DESIGN (90/100% SUBMITTALS)

The objective of the final stage is to complete roadway and right-of-way plans for the project. Comments from the 50% submittal will be addressed, all quantities will be calculated, right-of-way plans developed, and a construction cost estimate prepared. The 90% plans will be reviewed by the City and ARDOT and comments will be incorporated into the final plans.

3.4.1. The permanent pavement marking details illustrate pavement markings and traffic sign placement. All signing, striping and delineation will be in accordance with the latest edition of the Manual of Uniform Traffic Control Devices and shall conform to ARDOT and federal regulations, laws and policies. The details will supplement ARDOT standard drawings PM-1 and PM-2.

3.4.2. Survey control sheets will show the horizontal and vertical control points and horizontal alignment data in plan view at the appropriate scale. The following information will be provided: Traverse Point Table with point number, northing, easting, and elevation (if applicable); Horizontal Alignment Data including curve number, point type (PC/PI/PT), station, northing, and easting; and appropriate notes as applicable.

3.4.3. Erosion control plans will be developed and will include temporary measures that will be put in place at the start of construction. The information for temporary measures include the location of silt fences (station/offset at PI's), rock berms, sediment basins, as well as other strategies to prevent pollution of streams by stormwater runoff from the project site. Permanent erosion control measures that will be left in place after construction will also be noted on the final plans.

3.4.4. Cross sections for all roadways will be shown at a 1:1 scale and include the items required in the "Roadway Design Plan Development Guidelines." In addition, any matchlines will be labeled and sections will be provided at the begin/end tapers, nose points, begin/end auxiliary lanes, and any pipes/culverts perpendicular to centerline construction. Inlet and outlet sections will be shown for pipes/culverts on skews.

3.4.5. Plan and profile sheets related to the relocation of existing water and sewer facilities which are directly affected by the project.

3.4.6. Quantities will be calculated and tabulated using the 2014 Standard Specifications for Highway Construction and the appropriate supplemental and job specific special provisions and ARDOT's Roadway Design Plan Development Guidelines and Roadway Design Training Guide.

3.4.7. Provide special provisions.

3.4.8. Provide transportation management plan (non-significant anticipated).

3.4.9. Provide construction cost estimate

3.4.10. Provide four (4) paper copies (half size 11x17), one electronic pdf of plans, MicroStation and AutoCad/Civil 3D files of plans for right of way and 90% review.

3.4.11. Attend final field inspection after 90% submittal, if required.

3.4.12. Make plan changes resulting from the 90% review, subsequent reviews, and final field inspection.

3.4.13. Provide six (6) paper copies (half size 11x17) signed and sealed 100% plans.

3.4.14. Perform all other work required to advertise and receive bids.

3.4.15. Provide hydraulic certification (if necessary).

4. SWPPP SUBMITTAL

Prepare a SWPPP containing all the necessary data needed to obtain a SWPPP permit for the project, including the ARDOT, Arkansas Department of Environmental Quality (ADEQ), and City data and details.

5. RIGHT OF WAY ACQUISITION DOCUMENTS

The Consultant will provide mapping as required for preparing Right of Way/Easement acquisition documents for the City's use in acquiring the property. Right of Way Plans will be prepared in accordance with ARDOT's *Stage Submittal of Right of Way Plans*. Documentation will also include individual tract maps with description of temporary and permanent acquisition for each property. The City will provide a standard easement acquisition document or "go-by" example for use by the Consultant. The fee for providing property acquisition documentation is based on permanent right of way and temporary construction easements for no more than 25 properties. Property acquisition document preparation will begin after receiving the City and ARDOT comments from the Preliminary Design review.

6. COORDINATION WITH UTILITY COMPANIES

6.1. The Consultant will be responsible for project notification and coordination with utilities that have potential conflicts with the improvements. The consultant will include the surveyed locations of the observable and marked utilities in the construction plans. The Consultant will provide electronic copies of the plans to all City and franchise utility companies at the 50% and 90% stages of the project.

6.2. The consultant will prepare design and plans for the City water and sewer relocations necessary for the roadway construction.

7. BIDDING PHASE SERVICES

During the bidding phase of the project, the Consultant will:

7.1. Prepare Advertisement for Bids and submit to the City of issuance to newspaper(s). City to pay advertising costs outside of this agreement.
7.2. Dispense construction contract documents to prospective bidders at the approximate cost of reproduction and handling. City to receive bids.
7.3. Answer questions from contractors during the bid phase.
7.4. Issue Addenda.
7.5. Attend pre-bid meeting, if necessary.
7.6. Attend Bid Opening.
7.7. Review and certify bids for construction.
7.8. Prepare Bid Tabulations.
7.9. Prepare Construction Contract.
7.10. Issue letter of recommendation to City for acceptance of bid.

8. PROJECT MANAGEMENT

The Consultant will:

8.1. Notify the City and ARDOT of its schedule, in advance, for all activities. When specified, seek Right of Entry (ROE) from public or private landowners to perform services. ROE permission shall be written and signed by the landowner. Develop letters or other materials for seeking right of entry. Letters or other materials seeking right of entry shall not be distributed without prior approval of the City and ARDOT. Letters or other materials seeking right of entry shall contain explicit reference to the kinds of activities for which right of entry is requested and an indication of the impacts that shall result from performance of surveying of surveying or environmental services.

8.2. Provide monthly updates to the detailed project schedule.

8.3. Provide Project Controls consisting of the preparation and coordination of the monthly invoices and billing with the City and ARDOT.

8.4. Conduct an initial review and update of the preliminary project scope, detailed project schedule, and preliminary estimate using forms provided by the City and ARDOT and submit at major project milestones.

8.5. Recommend scope, schedule, and budget changes and submit supporting documentation including efforts to minimize or mitigate the changes in accordance with procedures outlined by the City and ARDOT.

8.6. Provide client coordination and subconsultant coordination. The Consultant shall maintain ongoing communication with the City and ARDOT and subconsultants for items such as work activities, billing, and miscellaneous coordination.

IV. TITLE II SERVICES TO BE PROVIDED BY CONSULTANT

Title II Services are excluded from the scope of services.

Appendix A-2 - Justification of Costs and Fees
August 31, 2023
Job 090613 Hwys. 12/279 Inters. Impvts. (Bentonville)(S)

PROJECT SUMMARY

TITLE I SERVICES	HOURS	SALARY	FIXED FEE	EXPENSES	TOTAL
PROJECT MANAGEMENT	93	$19,681	$2,359	$7	$22,047
SURVEYS	689	$76,513	$9,172	$10,997	$96,682
ENVIRONMENTAL	818	$135,676	$16,265	$5,443	$157,384
TRAFFIC STUDY	127	$25,069	$3,005	$2,008	$30,082
ROADWAY DESIGN & PLANS	1,149	$153,469	$18,398	$763	$172,630
RIGHT OF WAY	534	$101,652	$12,186	$256	$114,094
BIDDING	27	$4,305	$516	$26	$4,847
SUBTOTAL TITLE I	**3,437**	**$516,365**	**$61,901**	**$19,500**	**$597,766**
SUBCONSULTANTS TITLE I					
Terracon Consultants, Inc. - Geotechnical (Lump Sum) - See App. B-1					$15,650
SUBTOTAL SUBCONSULTANTS TITLE I	**0**	**$0**	**$0**	**$0**	**$15,650**
TOTAL TITLE I	3,437	**$516,365**	**$61,901**	**$19,500**	**$613,416**
TITLE II SERVICES					
NOT APPLICABLE					
TOTAL TITLE II	**0**	**$0**	**$0**	**$0**	**$0**
TOTAL PROJECT	3,437	**$516,365**	**$61,901**	**$19,500**	**$613,416**

PROJECT MANAGEMENT

MANHOURS

TASK	PM2	PE	SDE	DE	TECH	ADMIN	TECH2	TOTAL
General								
Develop Quality Control Plan	1	6						7
Overall Project Administration and Coordination	6	12						18
Scheduling								
Detailed Project Schedule	1	4						5
Monthly Schedule Updates	1	2						3
Project Controls								
Invoicing	12	24				6		42
Coordination								
Client Coordination Meetings	6	12						18
TOTAL MH - PROJECT MANAGEMENT	27	60	0	0	0	6	0	93

