



**Finance Committee
Meeting Agenda
July 8, 2025
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 log on at the following link: <https://us02web.zoom.us/j/89139307844?pwd=ZWMxNVhRby9RVElhd1pyZzluVmdHZz09>

Call to Order/Roll Call

Items For Discussion

- | | | |
|----|-----------------------------------|----------------------|
| 1. | Invitation for Bid Process | Informational |
| 2. | CIP Review | Informational |

City Council Items To Be Considered

- | | | |
|----|---|-------------------|
| 1. | Section II Item 8 from the City Council
Agenda: Resolution Approving a Budget
Adjustment for Vantage Live Software
Subscription Renewal | Resolution |
| | Resolution approving a Budget adjustment for Vantage Live subscription renewal for 40 traffic signals and the addition of 30 traffic signals. \$28,000.00 is budgeted for 2025 requesting \$5,000.00 be allocated from street fund reserves. A budget adjustment is needed. | |
| 2. | Section II Item 9 from the City Council
Agenda: Resolution Approving PIIP20-
0010 NW 9th & D - Construction Change
Order 4 | Resolution |
| | Resolution approving Change Order #4 to Crossland Heavy Contractor's construction contract for PIIP22-0010 NW 9th & D Drainage Improvements. No budget adjustment is needed. | |
| 3. | Section III Item 1 from the City Council
Agenda: Resolution Amending IFB-24- | Resolution |

**70 - IDIQ Water Service Line
Replacement Agreement**

A Resolution amending the 2025 budget and authorizing the Mayor and City Clerk to amend the IDIQ contract for Mo-Ark Utilities, increasing the amount by \$500,000.00. Utility Board approved 5 - 0. A budget adjustment is needed.

4. **Section III Item 2 from the City Council**

Resolution

**Agenda: Resolution Approving an
Agreement for Inflow and Infiltration
Reduction with TREKK Design Group**

A Resolution authorizing the Mayor and City Clerk to enter in to an agreement with TREKK Design Group in the amount of \$120,164.00. Utility Board approved 5-0. No budget adjustment is needed.



City of Bentonville, Arkansas Agenda Item Form

Item Details

Council Meeting Date:		Submitted By:	
Phone:		For Department(s):	
Email:			

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:	
Action Recommendation & Justification:	
Additional Comments for Consideration (Optional):	
Amount for Approval:	\$

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
Account Number (ORG-OBJECT)	Account Description	\$	\$
		Expense	Revenue
Account Number (ORG-OBJECT)	Account Description	\$	\$
		Expense	Revenue
Account Number (ORG-OBJECT)	Account Description	\$	\$
		Expense	Revenue

Fund(s) Impacted

(check all that apply)

General Fund

Utility Fund

Street Fund

Other(s): _____

Budget Impact Notes for Consideration (Optional):

Temple, Inc.

P.O. Box 2066
 Decatur, Alabama 35602-2066
 Phone 1-800-633-3221
 Fax (256) 353-4578



Serving the South Since 1954!

VantageLive! Renwal
 Bentonville, AR
 Software As A Service Dates: 1/30/25 - 1/30/26

DATE
June 5, 2025
TERMS
NET 30
DELIVERY
4 - 8 Weeks A.R.O.
SALESMAN
Brad White

CONDITIONS: The prices and terms on this quotation are not subject to verbal changes or other agreements unless approved in writing by **Temple, Inc.** All quotations and agreements are contingent upon strikes, accidents, fires, availability of materials and all other causes beyond our control. Prices are based on costs and conditions existing on date of quotation and are subject to change by **Temple, Inc.** before final acceptance. Freight will be prepaid and allowed unless otherwise noted on this quotation.

Quantity	Description	Price	Amount
			\$ -
40	VLIVE-5YR-R 5 Year Vantage Live Subscription Renewal for Service	\$525.00	\$21,000.00
30	Additional Intersections (New Subscriptions) VLIVE-5YR VantageLive! 5 Year VantageLive!	\$400.00	\$12,000.00

NOTES:

- 1) Temple, Inc. reserves the right to charge 4% on all credit card purchases
- 2) Tax will be added if applicable.
- 3) Freight not included unless noted on quote

Quote Valid For 30 Days.

SALESMAN

Bentonville.060525.VantageLive.xlsx



VANTAGELIVE!® TERMS OF SUBSCRIPTION SERVICES AGREEMENT

This VantageLive! Terms of Subscription Services Agreement ("Agreement") is entered into as of the date of last signature below ("Effective Date") between Iteris and Customer.

BACKGROUND

A. Iteris provides, among other things, a web-based data service called VantageLive! that allows users to view activity at their intersections by analyzing vehicle, bicycle and pedestrian data subject to this Agreement.

B. Customer desires to license from Iteris the VantageLive! Services (defined below), subject to the terms and conditions set forth herein.

NOW THEREFORE, for mutual and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Iteris and Customer agree as follows:

AGREEMENT

1. Acceptance of Agreement

In order to access and use the VantageLive! Services Customer must: (1) have purchased a Subscription Term of the VantageLive! Services from Iteris; and (2) execute this Agreement. This Agreement will become effective on the Effective Date. By signing this Agreement, Customer accepts and agrees to the terms of this Agreement on Customer's own behalf and/or on behalf of Customer's company, organization, educational institution, or agency, instrumentality, or department of the federal/state government as its authorized legal representative.