LABOR COSTS

Category - Description	Rate	MH	Amount
PM2 - Project Manager (E-5/E-6)	$98.00	27	$2,646
PE - Project Engineer (E-3/E-4)	$66.00	60	$3,960
SDE - Sr. Design Engineer (E-2)	$48.00	0	$0
DE - Design Engineer (E-1)	$42.00	0	$0
TECH - Technician (T-1)	$30.00	0	$0
ADMIN - Administrative Assistant (AM-1)	$25.00	6	$150
TECH2 - Technician II (T-2)	$37.00	0	$0
		Subtotal	$6,756
	Overhead	191.01%	$12,905
		Subtotal	$19,661
		Fixed Fee	$2,359
	FCCM	0.29%	$20
		Subtotal Labor Costs	**$22,040**

EXPENSES

ITEM	Quantity	Unit	Rate	Amount
Printing (8 1/2 x 11 B&W)	70	each	$0.10	$7.00
			Subtotal Expenses	$7.00
			Subtotal Expenses (rounded)	$7
			TOTAL COSTS - PROJECT MANAGEMENT	**$22,047**

BASIS OF ESTIMATE

Description	Number	Months
Contract Duration		30
Coordination Meetings (virtual)	12	

Appendix A-2 - Justification of Costs and Fees
August 31, 2023
Job 090613 Hwys. 12/279 Inters. Impvts. (Bentonville)(S)

SURVEYS

MANHOURS							
TASK	SPS	PS	PC	IM	RM	TECH	TOTAL
Design Survey							
Administration	2						2
Field Travel Time			18	18			36
Establish Horizontal Control	1	2	10	10			23
Establish Vertical Control	1	2	6	6			15
Topographic Survey	2	4	60	60			126
Utility Locates		2	12	12			26
Field Crew Prep assistance and comms		40					40
Process Data and Surface Model	2	40					42
Quality Control Review	4	2					6
Property Survey							
Administration	2						2
Field Travel Time			18	18			36
Establish additional control for Pacel and Section	2	2	10	10			24
Field Survey and Recon parts of 2 Sections	1	2	20	20			43
Field Survey and Recon 25 Parcels and Roads	4	4	50	50			108
Field Crew Prep assistance and comms		26					26
Delineate Properties and Easements	6	50					56
Drafting Final Property Survey	6	50					56
Quality Control Review	20	2					22
TOTAL MH - SURVEYS	53	228	204	204	0	0	689

LABOR COSTS			
Category - Description	Rate	MH	Amount
SPS - Senior Project Surveyor (S-5)	$62.00	53	$3,286
PS - Project Surveyor (S-4)	$48.00	228	$10,944
PC - Survey Party Chief (S-3)	$34.00	204	$6,936
IM - Instrument Man (S-2)	$25.00	204	$5,100
RM - Rodman (S-1)	$20.00	0	$0
TECH - Technician (T-1)	$32.00	0	$0
		Subtotal	$26,266
	Overhead	191.01%	$50,171
		Subtotal	$76,437
		Fixed Fee	$9,172
	FCCM	0.29%	$76
		Subtotal Labor Costs	**$85,685**

EXPENSES				
ITEM	Quantity	Unit	Rate	Amount
Printing (8 1/2 x 11 B&W)	40	each	$0.10	$4.00
Printing (11 x 17 B&W)	40	each	$0.20	$8.00
Mileage 4 Trips form Little Rock = 840 + 100 from Lodging to Site	940	miles	$0.585	$549.90
16 Days times 2 people	32	each	$150.00	$4,800.00
Arkups	40	each	$94.00	$3,760.00

SURVEYS

MANHOURS							
TASK	SPS	PS	PC	IM	RM	TECH	TOTAL
Record Research (WACO)				25	each	$75.00	$1,875.00
						Subtotal Expenses	$10,996.90
						Subtotal Expenses (rounded)	$10,997
						TOTAL COSTS - SURVEYS	**$96,682**

BASIS OF ESTIMATE	
Description	Count Stations
Main Lanes	4000
Side Roads	200
Total	**4200**

ENVIRONMENTAL

MANHOURS								
TASK	EPM2	EPM	ED	ES2	GDC2	GDC	TECH	TOTAL
Environmental Data Collection								0
1. Air Quality			1					1
2. Noise Quality		16	4	8			2	30
3. Hazardous Materials	2	6	8	12				28
4. Wetlands and Stream Impacts		2	8	36				46
5. Water Quality, including Public Drinking Supplies		1	2	2				5
6. Farmlands			2	2				4
7. Land Use and Land Cover		4	6	2				12
8. Migratory Birds			1	1				2
9. Terrestrial and Aquatic Communities			4	2				6
10. Endangered and Threatened Species		4	8	20				32
11. Economic	1	4	8					13
12. Community	2	4	8					14
13. Relocations, includig Homes, Businesses, Non-profit Organizations and Tenants of all types	4	8	24	4			2	42
14. Environmental Justice	2	8	8					18
15. Recreational Areas		1						1
16. Archeological and Historic Sites	2	4	2					8
17. Visual	2	6	8					16
18. Section 4(f) and 6(f) Properties	4	8	32	16			16	76
19. Secondary and Cumulative Impacts	1	2	8					11
Environmental Constraints Map								
Draft Constraints Map		1	2	12				15
Site Reconnaissance			8					8
Draft Constraints Memo	1	2	2	8				13
Final Constraints Memo		2	2	4				8
Location and/or Design Alternatives								
Conceptual Design (1 Alternative)	2	4					12	18
Minimization and Mitigation of Impacts	2	6	8	8				24
Public Involvement								
Agency and Tribal Letters		1	6					7
Public Meeting Coordination, Participation and Attendance		8	6		40	40		94
Public Meeting Materials, Including Spanish Translation		2	4		40	45		91
Internal QC Reviews	4	4			10	10		28
Public Meeting Synopsis	1	2			8	15		26
Environmental Document								
Prepare Draft Environmental Document	1	6	16					23
Internal QC	2	4	4					10
ARDOT Comments on Draft Environmental Document		2	8	8				18
Prepare Final Environmental Document	1	2	8					11
ARDOT Comments on Final Environmental Document		2	4					6
Permits and Special Provisions								
Prepare Special Provisions		1	2					3
SWPPP		1	1	16				18
Prepare Section 404 Nationwide Permit Application		2	2	16				20
Team Management								
Coordination with Client and ARDOT	2	4						6
Project Management	2	4						6
TOTAL MH - ENVIRONMENTAL	38	138	225	177	98	110	32	818

ENVIRONMENTAL

MANHOURS							
TASK	EPM2	EPM	ED	ES2	GDC2	GDC	TECH	TOTAL

LABOR COSTS			
Category - Description	Rate	MH	Amount
EPM2 - Environmental Project Manager II(ES-6)	$103.00	38	$3,914
EPM - Environmental Project Manager (ES-5)	$80.00	138	$11,040
ED - Environmental Designer (ES-3)	$54.00	225	$12,150
ES2 - Environmental Scientist II (ES-2)	$42.00	177	$7,434
GDC2 - Graphic Designer/Communications II (RS-3)	$63.00	98	$6,174
GDC - Graphic Designer/Communications (RS-2)	$44.00	110	$4,840
TECH - Technician (T-1)	$32.00	32	$1,024
		Subtotal	$46,576
	Overhead	191.01%	$88,965
		Subtotal	$135,541
		Fixed Fee	$16,265
	FCCM	0.29%	$135
		Subtotal Labor Costs	**$151,941**

EXPENSES				
ITEM	Quantity	Unit	Rate	Amount
Printing (8 1/2 x 11 B&W)	60	each	$0.10	$6.00
Public Display Boards	2	each	$100.00	$200.00
Public Invovlement Advertisements	2	each	$500.00	$1,000.00
Mileage (2 trips at 20 miles per trip)	56	miles	$0.655	$36.68
Meals - 1st day travel Statewide Lunch/Dinner (1 meal x 1 person)	0	day	$47.20	$0.00
Cultural Resources Survey (Flat Earth Archeology)	1	each	$4,200.00	$4,200.00
			Subtotal Expenses	$5,442.68
			Subtotal Expenses (rounded)	$5,443
			TOTAL COSTS - ENVIRONMENTAL	**$157,384**

BASIS OF ESTIMATE
Description
Specialist Reports: noise screening, wetlands, cultural resources, hazardous materials, Section 4(f) de minimis
Assumes 1-2 residential relocations and 1 business relocation
Assumes 1 Public Meeting (in-person)
Desktop constraints and field drive through
Preparation of Tribal letters for ARDOT to submit to FHWA
Assume Tier 3 CE with Draft and Final documents submitted to ARDOT
Coordination of required special provisions with design plans

TRAFFIC STUDY

MANHOURS								
TASK	PM2	PE	SDE	DE	TECH	ADMIN	TECH2	TOTAL
Meetings and Coordination with City		4						4
Create existing volumes from TMCs		4						4
Trip Generation	1	4						5
Create future volumes	1	8						9
Existing Vissim Roundabout Analysis		16						16
Future Vissim Roundabout Analysis	1	24						25
Existing Synchro Signal Analysis		8						8
Future Synchro Signal Analysis	1	8						9
SIDRA Roundabout Analysis	1	12						13
Traffic Study Memo	2	32						34
								0
TOTAL MH - TRAFFIC STUDY	7	120	0	0	0	0	0	127

LABOR COSTS			
Category - Description	Rate	MH	Amount
PM2 - Project Manager (E-5/E-6)	$98.00	7	$686
PE - Project Engineer (E-3/E-4)	$66.00	120	$7,920
SDE - Sr. Design Engineer (E-2)	$48.00	0	$0
DE - Design Engineer (E-1)	$42.00	0	$0
TECH - Technician (T-1)	$30.00	0	$0
ADMIN - Administrative Assistant (AM-1)	$25.00	0	$0
TECH2 - Technician II (T-2)	$37.00	0	$0
		Subtotal	$8,606
	Overhead	191.01%	$16,438
		Subtotal	$25,044
		Fixed Fee	$3,005
	FCCM	0.29%	$25
		Subtotal Labor Costs	**$28,074**

EXPENSES				
ITEM	Quantity	Unit	Rate	Amount
Printing (8 1/2 x 11 B&W)	60	each	$0.10	$6.00
Printing (11 x 17 B&W)	10	each	$0.20	$2.00
Traffic Data Collection - The Traffic Group, Inc.	1	LS	$2,000.00	$2,000.00
			Subtotal Expenses	$2,008.00
			Subtotal Expenses (rounded)	$2,008
			TOTAL COSTS - TRAFFIC STUDY	**$30,082**

BASIS OF ESTIMATE
Description
Counts will be taken for the intersection approaches, historic data from ArDOT will be used to determine a growth rate which will be used to project volumes 20 years to create future volumes. The proposed improvements (roundabout and signal) will be evaluated to ensure that the type of intersection is appropriate. Depending on the intersection type selected, the study may include an evaluation of the number of approach lanes and length of turn bays. A final traffic report in memo form will be developed containing the results and conclusions of the traffic study and all necessary support documentation.

ROADWAY DESIGN & PLANS

MANHOURS								
TASK	PM2	PE	SDE	DE	TECH	ADMIN	TECH2	TOTAL
Pre-Design								
Design Criteria		4		2				6
Kick-off Meeting	2	2						4
Typical Sections		1		2			2	5
Horizontal Alignment	1	1		4			4	10
Plan Sheet Exhibits for Environmental Documentation	1	1		4			6	12
30% Design Phase								
Title Sheet				1			2	3
Typical Sections		2		2			8	12
Plan and Profiles	2	20		40			40	102
Drainage Study (25 & 100 yr. floods)		4		18				22
Review Water/Sewer Record drawings and Survey		4		4				8
Water and Sewer Design Alternatives		4		16			24	44
Water/Sewer Plan Submittal/Address Comments		2		12			24	38
Opinion of Probable Costs		2		8				10
Culvert Crossing Design (2 each)		2		8				10
QA/QC	4	4						8
Plan Submittal and Address ARDOT/City Comments		2		8			8	18
50% Design Phase								
Pavement Design				2				2
Soil Boring Logs							2	2
Title Sheet				2			4	6
Typical Sec ions		1		4			2	7
Special Details		2		4			6	12
Survey Control Details				2			4	6
Maintenance of Traffic		2		10			8	20
Transportation Management Plan		2		4				6
Demolition Plan		2		4			8	14
Plan and Profiles	4	20		60			40	124
Drainage Plan and Profiles		8		16			8	32
Drainage Design and Drainage Area Map		2		8			2	12
Driveways (Up to 16 Anticipated)		4		12			4	20
Erosion Control Plans		2		8			4	14
Set ROW		2		4			2	8
Permanent Pavement Marking & Signage Plan		2		8			6	16
Water/Sewer Horizontal alignment		2		12			8	22
Water/Sewer Vertical alignment		4		24			16	44
Water/Sewer Plan & Profiles		2		8			16	26
Water/Sewer submittal/address comments		2		4			20	26
Cross Sections		2		8			8	18
Opinion of Probable Costs		2		8				10
Franchise Utility Coordina ion		6		12				18
QA/QC	2	4						6
Plan Submittal/Address ARDOT/City Comments		6		10		2	10	28
90% Design Phase								
Quantity Calculations (Quantity Tables)		8		16				24
Quantity Calculations Check		4						4
Update Drainage Plan and Profiles		2		12			8	22
Update Plan and Profile Sheets	2	10		24			24	60
Update Cross Sections		2		6			6	14
Update Water/Sewer Sheets		2		24			40	66
ADH Submittal and Revisions		4		12			24	40
Transportation Management Plan		2		4				6

ROADWAY DESIGN & PLANS

MANHOURS								
TASK	PM2	PE	SDE	DE	TECH	ADMIN	TECH2	TOTAL
Project Manual	2	8		6				16
Special Provisions		8		4				12
Franchise Utility Coordina ion		8		4				12
Opinion of Probable Costs		2		6				8
QA/QC	4	4						8
Plan Submittal/Address ARDOT/City Comments		6		8			12	26
100% Design Phase								
Plan Check	2	8						10
Final Plans Submittal (Signed and Sealed)		2		2	4	2		10
TOTAL MH - ROADWAY DESIGN & PLANS	26	214	0	491	4	4	410	1,149

LABOR COSTS			
Category - Description	Rate	MH	Amount
PM2 - Project Manager (E-5/E-6)	$98.00	26	$2,548
PE - Project Engineer (E-3/E-4)	$66.00	214	$14,124
SDE - Sr. Design Engineer (E-2)	$48.00	0	$0
DE - Design Engineer (E-1)	$42.00	491	$20,622
TECH - Technician (T-1)	$30.00	4	$120
ADMIN - Administrative Assistant (AM-1)	$25.00	4	$100
TECH2 - Technician II (T-2)	$37.00	410	$15,170
		Subtotal	$52,684
	Overhead	191.01%	$100,632
		Subtotal	$153,316
		Fixed Fee	$18,398
	FCCM	0.29%	$153
		Subtotal Labor Costs	**$171,867**

EXPENSES				
ITEM	Quantity	Unit	Rate	Amount
Printing (8 1/2 x 11 B&W)	300	each	$0.10	$30.00
Printing (11 x 17 B&W)	580	each	$0.20	$116.00
Mileage (6 trips @ 60 miles per trip)	200	miles	$0.585	$117.00
ADH Permit Fee	1	LS	$500.00	$500.00
			Subtotal Expenses	$763.00
			Subtotal Expenses (rounded)	$763
			TOTAL COSTS - ROADWAY DESIGN & PLANS	**$172,630**

BASIS OF ESTIMATE	
Description	Miles
Main Lanes	1.0
Side Roads	0.1
TOTAL	1.1
Assumes 1 Public Meeting (in-person)	

RIGHT OF WAY

MANHOURS

TASK	PM2	PE	DE4	SPS	PS	SC	TOTAL
Acquisition Documents							
60% Strip Map and Submittal	2	8	62				72
Prepare R/W Plans and Documents			138				138
In-House QC Review and Documents			40				40
Submit 90% Plans	2		6				8
Final Plans	2		28				30
Easements - Prepare Legal Descriptions (Exhibit A)				25	50		75
Easement Prepare individual Tract Maps (Exhibit B)				25	50		75
Field Staking							
Calculations for Staking				2	8		10
Stake Proposed ROW and Easements for Land Acquisition				1	2	40	43
Stake Proposed ROW and Easements for Utility Relocations				1	2	40	43
TOTAL MH - RIGHT OF WAY	6	8	274	54	112	80	534