2. Definitions

"**Agreement**" has the meaning set forth in the first paragraph above.

"**Customer**" means the Iteris-authorized original licensee of the Services identified in the signature block below.

"**Customer Data**" means Personal Data provided by Customer and its Users to Iteris in order to access and use the VantageLive! Services.

"**Documentation**" means documents, information and materials related to the VantageLive! Services provided or made available by Iteris to Customer, including without limitation, descriptions, information about use, operation and maintenance. Documentation includes any and all copies, updates, modifications, translations, additions and improvements used or made by (or for) Iteris now or in the future employed or developed by (or for) Iteris.

"**Effective Date**" has the meaning set forth in the first paragraph above.

"**High Risk Activities**" means any use where failure of the Services could lead to death or serious bodily injury, or severe physical or environmental damage, including without limitation, on-line control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems.

"**Iteris**" means Iteris, Inc., a Delaware corporation, with principal offices located at 1250 S. Capital of Texas Hwy., Bldg. 1, Suite 330, Austin, TX 78746 U.S.A.

"**Personal Data**" means any information that is referred to as personal identifiable information, personal data or personal information (or other like term) under applicable data protection or privacy law, and includes information that by itself or combined with other information can be used to identify a living individual, including without limitation, email, name, address and phone number.

"**Purpose**" means Customer's internal operations business or internal operations government business purposes.

"**Subscription Term**" each period of time (i.e., days or months) that Customer has paid a fee (whether direct to Iteris or an Iteris-authorized distributor), or that Iteris has otherwise authorized Customer in a writing (e.g., purchase order), to access and use the VantageLive! Services. For avoidance of doubt, the Subscription Term commences on the date Iteris makes the VantageLive! Services available for use by Customer.

"**Term**" means, collectively the Subscription Terms subject to this Agreement.

"**Third Party Items**" means third party products and services used by Customer to access and use the Services, whether provided or not provided by Iteris under this Agreement, including without limitation, servers, internet data services, mobile devices, computers and internet connections.

"**User(s)**" means individuals authorized by Customer or on Customer's behalf, who are Customer's employees, agents, consultants, or contractors.

"**VantageLive! Data**" means is all data collected through sensors and processors that Customer authorizes Iteris to connect to the Services, excepting any Customer Data.

"**VantageLive! Online**" means proprietary application programming interface and web application delivery mechanism of the VantageLive! Services.

"**VantageLive! Services**" or "**Services**" means Iteris-hosted VantageLive! Data delivered through VantageLive! Online platform and the VantageLive! Software, including without limitation, any and all updates and upgrades thereto developed by (or for) Iteris.

"**VantageLive! Software**" or "**Software**" means software, in object code (machine-readable) form, as installed by Iteris in a server and used in conjunction with the VantageLive! Services. Software includes, without limitation, any and all copies, updates and upgrades thereto, tools, techniques, methods, additions, derivatives, improvements, modifications, and enhancements used or made by (or for) Iteris now or in the future employed or developed by (or for) Iteris. The term "Software" does not include software from the open source community ("**OSS**"), including without limitation, any software that requires, as a condition of use, copying, modification and/or redistribution of such software, that other software incorporated into, derived from or distributed with such software be: (i) disclosed or distributed in source code form; (ii) licensed for the purpose of making derivative works; or (iii) redistributable at no charge.

3. Entire Agreement/Binding

Customer and Iteris (each a "**Party**" and collectively "**Parties**") expressly agree that the VantageLive!™ Services Agreement constitute the complete and entire understanding between the Parties regarding this subject matter and supersedes all prior agreements, proposals, representations, statements, or understandings whether written or oral. Customer and Iteris each binds itself, its officers, employees, successors and permitted assigns to this Agreement.

4. Invoice Procedures and Payment

Applicable Subscription Term fees for the Services must be paid by Customer prior to Customer having access to and use of the Services. Iteris reserves the right to suspend access to all Services under this Agreement without notice or penalty if Customer defaults in making payment for the applicable Subscription Term of the Services, which suspension shall remain in effect until all unpaid invoices for the Services are paid in full.

5. Term and Termination

Term. The initial term of this Agreement will commence on the Effective Date and continue for the initial Subscription Term (and continue for renewals of the Subscription Term, as applicable), unless earlier terminated in accordance with this Agreement.

Termination for Convenience. If the Subscription Term automatically renews at the end of the current Subscription Term, either Party may elect not to automatically renew the Subscription Term by providing written notice to the other Party of its intent not to renew at least ninety (90) days prior to the expiration of the then-current Subscription Term. Notwithstanding the foregoing, if Customer's Subscription Term automatically renews pursuant to its contract with an Iteris-authorized distributor, then Customer's election not to renew the term is subject to such contract between Customer and the Iteris-authorized dealer.



Termination for Cause. If a Party materially breaches or defaults in any of the terms or conditions of this Agreement, then the non-breaching Party may give written notice to the defaulting Party that if the default is not cured within thirty (30) days the Agreement will be terminated. If the non-defaulting Party gives such notice and the default is not cured during the thirty-day period, then non-defaulting Party may elect to terminate this Agreement at the end of such cure period.

Termination for Insolvency. This Agreement may be terminated immediately by a Party by giving written notice to the other Party in the event of, (a) dissolution, cessation, liquidation or insolvency of the other Party; (b) the appointment of a receiver or similar officer for the other Party; (c) an assignment by the other Party for the benefit of all or substantially all of its creditors; (d) entry by the other Party into an agreement for the composition, extension, or readjustment of all or substantially all of its obligations; or (e) the filing of a meritorious petition in bankruptcy by or against the other Party under any bankruptcy or debtors' laws for its relief or reorganization.

Effect of Termination. Upon the effective date of termination or expiration of the Subscription Term (whichever occurs earlier) for any reason, this Agreement shall terminate and Customer shall immediately discontinue access to and use of the VantageLive! Services, including any use of any Services-related Software and Documentation. Iteris shall have the right upon any termination to cancel Customer's access to the VantageLive! Services, invalidate Customer's corresponding user ID's and/or passwords, and delete Customer Data in accordance with the Iteris data retention and privacy policy set forth herein. Obligation for payment of Services fees accruing prior to the effective date of termination shall survive termination for any reason. Further, in the event of any termination or expiration of this Agreement, Customer's licenses regarding the VantageLive! Data shall terminate/expire and Customer may only retain those results and/or reports generated or produced during the Subscription Term that contain, and/or include VantageLive! Data. For avoidance of doubt, Customer may not retain any other portions of the VantageLive! Data and Customer is not authorized to make any further use of any of the retained VantageLive! Data, including without limitation, produce or generate new results and/or reports after termination or expiration of this Agreement.

6. VantageLive! Services Licenses, Restrictions, and Ownership

VantageLive! Services Grant of License. Subject to the terms and conditions of this Agreement, Iteris grants to Customer, and each of its authorized Users, a personal, non-exclusive, non-assignable, non-transferrable limited license, during the Subscription Term to internally access and use the VantageLive! Services to access and receive VantageLive! Data and to use VantageLive! Data solely for the Purpose.

VantageLive! Software Grant of License. As part of the Services, Iteris licenses VantageLive! Software and any related Documentation. Iteris grants Customer a personal, non-exclusive, non-transferable, non-assignable limited license, during the Subscription Term, to use the Software solely in conjunction with the Services and solely Customer's Users to access and use the Services solely for the Purpose.

VantageLive! Data License. Subject to the terms and conditions of this Agreement, as part of the Services Iteris grants to Customer a personal, non-exclusive, non-assignable, non-transferrable limited license, during the Subscription Term to internally access, copy, download, edit, modify and adapt the VantageLive! Data solely for the Purpose. During the course of providing the VantageLive! Services, Iteris collects, processes, and uses VantageLive! Data, including without limitation, count information about vehicles, pedestrians and bicycles. Iteris may use VantageLive! Data it collects from Customer for any legitimate business purpose and share it with third parties. For avoidance of doubt, an example of a legitimate business purpose is internal research and development purposes. Iteris reserves the right to use and/or share any data on an aggregate, pseudonymized, and/or anonymous manner (i.e., does not include any Personal Information).

Restrictions. The foregoing licenses may be used by Customer and its authorized Users internally to carry out the Purpose only. These licenses are restricted to only those authorized Users of Customer, each possessing a valid user name and password issued as specified by Iteris for access to the Services. Customer shall use the Services for lawful purposes. Any Iteris or third party components embedded, included or provided by Iteris for use with the Services (e.g., Software and Documentation) may only be used in conjunction with the Services. Customer is solely responsible, not Iteris, for: (i) its access and use of the Services (including its reliance upon the VantageLive! Data) and for Customer Data transmitted by Customer (and its Users) through use of the Services under Customer's account; (ii) verifying the identity of Users that access and use the Services; and (iii) its security measures, processes and procedures appropriate to the nature of the access and use of the Services, to protect such Services from unauthorized access, use, modification and/or disclosure. Customer's use of the Services requires use of Third Party Items, Customer is solely responsible, not Iteris, for such Third Party Items. Further, Customer will not (and will not allow any third party to), directly or indirectly: (a) use or reproduce, modify, create derivative works, decompile, disassemble, or otherwise reverse engineer any of the Services or attempt to reconstruct or discover any source code, underlying ideas, algorithms, files formats or programming interfaces of the Services (except and only to the extent that applicable law prohibits or restricts reverse engineering restrictions), or incorporate the Services into or with other products or services; (b) distribute, sell, sublicense, rent, lease to third parties or otherwise transfer or make the Services available to third parties except as expressly set forth herein; (c) use the Services (in whole or any portion thereof) that would in any way violate any applicable laws or regulations; (d) remove or in any manner alter any of the Services, Software, Documentation or Iteris Confidential Information identifications, proprietary, trademark, copyright or other notices; (e) create Internet "links" to the Services or "frame" or "mirror" any VantageLive! Data provided through the Services on any other server or wireless or Internet-based device; (f) use or access the Services to develop or support, and/or assist a third party in developing or supporting, products or services competitive to Iteris and the Services; (g) use the Services in any manner that could damage, disable, overburden, impair or otherwise interfere with Iteris' provision of the Services; (h) do anything with the VantageLive! Data or Services that breaches other rights of anyone else (including Iteris), endangers life or property, or is likely to mislead or deceive any person; (i) jeopardize the security of Customer's account or anyone else's, such as allowing someone else to use Customer's (or any User's) user name or password to access the Services; (j) use the Services in a manner that "crawls," "scrapes," or "spiders" any page, data, or portion or relating to the Services or VantageLive! Data (through use of manual or automated means); (k) retain any instantiations or derivatives of the VantageLive! APIs, Software or other applications in any form after expiration or termination of this Agreement; or (l) represent or imply that Iteris or any of its third party suppliers endorses any use that Customer makes of the VantageLive! Data.