LABOR COSTS

Category - Description	Rate	MH	Amount
PM2 - Project Manager (E-5/E-6)	$98.00	6	$588
PE - Project Engineer (E-3/E-4)	$66.00	8	$528
DE4 - Designer (D-4)	$68.00	274	$18,632
SPS - Senior Project Surveyor (S-5)	$66.00	54	$3,564
PS - Project Surveyor (S-4)	$52.00	112	$5,824
SC - Survey Crew (2-Man)	$72.00	80	$5,760
		Subtotal	$34,896
	Overhead	191.01%	$66,655
		Subtotal	$101,551
		Fixed Fee	$12,186
	FCCM	0.29%	$101
		Subtotal Labor Costs	**$113,838**

EXPENSES

ITEM	Quantity	Unit	Rate	Amount
Printing (8 1/2 x 11 B&W)	300	each	$0.10	$30.00
Survey Supplies	1	each	$50.000	$50.00
Mileage (30 miles per day @ 10 days)	300	miles	$0.585	$175.50
			Subtotal Expenses	$255.50
			Subtotal Expenses (rounded)	$256
			TOTAL COSTS - RIGHT OF WAY	**$114,094**

BASIS OF ESTIMATE

Description
Estimate based on 25 Parcels along the route for proposed R\W
Estimate based on 3 parcels with revisions for negotiations
Estimate based on 25 parcels along route for proposed easements

BIDDING

MANHOURS							
TASK	PM	PE	SDE	DE	TECH	ADMIN	TOTAL
Bidding							
Dispense plans and specs to prospective bidders						2	2
Addendums / Inquiries	1		8				9
Pre-Bid Meeting			3				3
Bid Opening	1	1					2
Prepare Bid Tabulation		1		1			2
Evaluate Bids and Recommend Award	1	1					2
Prepare Construction Contracts		2		1	2		5
Notice to Proceed		2					2
TOTAL MH - BIDDING	3	7	11	2	2	2	27

LABOR COSTS			
Category - Description	Rate	MH	Amount
PM2 - Project Manager (E-5/E-6)	$98.00	3	$294
PE - Project Engineer (E-3/E-4)	$66.00	7	$462
SDE - Sr. Design Engineer (E-2)	$48.00	11	$528
DE - Design Engineer (E-1)	$42.00	2	$84
TECH - Technician (T-1)	$30.00	2	$60
ADMIN - Administrative Assistant (AM-1)	$25.00	2	$50
		Subtotal	$1,478
	Overhead	191.01%	$2,823
		Subtotal	$4,301
		Fixed Fee	$516
	FCCM	0.29%	$4
		Subtotal Labor Costs	**$4,821**

EXPENSES				
ITEM	Quantity	Unit	Rate	Amount
Printing (8 1/2 x 11 B&W)	80	each	$0.10	$8.00
Mileage (provide a basis for the estimate)	30	miles	$0.585	$17.55
			Subtotal Expenses	$25.55
			Subtotal Expenses (rounded)	$26
			TOTAL COSTS - BIDDING	**$4,847**

BASIS OF ESTIMATE
Description
Mileage (60 miles per trip - 2 trips)

APPENDIX B-1

SUBCONSULTANT AGREEMENT
FOR
GEOTECHNICAL SERVICES
(LOCAL VERSION)

1. SUBCONSULTANT AGREEMENT

1.1. The services to be performed under this Subconsultant Agreement will be performed in connection with the Agreement for Engineering Services ("Prime Agreement") between the Consultant and the City of Bentonville ("Owner"), dated ________. Garver, LLC ("Consultant") and Terracon Consultants, Inc. ("Subconsultant") hereby agree that the Subconsultant shall perform the professional and related services as described herein. In consideration for the performance of the professional services the Consultant agrees to compensate (and reimburse, if applicable) the Subconsultant in the manner and at the rate(s) provided herein.

1.2. The definitions of the Prime Agreement, and its provisions relating to the obligations, duties, and rights of subcontractors, *or which are otherwise required to be inserted into any subcontracting agreements*, are deemed to be part of, and are hereby incorporated by reference into, this Subconsultant Agreement and made binding upon the Subconsultant.

1.3. "Title I Services" are those services provided by the Subconsultant before the award of the contract for construction of the Projects, consisting primarily of services for the planning or design of the Project.

1.4. "Title I Services Ceiling Price" The Title I Services Ceiling Price for this Subconsultant is **$15,650**. The Title I Services Ceiling Prices is the maximum aggregate amount of all payments that the Consultant may become obligated to make to the Subconsultant.

1.5. "Title II Services" are those services provided by the Subconsultant after the award of the contract for the construction of the Project consisting primarily of geotechnical services during the construction of the Project.

1.6. "Title II Services Ceiling Price" The Title II Services Ceiling Price for this Agreement is **$0**. The Title II Services Ceiling Price is the maximum aggregate amount of all payments that the Consultant may become obligated to make to the Subconsultant for fees and costs related to Title II Services. In no event, unless modified in writing, shall total payments by the Consultant related to Title II Services exceed the Title II Services Ceiling Price. The Subconsultant shall not be entitled to receive adjustment, reimbursement, or payment for, nor shall the Consultant, Owner, or their officers, agents, employees, or representatives, incur any liability for, any fee or cost related to, Title II Services exceeding the Title II Services Ceiling Price.

1.7. "Owner" means collectively, the Arkansas State Highway Commission and the Arkansas Department of Transportation ("Department" or "ARDOT") regardless of how referenced.

1.8. "DOT" means the United States Department of Transportation.

1.9. "FAR" means the Federal Acquisition Regulations, codified in 48 Code of Federal Regulations (CFR).

1.10. "FHWA" means the Federal Highway Administration.

2. DESCRIPTION OF PROJECT AND SERVICES TO BE PROVIDED

2.1. The City of Bentonville has programmed a project for the improvement of the intersection of State Highways 12 and 279. The project will typically include a determination of the preferred intersection type, geometric improvements to all intersection approaches that takes into account projected traffic volumes, and pedestrian improvements consistent with the City Bike/Pedestrian Plan.

2.2. Title I Services to be Provided by Subconsultant. Terracon Consultants, Inc. will perform the following tasks to prepare the geotechnical investigation for the project:

2.2.1. Subconsultant will visit the project alignment to observe site conditions. Published information on site geology and available information from prior geotechnical studies in the area will be reviewed.

2.2.2. If necessary, Subconsultant will contact landowners to secure right of access in the project alignment prior to accessing boring locations. Underground utility locations will be determined prior to beginning drilling.

2.2.3. Access to boring locations will be provided by Subconsultant as dictated by site conditions and permitted by property owners. Applicable permits will be obtained and traffic control will be provided by Subconsultant. Truck-mounted drilling equipment will be utilized.

2.2.4. Sample borings will be advanced using dry-auger and rotary-wash drilling techniques. Undisturbed soil samples or Standard Penetration Values will typically be obtained in borings at 2-ft to 5-ft intervals. Groundwater measurements will be obtained during and at the completion of drilling operations. Boreholes will be backfilled after obtaining final groundwater measurements. Boreholes in existing pavement areas will be patched with asphalt concrete cold patch or a concrete mix.

2.2.5. The subsurface exploration program will consist of four (4) sample borings drilled to approximately 10-ft depth or auger refusal along the roadway alignment.

2.2.6. An adequate laboratory testing program will be planned and performed after the borings are completed. The purpose of the laboratory testing program will be to evaluate pertinent physical properties and engineering characteristics of the subgrade soils. These data will be used in developing geotechnical recommendations for subgrade support design parameters, subgrade preparation, and site grading. The testing program is expected to consist of classification tests, strength tests, measurements of compressibility, swell potential, and subgrade support properties.

2.2.7. An engineering report will be developed which will include the results of the field and laboratory studies, information on site conditions and geology, and recommendations for subgrade preparation, site grading, pavement subgrade support parameters, and pavement section.