Customer Account. Upon the initial log-on to the Services, Customer will create a username and password. Customer is responsible for maintaining the confidentiality of Customer's and any of its designated Users' usernames and passwords and Customer is fully responsible for all activities that occur on the Services under Customer's account. Iteris may require Customer to change Customer's or any of its Users' usernames in the event Iteris determines, in its sole discretion, that any username is offensive or for any other reason. Customer agrees to immediately notify Iteris of any unauthorized use of its or any User's username, password, or any other breach of security, and to ensure that Users logout at the end of each session. Customer is responsible for disabling the accounts of any User no longer employed by Customer or otherwise no longer authorized to access and/or use the VantageLive! Services. Customer acknowledges that Iteris is not responsible for tracking Customer's or its Users' use of the Services, and that Iteris cannot and will not be liable for any loss or damage arising from Customer's failure to comply with this Section.

High Risk Activities. The Services is not designed, manufactured or intended for use for High Risk Activities. ITERIS SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR HIGH RISK ACTIVITIES AND SHALL NOT BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY LIABILITY, LOSS, DAMAGE, INJURY, COSTS AND/OR EXPENSES SUFFERED BY CUSTOMER OR ANY OTHER PERSON ARISING OUT OF CUSTOMER'S USE OF THE SERVICES, INCLUDING THE VANTAGELIVE! DATA.

Ownership. Except for those licenses and rights expressly granted in this Agreement, no other rights or licenses of any kind or nature are granted, either express or implied, to Customer, regarding the Services, Software, VantageLive! Data, Documentation, Services' content/data, Iteris Confidential Information and any other content, materials and information made available or otherwise provided by Iteris in connection with this Agreement. The Services, the Iteris-provided VantageLive! Data via the Services, Software and Documentation, including without limitation, all copies, derivatives, techniques, methods, additions, improvements, modifications, and enhancements, updates and upgrades, used or made by (or for) Iteris now or in the future employed or developed by (or for) Iteris, are solely and exclusively owned by Iteris or its applicable third-party suppliers, licensors and providers, and are protected by United States intellectual property laws and international treaty provisions. Customer understands that the VantageLive! Data represent original, confidential, proprietary, and copyrighted information and Iteris' proprietary rights, including, but not limited to, copyrights in the data elements (whether a portion of or the whole) and VantageLive! Data, are not assigned or released as a result of this



Agreement. Iteris reserves the right, at any time and without notice to Customer, to modify the Services, Software or Documentation, in whole or in part, to include therein changes deemed appropriate by Iteris which do not adversely affect the form, fit or function of the Services as provided by Iteris to Customer hereunder. Customer shall not attempt to discover exploits in the Software or to gain unauthorized access to the Services through skills, tactics, or knowledge of the system. Customer shall not make copies of the Software or Documentation except as necessary to install the Software or updates or for backup or archival purposes. All backup or archive copies of the Software or Documentation must contain the applicable original copyright notices.

U.S. Government Restricted Rights. The Software and Documentation are "commercial items" as that term is defined at 48 CFR 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 CFR 12.212. Consistent with 48 CFR 12.212, U. S. Government end users acquire the Software and Documentation with only those rights set forth herein. Contractor/manufacturer is Iteris, Inc. 1700 Carnegie Avenue Suite 100, Santa Ana, CA 92705.

7. Disclaimer of Warranties

THE VANTAGELIVE! SERVICES IS PROVIDED "AS IS" WITH ALL FAULTS AND CUSTOMERS' AGREES THAT ITS USE OF THE SERVICES IS AT ITS OWN AND SOLE RISK. NO WARRANTIES OR GUARANTEES, EXPRESSED OR IMPLIED INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING BY LAW, CUSTOM OR CONDUCT, SHALL BE APPLICABLE TO THIS AGREEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ITERIS (AND ITS APPLICABLE THIRD-PARTY SUPPLIERS, LICENSORS AND PROVIDERS) DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICES WILL OPERATE WITHOUT ERROR OR INTERRUPTION AND MAKE(S) NO GUARANTEES REGARDING THE QUALITY, ACCURACY, COMPLETENESS, EFFECTIVENESS, RELIABILITY, OR USEFULNESS OF THE SERVICES OR RESULTS OBTAINED THEREFROM. THE RIGHTS AND REMEDIES PROVIDED HEREIN ARE EXCLUSIVE AND IN LIEU OF ANY OTHER RIGHTS OR REMEDIES.

8. Support

Email. Iteris provides technical assistance to Customer through electronic mail. Such electronic mail information will be provided to Customer by Iteris, and may be updated from time to time by Iteris upon notice to Customer (may be via electronic mail). Questions may be submitted twenty-four (24) hours a day, seven (7) days a week. Response will be within one (1) business day during standard support hours conducted 9am – 5pm, Pacific Time, Monday through Friday, excluding weekends and holidays.