2.3. Title II Services to be Provided by Subconsultant. Title II Services are excluded from the scope of services.

3. COSTS, FEES, PAYMENTS, AND RATE SCHEDULES

3.1. Lump-Sum Contract (Title I Services)

The Subconsultant is being hired to perform professional geotechnical services in connection with the Project as set forth herein. In consideration for the Title I geotechnical services performed, the Consultant shall pay to the subconsultant the Fee as provided herein. The Fee includes compensation for any cost to be incurred by the subconsultant, and the subconsultant shall not be reimbursed for costs incurred outside of the agreed-upon Fee. The subconsultant shall bear the costs, and resulting risks, of performing this Agreement. The subconsultant may only be paid for work actually performed.

3.2. Under no circumstances shall the Department be liable for any amounts, including all costs, which exceed the Contract Ceiling Price.

4. COMPENSATION SUBJECT TO LIMITATIONS OF FEDERAL AND STATE LAW

4.1. The Project (as defined in the Prime Agreement), part of which is to be performed under this Subconsultant Agreement, is a federally-assisted project, and federal funds will be used, in part, to pay the Consultant and Subconsultant. Therefore, notwithstanding any provision of this Subconsultant Agreement or the Prime Agreement, all payments, costs, and expenditures are subject to the requirements and limitations of 48 CFR Part 31, including those relating to determination of indirect cost rates, if applicable. The Subconsultant shall certify the accuracy of all invoices, requests for payment, and cost rates (if applicable), along with supporting documentation and any supporting information or records provided prior to, during, or after the term of this Subconsultant Agreement.

5. COMMISSION, ARDOT, AND FHWA AS THIRD PARTY BENEFICIARIES

5.1. This Subconsultant Agreement is between and binding upon only the Consultant and Subconsultant. The Commission, ARDOT, and FHWA are not parties to this Subconsultant Agreement, but are expressly made third-party beneficiaries of this Subconsultant Agreement and shall be entitled to enforce any obligation of the Subconsultant owed to the Consultant. No provision of this Subconsultant Agreement or the Prime Agreement, nor the exercise of any right thereunder, shall be construed as creating any obligation or any liability on the part of, or operating as a waiver of any immunity of, the Commission, the ARDOT, the FHWA, or any of their employees, officers, or agents.

5.2. The Subconsultant's sole recourse, if any, for any injury arising under or related to this Subconsultant Agreement, the performance of services hereunder, or compensation or claims hereunder, shall be against the Consultant.

5.3. The Disputes and Claims provisions of the Prime Agreement shall not apply to this Subconsultant Agreement. However, the Subconsultant shall provide the Consultant all necessary information and assistance to enable Consultant to comply with the Disputes and Claims provisions.

6. RECORDS & AUDITS

6.1. Records includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

6.2. Examination. The Subconsultant shall maintain, and the Owner, FHWA, and their authorized representatives shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs (direct and indirect) claimed to have been incurred or anticipated to be incurred in performance of this Agreement. This right of examination shall also include examination and audit of any records considered, relied upon, or relating to the determination of the Indirect Cost Rate or any certification thereof, including any CPA audit relied upon to establish the rate. This right of examination shall also include inspection at all reasonable times of the Subconsultant's offices and facilities, or parts of them, engaged in performing the Agreement.

6.3. Supporting Data. If the Subconsultant has been required to submit data in connection with any action relating to this Agreement, including the negotiation of or pre-negotiation audit of the Indirect Cost Rate, the negotiation of the Fee, request for cost reimbursement, request for payment, request for an adjustment, or assertion of a claim, the Owner, FHWA, or their authorized representatives, in order to evaluate the accuracy, completeness, and accuracy of the data, shall have the right to examine and audit all of the Subconsultant's records, including computations and projections, related to—

- The determination or certification of the Indirect Cost Rate, including any independent CPA audit or certification thereof;
- Any proposal for the Agreement, subcontract, or modification;
- Discussions conducted on the proposal(s), including those related to negotiating;
- Fees or allowable costs under the Agreement, subcontract, or modification;
- Performance of the Agreement, subcontract or modification; or,
- The amount and basis of any claim or dispute.

6.4. *Audit*. The Owner, FHWA, or their authorized representatives, shall have access to and the right to examine any of the Subconsultant's records involving transactions related to this Agreement or a subcontract hereunder.

6.5. *Reports*. If the Subconsultant is required to furnish cost, funding, or performance reports, the Owner, FHWA, or their authorized representatives shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating (1) the effectiveness of the Subconsultant's policies and procedures to produce data compatible with the objectives of these reports and (2) the data reported.

6.6. *Availability*. The Subconsultant shall retain and make available at its office at all reasonable times the records, materials, and other evidence described in this section and Section 29, Disputes and Claims, for examination, audit, or reproduction, until five years after final payment under this Agreement, or for any longer period required by statute or by other clauses of this Agreement. In addition—

6.7. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be retained and made available for five years after the termination; and,

6.8. Records relating to any claim or dispute, or to litigation or the settlement of claims arising under or relating to this Agreement shall be retained and made available until after any such claims or litigation, including appeals, are finally resolved.

6.9. The Subconsultant shall insert a clause containing all the terms of this section in all subcontracts under this Agreement.

7. PATENT AND COPYRIGHT INFRINGEMENT

7.1. The Subconsultant shall report to the Consultant and Owner, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Agreement of which the Subconsultant has knowledge.

7.2. In the event of any claim or suit against the Owner on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any supplies furnished or work or services performed under this Agreement, the Subconsultant shall furnish to the Consultant and Owner, when requested, all evidence and information in possession of the Subconsultant pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Subconsultant.

7.3. The Subconsultant agrees to include, and require inclusion of, the provisions of this section in all subcontracts at any tier for supplies or services.

7.4. The Subconsultant shall indemnify the Consultant and Owner and its officers, agents, and employees against liability, including costs and attorneys' fees, for infringement of any United States patent or copyright arising from the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property under this Agreement, or out of the use or disposal by or for the account of the Consultant or Owner of such supplies or construction work.

7.5. This indemnity shall not apply unless the Subconsultant shall have been informed within ten (10) business days following the Consultant's or Owner's receipt of legal notice of any suit alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further, this indemnity shall not apply to (1) an infringement resulting from compliance with specific written instructions of the Consultant or Owner directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the Agreement not normally used by the Subconsultant, (2) an infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance, or (3) a claimed infringement that is unreasonably settled without the consent of the Subconsultant, unless required by final decree of a court of competent jurisdiction.

8. SUBCONTRACTING

8.1. Unless expressly disclosed in Appendix B, the Subconsultant may not subcontract any of the services to be provided herein without the express written approval of the Consultant and Owner. All subcontractors, including those listed in Appendix B, shall be bound by the terms of this Agreement. All subcontractors shall be subject to all contractual and legal restrictions concerning payment and determination of allowable costs, and subject to all disclosure and audit provisions contained herein and in any applicable federal or state law.

8.2. Unless the consent or approval specifically provides otherwise, neither consent by the Consultant or Owner to any subcontract nor approval of the Subconsultant's purchasing system shall constitute a determination (1) of the acceptability of any subcontract terms or conditions, (2) of the acceptability of any subcontract price or of any amount paid under any subcontract, or (3) to relieve the Subconsultant of any responsibility, obligation, or duty under this Agreement.

8.3. No subcontract placed under this Agreement shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement subcontracts shall not exceed the fee limitations of the FAR.

8.4. Furthermore, notwithstanding any other provision within this Agreement, no reimbursement or payment for any markup of the cost of any subcontract shall be considered by the Consultant or Owner without the express written agreement of the Consultant and Owner.

8.5. Prompt Payment. The Subconsultant shall pay subcontractors for satisfactory performance of their subcontracts within 30 days of receipt of each payment by the Consultant to the Subconsultant. Any retainage payments held by the Subconsultant must be returned to the subcontractor within 30 days after the subcontractor's work is completed. Failure to comply with this provision shall be considered a Default by the Subconsultant. If the Subconsultant fails to comply with this provision, in addition to any other rights or remedies provided under this Agreement, the Consultant, at its sole option and discretion, may:

- make payments directly to the subcontractor and offset such payments, along with any administrative costs incurred by the Consultant, against reimbursements or payments otherwise due the Subconsultant;

- notify any sureties; and/or,

- withhold any or all reimbursements or payments otherwise due to the Subconsultant until the Subconsultant ensures that the subcontractors have been and will be promptly paid for work performed.