Upgrades/Updates. So long as Customer is not threatening or actually in breach of the terms and conditions of this Agreement, Iteris may, in its sole discretion, provide from time to time during the Subscription Term of this Agreement, at no additional charge, updates and upgrades of the VantageLive! Services that Iteris makes available to its other customers under the same conditions through its then-standard delivery process. Iteris is under no obligation to provide any upgrades and/or updates of the VantageLive! Services or to provide any particular update or upgrade (contemplated in this paragraph) without charge, but reserves for itself the right to provide such item(s), if and when available, to its then-current customers. The terms and conditions of this Agreement shall govern any upgrades or updates provided by Iteris that supplement or add to the features and functionalities of the VantageLive! Services.

9. Ownership of Customer Data

Iteris claims no ownership in and to any and all Customer Data (i.e., Personal Data) as provided by Customer and its Users to Iteris in order to access and use of the VantageLive! Services. Customer is responsible for ensuring that only Customer's Customer Data that Customer owns or has permission to use are provided by Customer during the course of using the features and functionalities of the Services, as Iteris will not be responsible for any non-compliance by Customer of this Agreement. Customer grants Iteris a limited, non-exclusive license for Iteris (and its authorized third party contractors) to access and use the Customer Data as provided to Iteris solely for performing its obligations under the Agreement and for the purposes permitted herein. Unauthorized use of Customer Data by Iteris or third parties performing any portion of the Services is strictly prohibited. For the purposes of this paragraph, the phrase "unauthorized use" means data mining or processing of data, stored or transmitted by the Services, for unrelated commercial purposes, advertising or advertising-related purposes, or for any other purpose other than security or service delivery reporting and analysis that is not explicitly authorized.

10. Customer Data Consent

Use of Customer Data by Iteris. Iteris' use of Customer's Personal Information is subject to the terms and conditions of this Agreement and Iteris' Privacy Policy (for further details of Iteris' Privacy Policy statement, copy and paste the following URL into a web browser: <https://www.iteris.com/privacy-policy>). Iteris shall only collect, store and use such Personal Information that is needed for the purposes of this Agreement as stated herein. Personal Information that Iteris collects for a particular purpose will only be saved and used for that purpose, unless Customer has agreed in writing to allow Iteris to use it for some other purpose. For purposes of this Agreement, Customer consents to the following purposes of use by Iteris (and its authorized third party providers) of Customer's Personal Information Customer provides to Iteris in connection with Customer's access and use of the VantageLive! Services: (i) providing the VantageLive! Services to Customer, (ii) verifying user access to the VantageLive! Services, (iii) responding to requests, questions and concerns, (iv) providing technical support, (v) providing Customer related Iteris services (i.e., other VantageLive! related services that may require a separate written agreement subject to or incorporated into this Agreement), (vi) personalizing aspects of Customer's overall VantageLive! Services to Customer, (vii) improving and enhancing the VantageLive! Services, e.g., user experience and platform performance, (ix) VantageLive! Services account support and maintenance, (x) complying with applicable laws and regulations, (xi) complying with compulsory legal requests, (xii) preventing and investigating fraud, misuse, abuse and/or criminal activities against Iteris and other parties, and (xiv) defending Iteris and its affiliates, subsidiaries and/or personnel from any legal proceedings. Iteris reserves the right to aggregate, pseudonymize and/or otherwise put into an anonymous format Customer's Personal Information, to combine such automated data/information with other data and to use or share such data/information for any legitimate business purpose (e.g., promote information and services that are derived from anonymized data/reports), so long as such use or share of information/data by Iteris is in an aggregated, pseudonymized and/or otherwise anonymous format that does not include and/or contain any of Customer's Personal Information.

Third Party Provider(s). Customer consents to Iteris using third party companies, such as Microsoft Azure, to facilitate the VantageLive! Services, as follows: (i) to provide the Services (or portions thereof) on Iteris' behalf, and (ii) to provide VantageLive! Services-related services, including without limitation, data archive storage, authentication, data ingestion and processing, monitoring, analytics, storage, technical support reporting, and payment processing. Iteris uses commercially reasonable efforts to ensure that these third parties execute confidentiality agreements to protect Confidential Information and Personal Information.

Security. Iteris will use commercially reasonable efforts to (a) use appropriate precautionary security and control measures to maintain the confidentiality of Customer's Personal Information from fraud, misuse and loss and from unauthorized access, modification and disclosure, in accordance with this Agreement, (b) promptly notify Customer in the event of becoming aware of any threatened or actual unauthorized disclosure or loss of Customer's Personal Information, and (c) take reasonable steps to identify and remediate the cause of such unauthorized disclosure or loss. In Iteris' use of one or more third party cloud hosting providers to host the VantageLive! Services, these third party providers maintain a certification and/or report on systems examining logical security controls, physical security controls, and systems availability, like ISO 27001:2013 Certification or a comparable certification, SOC2 and/or other comparable report on systems. Further, these service providers provide assurances to Iteris, including system availability and security with cloud offsite backups, redundant power supplies, redundant and automatic fail over internet resources, and security standards and protocols that meet or exceed industry applicable standards. In addition, these hosting providers provide technical support for its facility 24X7X365 days a year and equip their hosting facility(ies) with fire, earthquake, and anti-static equipment.