9. RESTRICTIONS ON EMPLOYMENT OF PRESENT AND FORMER EMPLOYEES

9.1. The Subconsultant shall not be permitted to employ or make an offer of employment, for regular or part-time work related to any Department projects during the term of this Agreement, to any person who:

- is a present employee of the Department;

- is a former employee of the Department and at any time during the person's employment with the Department, the person participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while an employee, on any particular matter pertaining to this Agreement;

- is a former employee of the Department within the twelve (12) months of employment cessation, and under this Agreement will knowingly act as a principal or as an agent in matters which were within this person's official responsibility; or

- is a former employee of the Department within the twelve (12) months of employment cessation will engage in selling or attempting to sell commodities or services, including technical or professional consultant services to the Department, unless the former employee's last annual salary with the Department did not exceed ten thousand five hundred dollars ($10,500).

- is a former employee of the Department and at any time was terminated with cause or allowed to resign/retire in lieu of termination with cause.

9.2. Any individual or entity acting as a principal or agent on behalf of any person disqualified pursuant to the terms of provision 9.1 shall not be permitted to perform any work related to any Department project for the Subconsultant during the term of this Agreement.

9.3. This section is not intended to preclude a former employee from accepting employment with the Subconsultant solely because the Subconsultant has entered into this Agreement with the Consultant.

10. INSURANCE

10.1. *Professional Liability Insurance Coverage.* The Subconsultant shall maintain at all times during the performance of services under this Agreement professional liability insurance coverage for errors, omissions, and negligent acts to the extent caused by the performance of professional services under this Agreement with minimum limits of $5,000,000 each claim, written on a "claims made" basis. Such insurance shall extend to the Subconsultant and to its legal representatives in the event of death, dissolution, or bankruptcy, and shall cover the errors, omissions, or negligent acts of the Subconsultant's subcontractors, agents, and employees. Such insurance shall extend to any errors, omissions, and negligent acts in the performance of services under this Agreement committed by the Subconsultant or alleged to have been committed by the Subconsultant or any person for whom the Subconsultant is legally responsible subject to the terms of the policy.

10.2. *Deductible.* Except specified otherwise herein, all deductibles and retentions will not be in excess of $10,000, without written approval from the prime Consultant, and all such deductibles and retentions will be paid by the Subconsultant, for which it will not be reimbursed.

10.3. *Worker's Compensation Insurance.* The Subconsultant shall at all times during the Term of this Agreement maintain Worker's Compensation and Employer's Liability Insurance as required under Arkansas law.

10.4. *Automobile Liability Insurance.* The Subconsultant shall at all times during the term of this Agreement maintain automobile liability insurance, on an occurrence form, covering vehicles owned, non-owned, hired vehicles, and including the vicarious liability of protecting against claims for bodily injury, including without limitation death, and loss of or damage to property, with a minimum combined single limit of $1,000,000 each accident. This insurance shall also provide contractual liability insurance coverage.

10.5. *Commercial General Liability (CGL).* CGL, on an occurrence form at least as broad as an unmodified current ISO edition of CG 00 01, covering liability arising out of all locations and operations of Subconsultant, for personal injury, bodily injury, mental anguish and property damage, including contractual liability coverage covering Subconsultant's indemnification obligations herein, with a minimum per occurrence limit of $1,000,000 and an aggregate limit of $2,000,000 during the policy period. Policy limits must apply on a per project basis.

10.6. *Umbrella / Excess Liability Insurance.* Umbrella / Excess Liability Insurance, on an occurrence basis, with minimum limits of $5,000,000. Subconsultant's excess liability or umbrella insurance shall provide the same or greater coverage as the coverage required by the CGL and Automobile Liability provisions herein and include the drop down provision, contain “pay on behalf” language, and have concurrent effective dates with the primary coverages.

10.7. *Valuable Papers Insurance.* The Subconsultant shall at all times during the term of this Agreement maintain Valuable Papers Insurance, whether as part of the General Liability Insurance referenced above or as a separate insurance, in an amount sufficient to cover all cost associated with repairing, restoring, or replacing any plans, drawings, field notes, and other documents kept or created by the Subconsultant as part of the services under this Agreement, in the event of casualty to or loss or theft of such papers.

10.8. *Insurance Policies and Certificates.* The Subconsultant shall provide the Consultant and Owner upon request copies of its insurance policies and evidence satisfactory to the Consultant and Owner concerning the effectiveness and the specific terms of the insurance. Prior to the execution of this Agreement, the Subconsultant shall furnish to the Consultant certificates of insurance reflecting policies in force, and it shall also provide certificates evidencing all renewals of any expiring insurance policy required hereunder within thirty (30) days of the expiration thereof. The project name and number shall be listed within the comments section of the certificates of insurance, which shall evidence all of the insurance required under this Section. The Subconsultant's failure to provide and continue in force and effect any insurance required under this Article shall be deemed a Default for which Consultant, in its sole discretion, may terminate this Agreement immediately or on such other terms as it sees fit. Failure of the Consultant to demand certificates or other evidence of full compliance shall not be interpreted as a waiver of these obligations.

10.9. *Additional Insurance Requirements.* All insurance maintained by the Subconsultant pursuant to this Section shall be written by insurance companies licensed to do business in Arkansas, in form and substance satisfactory to the Consultant and Owner, shall provide that the insurance will not be subject to cancellation, termination, or change during its term except upon thirty (30) days prior written notice to the Consultant. In the event that the insurance is cancelled, terminated, or changed during its term and thirty (30) days written notice cannot be provided to the Consultant, the Subconsultant shall provide any insurance required under this Article for continual coverage upon expiration of the existing policy or become financially responsible for any claims associated with the expired period.

10.10. *Duration of Insurance Obligations.* The Subconsultant shall maintain its professional insurance coverage required under this Agreement in force and effect for a period not less than five years after the final acceptance of the project or the completion of the Consultant's services under this Agreement, whichever comes later. Comprehensive General Liability Insurance Coverage and Valuable Papers Insurance Coverage required under this Agreement shall be in full force and effect until the final acceptance or the completion of the Subconsultant's services, whichever comes later. All other insurance shall be maintained in full force and effect until final acceptance of the project or completion of the Consultant's services, whichever comes first.

10.11. *Subconsultant’s Insurance Primary.* All of Subconsultant’s policies shall be endorsed to provide that Subconsultant’s insurance policies, including insurance provided under the Umbrella/Excess, if any, shall apply as primary and non-contributory insurance with respect to any other insurance or self-insurance programs afforded to, or maintained by the Consultant or Owner.

10.12. *Additional Insured.* The Subconsultant shall name Garver, LLC, Owner, their respective affiliates, officers, directors, managers, employees, agents, assigns, and any other party identified as an additional insured designee in the Prime Agreement as an Additional Insured, on the Subconsultant's Commercial General Liability policy (using ISO Additional Insured Endorsement CG20 10 11 85 or a substitute providing equivalent coverage), Automobile Liability policy (using ISA Additional Insured Endorsement CA 2048 or a substitute providing equivalent coverage), and Umbrella/Excess, if any. Additional insured coverage, except as otherwise required by law or this Agreement, will be at least broad as the Subconsultant's underlying coverage.

10.13. *Waiver of Subrogation.* Subconsultant, and Subconsultant's insurers, shall waive all rights of subrogation in favor of the Additional Insured Parties, the foregoing requirement shall not include waiver of subrogation applicable to Subconsultant's professional liability insurance coverage.

11. COVENANT AGAINST CONTINGENCY FEES

11.1. The Subconsultant warrants that no person or agency has been employed or retained to solicit or obtain this Subconsultant Agreement upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the ARDOT and Consultant shall have the right to annul this Subconsultant Agreement without liability or, in its discretion, to deduct from the Contract Price or consideration, or otherwise recover, the full amount of the contingent fee.

11.2. Bona fide agency, as used in this section, means an established commercial or selling agency, maintained by the Subconsultant for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds itself out as being able to obtain any government contract or contracts through improper influence.

11.3. Bona fide employee, as used in this section, means a person, employed by the Subconsultant and subject to the Subconsultant's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds out as being able to obtain any government contract or contracts through improper influence.

11.4. Contingent fee, as used in this section, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a government contract.

11.5. Improper influence, as used in this section, means any influence that induces or tends to induce a government employee or officer to give consideration or to act regarding a government contract on any basis other than the merits of the matter.