Google Analytics. Iteris and its partners use various technologies to collect and store information when Customer accesses and uses the Subscription Services that may include using cookies or similar technologies. Iteris uses "Google Analytics" (<https://analytics.google.com>) and associated tools in connection with the Subscription Services to collect and analyze information about how users use the Subscription Services. Google Analytics collects information such as how often a user visits the Subscription Services, what pages a user visits when a user does so, and information on specific pages and content accessed on the Subscription Services.



Iteris uses the information received from Google Analytics to improve the Subscription Services offered to our customers. Google Analytics collects only the Internet Protocol address assigned to a customer on the date such customer initially accesses the Subscription Services, rather than your name or other identifying information. Iteris does not combine the information collected through the use of Google Analytics with personal information. Google Analytics uses cookies to collect standard Internet log information and visitor behavior information in an anonymous form. These cookies are used only by Google, and not by Iteris. Google Analytics' ability to use and share information collected by Google Analytics about your visits to this website is restricted by the Google Analytics Terms of Use (<https://www.google.com/analytics/terms/us.html>) and the Google Privacy Policy (<https://www.google.com/policies/privacy/>). However, Customer can prevent Google Analytics from recognizing Customer's return access to the Subscription Services by disabling cookies on your browser. Use of the Subscription Services without restricting use of cookies constitutes Customer's consent to the use, storing and access of cookies on Customer's computers or devices.

Retention. Iteris will retain Customer Personal Information for as long as necessary to fulfill any of the purposes identified in this Section. Iteris may not delete certain Personal Information if retaining it is, in Iteris' reasonable judgment, necessary or appropriate to comply with applicable laws or legal process or to protect Iteris' legal rights (e.g., tax and audit). Upon Customer's request, Iteris will use commercially reasonable efforts to delete Customer's Personal Information, however, because of the structure and configuration for maintaining the VantageLive! Services to protect the integrity of data, residual copies may take a period of time before they are deleted. In addition, Iteris may, but is under no obligation to, periodically review Personal Information in its possession and dispose of Personal Information which has not been accessed for a substantial period of time or which Iteris in its sole discretion believes is no longer current or accurate. Customer's request to delete Customer's Personal Information will apply prospectively only and Iteris will have no obligation to discontinue use of any data, reports and information generated based on Customer's Personal Information provided by Customer prior to Customer's request to delete, so long as such data, reports and information do not include any of Customer's Personal Information (i.e., no longer specifically identifiable).

Data Hosting Storage Limit. In connection with the hosting portion of the Services, Iteris will store up to five (5) years of the VantageLive! Data from the date initially stored in the hosting environment for Customer's use with the Services as set forth in this Agreement. When the VantageLive! Data, collectively, exceeds five (5) year of storage, Iteris may delete such data or otherwise remove such stored data exceeding the five (5) year limit from the hosting environment, and will no longer be available for Customer's use with the Services, unless otherwise expressly set forth in the Order subject to this Agreement.

Transmit, Processing and Storage within United States. The VantageLive! Services is controlled and operated by Iteris from within the United States. Customer's (and its Users') access and use of the VantageLive! Services from any jurisdiction outside the United States does/do so at Customer's own volition. Iteris may transmit, store and/or process Personal Information in the United States, at Iteris' facilities or at its third party service providers' facilities, and, Customer freely, expressly and unambiguously consents for Iteris to transfer Personal Information provided under Customer's account from outside the United States to the United States.

11. Confidentiality

"Confidential Information" means (i) with regard to Customer Data and any non-public information regarding the business of Customer, in whole and in part, (ii) with regard to Iteris, the VantageLive! Services, the related VantageLive! Data, Software and Documentation and any other non-public information regarding the Services and business of Iteris, in whole and in part, and (iii) with regard to either Party, any other information, ideas, technical data, or know-how, including, but not limited to, that which relates to research, product plans, products, services, customers, markets, software, software code, software documentation, developments, inventions, lists, trade secrets, processes, designs, drawings, engineering, hardware configuration information, marketing or finances, which is designated in writing to be confidential or proprietary, or if disclosed orally or other intangible means, is designated at the time of disclosure as confidential or proprietary. The Parties, each of which may be a "Disclosing Party" or a "Receiving Party" from time to time, agree to disclose the Confidential Information only to their employees, officers, directors, consultants, contractors, affiliates, advisors or agents (collectively, "Representatives") who have a need-to-know for that purpose and who are bound to confidentiality by this or an equivalent agreement, and to maintain the Confidential Information in confidence using the same degree of care to avoid disclosure thereof as the Receiving Party employs on its own Confidential Information of like importance, but in no case less than reasonable prudent care. In addition, the parties agree that the Receiving Party shall not reverse engineer, disassemble, decompile, or otherwise analyze the design or construction of any equipment, component, or software without the prior written consent of the Disclosing Party. All materials containing Confidential Information provided by the Disclosing Party under this Agreement are and will remain the property of the Disclosing Party. This Agreement shall pose no such confidential obligation upon either Party with respect to any portion of the received Confidential Information which: (i) is possessed by the Receiving Party at the time of the disclosure without any obligations of confidentiality as evidenced by written or other tangible records; (ii) is independently developed by the Receiving Party as evidenced by written or other tangible records without use or reference to the Disclosing Party's Confidential Information; (iii) is hereafter rightfully furnished to the Receiving Party by a third party without restriction on disclosure or subject to confidentiality obligations; (iv) is now, or which hereafter becomes, generally known or available to the public through no act or failure to act by the Receiving Party or in breach of this Agreement; or (v) is released from confidentiality in writing by the Disclosing Party.

Receiving Party shall maintain commercially reasonable administrative, technical and physical safeguards necessary to protect the VantageLive! Data and Confidential Information against loss, destruction, alteration, or unauthorized access, use and disclosure. Receiving Party shall immediately notify Disclosing Party (may be via electronic mail) of any discovered breach by Receiving Party or its Representatives and shall reasonably assist the Disclosing Party in retrieving the disclosed Confidential Information and restricting any continuing breach.

If the Receiving Party is served a form of process from a court of competent jurisdiction or government agency or otherwise requested pursuant to applicable law requiring Receiving Party to disclose any Confidential Information of the Disclosing Party to any third party, to the extent permitted by applicable law, the Receiving Party shall immediately notify the Disclosing Party who shall, in addition to the Receiving Party's efforts, if any, have the right to seek to quash such process. Each Party shall cooperate with the other in all efforts to quash such process, to obtain a binding assurance that confidential treatment will be afforded to such disclosure, and/or otherwise to limit the scope of any required disclosure. In the event that the disclosure of any Confidential Information is compelled, the Receiving Party may, at its discretion and expense, seek an appropriate protective order from any court of competent jurisdiction to limit access to and use of such information.

The Receiving Party agrees to promptly return or certify destruction of all copies of any received Confidential Information and of any additional documents in any media containing any of the disclosed Confidential Information upon termination of this Agreement or written request of the Disclosing Party. The obligations to protect Confidential Information recited above shall survive any such termination for a period of three (3) years after the date of termination of this Agreement for any reason, provided, however, proprietary information (to the extent such information remains proprietary) and any Personal Data of the Disclosing Party shall remain subject to the confidentiality obligations contained herein indefinitely.

During the course of using the VantageLive! Services (e.g., technical support), Customer (and its Users) may provide feedback or comments to Iteris concerning use of the VantageLive! Services (collectively, "Feedback"). Customer acknowledges Iteris' need to be able to freely use any Feedback about the VantageLive! Services provided by Customer (and its Users) and to make clear to Customer that Iteris owns any improvements to the VantageLive! Services, including without limitation, improvements made by using or incorporating such Feedback ("Improvements"). Accordingly, Customer hereby acknowledges and agrees Iteris owns any and all Improvements and does not (and will not) claim any ownership rights and/or interests in and to such Improvements, including without limitation rights to compensation, attribution or accounting.

12. Indemnification

To the extent allowable by law and subject to Article 13 hereof, Iteris will indemnify the Customer, its officers, directors, and employees (collectively, "Customer Indemnitees") and hold them harmless from and against any and all third party claims, demands, liabilities, losses, costs and damages (including without limitation court costs and reasonable attorneys' fees) that the Customer or any of Customer's Indemnitees incur or suffer as a result of death or bodily injury or to damage to tangible personal property, to the extent caused by the negligence or willful misconduct of Iteris or its Representatives. In the event such claims, losses, damages, and



expenses are caused by the joint or concurrent negligent acts, errors, or omissions of Iteris and another party, such claims, losses, damages and expenses shall be borne by Iteris in proportion to its responsibility.

Provided, however, that nothing contained herein shall be deemed a waiver of the City of Bentonville's immunity pursuant to law, Iteris will indemnify, hold harmless and defend Customer and Customer Indemnitees against any claim, suit or proceeding and any damages or liability therefrom or settlement thereof (including related reasonable fees, costs and expenses, including, without limitation, court costs and attorneys' fees) to the extent based on a third party claim that the Iteris VantageLive! Services, when used as expressly authorized hereunder, infringe, misappropriate or otherwise conflict with any third party United States Intellectual Property Rights. Notwithstanding the foregoing, Iteris will have no liability to Customer under this Article to the extent that an alleged intellectual property infringement, misappropriation, interference or conflict results from: (a) modification of Iteris' Services at Customer's direction or the combination of Iteris Services, or any of part thereof, with any hardware equipment, software or services not provided by Iteris, where such Iteris Services would not itself infringe absent such modification or combination; (b) use of the Iteris Services, or any part thereof, in an application, environment or purpose not known to Iteris, reasonably anticipated by Iteris, or foreseeable with reference to this Agreement; or (c) modifications of the Iteris Services made by anyone other than Iteris (other than modifications made at Iteris' direction or with Iteris' written consent). In addition to the foregoing, if the Iteris Services, or any of portion thereof, become, or in Iteris' opinion is likely to become, the subject of any claim, suit or proceeding for infringement of any United States Intellectual Property Rights of any third party, or in the event of any adjudication that the Services or any of its components infringes on any United States Intellectual Property Rights of any third party, Iteris may in its sole discretion and expense and as Customer's sole and exclusive remedy for such infringement: (i) secure for Customer the right to continue using such affected VantageLive! Services; (ii) replace or modify the affected portions of the VantageLive! Services to make it non-infringing; or (iii) if neither of the foregoing is commercially feasible, Iteris may terminate this Agreement upon written notice, in whole or in part and Customer will be entitled to recover a pro-rata portion of the fees relating to the affected VantageLive! Services, depreciated on a straight-line basis over the applicable Subscription Term.