12. TITLE VI ASSURANCES (NONDISCRIMINATION)

During the performance of this Subconsultant Agreement, the Subconsultant, for itself, successors, and assigns, certifies and agrees as follows:

12.1. Compliance with Regulations. The Subconsultant shall comply with the Regulations relative to Title VI (Nondiscrimination in Federally-assisted programs of the Department of Transportation and its operating elements, especially Title 49, Code of Federal

Regulations, Part 21 and 23 Code of Federal Regulations, as amended, and hereinafter referred to as the Regulations). These regulations are herein incorporated by reference and made a part of this Subconsultant Agreement. Title VI provides that the recipients of Federal financial assistance will maintain and implement a policy of nondiscrimination in which no person shall, on the basis of race, color, or national origin be excluded from participation in, denied the benefits of, or subject to discrimination under any program or activity by recipients of Federal financial assistance or their assignees and successors in interest.

12.2. Nondiscrimination. The Subconsultant, with regard to the work performed by it during the term of this Subconsultant Agreement, shall not discriminate on the basis of race, color, or national origin in the selection and retention of subcontractors, including procurement of material and leases of equipment. The Subconsultant shall not participate either directly or indirectly in any discrimination prohibited by Section 21.5 of the Regulations, including employment practices.

12.3. Solicitations for Subcontracts, Including Procurements of Material & Equipment. In all solicitations, either by competitive bidding or negotiation, made by the Subconsultant for work to be performed under a subcontract, including procurement of materials and leases of equipment, each potential subcontractor or supplier shall be notified by the Subconsultant of the Subconsultant's obligations under this Subconsultant Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

12.4. Information and Reports. The Subconsultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, and accounts, other sources of information, and its facilities by the Owner or the USDOT and its Affiliated Modes to be pertinent to ascertain compliance with such regulations and directives. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Subconsultant shall so certify to the Owner or the USDOT and its Affiliated Modes, as appropriate, and shall set forth the efforts made by the Subconsultant to obtain the records or information.

12.5. Sanctions for Noncompliance. In the event of the Subconsultant's noncompliance with the nondiscrimination provisions of this Subconsultant Agreement, the Owner shall impose such contract sanctions as it or the USDOT and its Affiliated Modes may determine to be appropriate, including but not limited to, withholding of payments to the Consultant or Subconsultant under the Agreement until the Subconsultant complies with the provisions and cancellation, termination, or suspension of the Subconsultant Agreement, in whole or in part.

12.6. Incorporation of Provisions. The Subconsultant shall include the terms and conditions of this section in every subcontract including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Subconsultant shall take such action with respect to any subcontract or procurement as the Owner or USDOT and its Affiliated Modes may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, however that, in the event the Subconsultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Subconsultant may request the Owner or the United States to enter into the litigation to protect the interests of the State and the United States, respectively.

13. DBE CLAUSE

13.1. The Subconsultant shall not discriminate on the basis of race, color, sex, or national origin in the performance of this Subconsultant Agreement. The Subconsultant shall comply with the applicable requirements of 49 CFR Part 26 and perform any actions necessary to maintain compliance in the award and administration of DOT-assisted contracts. Failure by the Subconsultant to comply with or perform these requirements is a material breach of this Subconsultant Agreement, which may result in the cancellation, termination, or suspension of this Subconsultant Agreement in whole or in part, or such other remedy that the Owner may determine appropriate.

13.2. The Subconsultant shall insert a clause containing all the terms of this section in all subcontracts under this Agreement.

14. COMPLIANCE WITH ALL OTHER LAWS REGARDING NONDISCRIMINATION

14.1. The Subconsultant will comply with the provisions of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, Title VI of the Civil Rights Act of 1964, FHWA Federal Aid Project Guidance, and any other Federal, State, and/or local laws, rules and/or regulations.

14.2. The Subconsultant, during the term of this Agreement, shall not discriminate on the basis of race, color, sex, national origin, age, religion, disability, or any other protected classes, in admission or access to and treatment in programs and activities associated with this Agreement, or in the selection and retention of subcontractors, including procurement of material and leases of equipment. The Subconsultant shall not participate either directly or indirectly in any discrimination prohibited by the Regulations, including employment practices.

14.3. In accordance with Section 504 regulations 49 CFR Part 27.15, the Owner's Notice of Nondiscrimination is required in any bulletins, announcements, handbooks, pamphlets, brochures, and any other publications associated with this Agreement that are made available to the public, program participants, applicants or employees.

15. CERTIFICATION REGARDING LOBBYING

15.1. The Subconsultant certifies, to the best of their knowledge and belief, that:

15.1.1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

15.1.2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying".

15.1.3. The Subconsultant shall require that the language of this certification be included in the agreement for all subcontracts and that all subcontractors shall certify and disclose accordingly.

16. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

16.1. The Subconsultant certifies, to the best of its knowledge and belief, that—

16.1.1. The Subconsultant and any of its Principals—

16.1.1.1. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal or state agency;

16.1.1.2. Have not, within a 3-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

16.1.1.3. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subsection 16.1.1.2; and,

16.1.1.4. The Subconsultant has not within a 3-year period preceding this offer, had one or more contracts terminated for default by any federal or state agency.

16.2. Principals, for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions). This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under section 1001, title 18, United States Code, as well as any other applicable federal and state laws.

16.3. The Subconsultant shall provide immediate written notice to the ARDOT if, at any time prior to contract award, the Subconsultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

16.4. The certification in subsection 16.1 is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Subconsultant knowingly rendered an erroneous certification, the ARDOT may terminate the contract resulting from this solicitation for default in addition to any other remedies available to the ARDOT.

17. CERTIFICATION REGARDING CONFLICT OF INTEREST

17.1. The Subconsultant certifies that it has no financial interest in the proposed project or construction of the proposed project.

17.1.1. The Subconsultant nor any of its Principals have no known conflicts with any of the following:

17.1.1.1. No financial interest in work associated with this contract;

17.1.1.2. No ownership interest in work associated with this contract;

17.1.1.3. No Financial interest in the results of any agency decisions regarding approvals for work associated with this project;

17.1.1.4. Policies and procedures (provided statutory framework permits) for a contracting agency to pursue a range of civil actions and penalties including fines, suspension, or debarment associated with fraud, waste, abuse, and identified conflict of interest which were not disclosed.

17.2. For the duration of the contract, except for work expressly defined in this contract, the Subconsultant shall not be party to third party agreements for design or construction on projects associated with contract.

17.3. For the duration of the contract, except for work expressly defined in this contract, the Subconsultant shall not be party to enforceable promises or guarantees of future work associated with this contract.

18. <u>NOTICE</u>

18.1. All notices, approvals, requests, consents, or other communications required or permitted under this Agreement shall be mailed or hand-delivered to:

18.1.1. To the Subconsultant:

Terracon Consultants, Inc.
Attn: Michael Homan, PE
113 S. Dixieland Road
Rogers, AR 72758

18.1.2. To the Consultant:

Garver, LLC
Attn: Ron Petrie, PE
2049 E. Joyce Blvd., Suite 400
Fayetteville, AR

IN WITNESS WHEREOF, the parties execute this Subconsultant Agreement, to be effective ____________________.

[redacted]

RONALD S. PETRIE, PE
VICE PRESIDENT

Terraco[redacted]
~~TERRAC~~

BY: [redacted]

MICHAEL H. HOMAN, PE
SENIOR PRINCIPAL
9/8/2023

APPENDIX C
C-1

CERTIFICATION OF CONSULTANT

I hereby certify that I, Ronald S. Petrie am the Vice President and duly authorized representative of the firm Garver, LLC whose headquarters address is 4701 Northshore Drive, North Little Rock, AR 72118, and that neither I nor the above firm I here represent has:

(a) employed or retained for a commission, brokerage, contingent fee, or other considerations, any firm or person (other than a bona fide employee working solely for me) to solicit or secure this contract,

(b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or

(c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me) any fee contribution, donation or consideration of any kind for, or in connection with, procuring or carrying out the contract;

(d) included any costs which are not expressly allowable under the cost principles of the FAR of 48 CFR 31, whether direct or indirect. All known material transactions or events that have occurred affecting the firm's ownership, organization and indirect cost rates have been disclosed.

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Arkansas Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

Furthermore, as a recipient of Federal Aid Highway Funds, I certify and hereby agree to the conditions of Assurances as outlined in Section 31 of this Agreement and shall insert the Notice of Nondiscrimination Statement as shown below in all solicitation of work or procurement of materials or equipment. I certify and hereby agree to the conditions of Certification Regarding Lobbying as outlined in Section 34 of this Agreement and shall insert the Certification Regarding Lobbying in all solicitation of work or procurement of materials or equipment. I certify and hereby agree to the conditions of Certification Regarding Conflict of Interest as outlined in Section 38 of this Agreement and shall insert the Certification Regarding Conflict of Interest in all solicitation of work or procurement of materials or equipment.

NOTICE OF NONDISCRIMINATION STATEMENT

Garver, LLC ("Consultant"), complies with all civil rights provisions of federal statutes and related authorities that prohibited discrimination in programs and activities receiving federal financial assistance. Therefore, the Consultant does not discriminate on the basis of race, sex, color, age, national origin, or disability, in the admission, access to and treatment in Consultant's programs and activities, as well as the Consultant's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Consultant's nondiscrimination policies may be directed to Julie Tromble at (972) 377-7480 or the following e-mail address:JATromble@GarverUSA.com.

[redacted]

9/7/2023

Authorized Firm Representative | Date

APPENDIX C
C-2

CERTIFICATION OF SUBCONSULTANT

I hereby certify that I, M. Gayle Packer, am the President and duly authorized representative of the firm Terracon Consultants, Inc. whose headquarters address is 10841 S. Ridgeview Rd, Olathe, KS 66061, and that neither I nor the above firm I here represent has:

(a) employed or retained for a commission, brokerage, contingent fee, or other considerations, any firm or person (other than a bona fide employee working solely for me) to solicit or secure this contract,

(b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or

(c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me) any fee contribution, donation or consideration of any kind for, or in connection with, procuring or carrying out the contract;

(d) included any costs which are not expressly allowable under the cost principles of the FAR of 48 CFR 31, whether direct or indirect. All known material transactions or events that have occurred affecting the firm's ownership, organization and indirect cost rates have been disclosed.

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Arkansas Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

Furthermore, as a recipient of Federal Aid Highway Funds, I certify and hereby agree to the conditions of Title VI Assurances as outlined in Section 12 of this Agreement and shall insert the Notice of Nondiscrimination Statement as shown below in all solicitation of work or procurement of materials or equipment. I certify and hereby agree to the conditions of Certification Regarding Lobbying as outlined in Section 15 of this Agreement and shall insert the Certification Regarding Lobbying in all solicitation of work or procurement of materials or equipment. I certify and hereby agree to the conditions of Certification Regarding Conflict of Interest as outlined in Section 17 of this Agreement and shall insert the Certification Regarding Conflict of Interest in all solicitation of work or procurement of materials or equipment.

NOTICE OF NONDISCRIMINATION STATEMENT

Terracon Consultants, Inc. ("Subconsultant"), complies with all civil rights provisions of federal statutes and related authorities that prohibited discrimination in programs and activities receiving federal financial assistance. Therefore, the Consultant does not discriminate on the basis of race, sex, color, age, national origin, or disability, in the admission, access to and treatment in Consultant's programs and activities, as well as the Consultant's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Consultant's nondiscrimination policies may be directed to Stephanie Price, Chief People Officer, 10841 S. Ridgeview Rd, Olathe, KS 66061 or the following e-mail address: [redacted]

Authorized Firm Representative

Date

CERTIFICATION OF BENTONVILLE, ARKANSAS

I hereby certify that I am the Mayor of Bentonville, Arkansas and that the aforementioned consulting firm or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this contract to:

(a) employ or retain, or agree to employ or retain, any firm or person, or

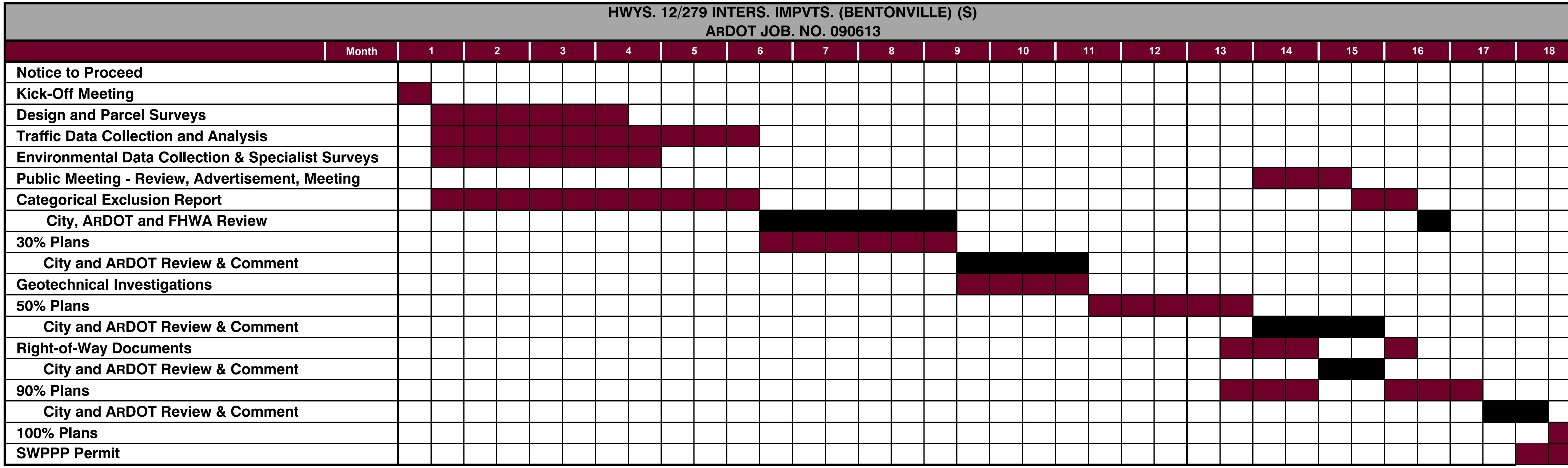
(b) pay, or agree to pay, to any firm, person, or organization, any fee contributions donation, or consideration of any kind:

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Arkansas Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal-Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

____________________________	__________________________
Stephanie Orman MAYOR	Date

Appendix D - Project Schedule - Design



RESOLUTION NO. _______________

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN AGREEMENT WITH GARVER, LLC, IN THE AMOUNT OF SIX HUNDRED THIRTEEN THOUSAND FOUR HUNDRED SIXTEEN DOLLARS ($613,416.00); ACCEPTING A GRANT FROM ARDOT STBGP IN THE AMOUNT OF FIVE HUNDRED THOUSAND DOLLARS ($500,000.00); ADJUSTING THE 2023 BUDGET TO RECOGNIZE AND APPROPRIATE SAID FUNDS; AND FOR OTHER PURPOSES.

WHEREAS, the ARDOT STBGP grant will fund the majority of the design services related to the Highway 12-SW Regional Airport Blvd. and Highway 279-S Vaughn Rd. intersection improvement project.

WHEREAS, the Northwest Arkansas Regional Planning Commission awarded this grant for the Highway 12 and 279 intersection improvements; and

WHEREAS, a budget adjustment will be needed.

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

Section 1: The Mayor and City Clerk are authorized to enter into a professional services agreement, with Garver, LLC., for design services in the amount of six hundred thirteen thousand four hundred sixteen dollars ($613,416.00);

Section 2: The Mayor and City Clerk are authorized to enter into a grant agreement with the ARDOT STBGP, in the amount of five hundred thousand dollars ($500,000.00);

Section 3: The 2023 Budget is adjusted to recognize five hundred thousand dollars ($500,000.00) of grant funds into Account #203810-33110 – Federal Direct Grant and appropriate the same into Account #203810-47380 – Street Construction;

Section 4: The 2023 Budget is further adjusted to appropriate one hundred thirteen thousand four hundred sixteen dollars ($113,416.00) from Street Fund into Account #203810-47380 – Street Construction;

Section 5 - Severability Provision: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

Section 6 - Repeal of Conflicting Resolutions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

PASSED this _____ day of ________________, 2023.

APPROVED:

____
STEPHANIE ORMAN, MAYOR

ATTEST:

____
KIRBY ROMINES, CITY CLERK