As a condition to any indemnification under this Article, Customer must (a) notify Iteris promptly in writing of any such claim or proceeding, and (b) give the Iteris full and complete authority, information and assistance to defend such claim or proceeding at the expense of Iteris, including sole control of the selection of counsel and the defense of any such claim or proceeding and all negotiations for its compromise or settlement. Notwithstanding the foregoing, Customer's failure to give Iteris prompt written notice of any such claim or proceeding will only relieve Iteris of its obligation to indemnify Customer to the extent Iteris is prejudiced by such failure.

13. Limitation of Liability

ITERIS' LIABILITY FOR ANY CLAIM OR CAUSE OF ACTION, WHETHER BASED IN CONTRACT, TORT OR OTHERWISE, THAT ARISES UNDER OR IS RELATED TO THIS AGREEMENT SHALL BE LIMITED TO CUSTOMER'S DIRECT OUT-OF-POCKET DAMAGES, ACTUALLY INCURRED, WHICH UNDER NO CIRCUMSTANCES SHALL EXCEED THE AMOUNT OF FEES PAID BY OR ON BEHALF OF THE CUSTOMER TO ITERIS UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE.

IN NO EVENT SHALL EITHER PARTY (INCLUDING THEIR RESPECTIVE PROVIDERS, SUPPLIERS, LICENSORS, DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS) BE LIABLE FOR LOSS OF PROFITS, LOSS OF BUSINESS, INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER, OR FOR THE CLAIMS OR DEMANDS MADE BY ANY THIRD PARTIES, WHETHER OR NOT ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

NEITHER ITERIS NOR ITS THIRD-PARTY SUPPLIERS, LICENSORS AND PROVIDERS CONTROLS THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. ITERIS IS NOT RESPONSIBLE, OR LIABLE TO CUSTOMER, FOR DELAYS, DELIVERY FAILURES, OR OTHER DAMAGES RESULTING FROM SUCH PROBLEMS.

NO CLAIMS, SUITS OR ACTIONS ARISING OUT OF ANY BREACH OR CLAIMED BREACH OF THIS AGREEMENT OR TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT SHALL BE BROUGHT AGAINST ITERIS MORE THAN ONE (1) YEAR AFTER THE DATE BY WHICH THE FAULT OR FAILURE WAS OR SHOULD REASONABLY HAVE BEEN DISCOVERED; FAILURE TO MAKE SUCH A CLAIM WITHIN THE ONE (1) YEAR PERIOD SHALL FOREVER BAR THE CLAIM.

14. Disputes

If a dispute arises out of or relates to this Agreement or the breach thereof, the Parties will use commercially reasonable efforts to attempt to settle the matter between themselves. If no agreement can be reached, the Parties agree to use mediation with a mutually agreed upon mediator before resorting to a judicial forum. The cost of a third party mediator will be shared equally by the Parties.

15. Force Majeure

Except for the payment of amounts owed, neither Party shall be liable for failure to perform any of its obligations under this Agreement during any period in which such Party cannot perform due to circumstances beyond its reasonable control including but not limited to fire, flood, earthquake, or other natural disaster, war, embargo, riot, or the intervention of any government authority, provided that the Party so delayed immediately notifies the other Party of such delay. In the event of such occurrence, Services under this Agreement shall be suspended for the duration of the delay. If the delay continues for a period of sixty (60) days, either Party may terminate this Agreement immediately upon notice to the other Party. Effect of termination shall be as set forth in Article 5.

16. Relationship of Parties

The Parties hereto expressly understand and agree that each Party is an independent contractor in the performance of each and every part of this Agreement, and is solely responsible for all of its employees and agents and its labor costs and expenses arising in connection therewith. Neither Party nor its agents or employees are the representatives of the other Party for any purpose, and neither Party has the power or authority as agent, employee, or any other capacity to represent, act for, bind, or otherwise create or assume any obligation on behalf of the other Party for any purpose whatsoever.

17. Language; Headings and Regulation References

Any translation of this Agreement is provided as a courtesy to you, and in the event of a dispute between the English and any non-English version, the English version of this Agreement shall govern, to the maximum extent not prohibited by local law in your jurisdiction. Headings herein are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section. References to any act, regulation, code of practice or statutory order shall be interpreted so as to include any change, re-enactment or extension of the act, regulation, code of practice or statutory order.

18. Notices

Any notices relating to this Agreement shall be in writing. Notices will be deemed given by Iteris when sent to Customer at the email address or mailing address Customer provided during the initial sign-up process or as updated by Customer from time to time during the Term. Notices to Iteris under this Agreement shall be sufficient and deemed given: (i) when personally delivered; (ii) three business days after having been sent by a major commercial delivery courier service with written proof of delivery; or (iii) five business days after having been sent by first class mail, postage or charges prepaid, certified or registered mail, return receipt requested. If not received sooner, notice by registered mail shall be deemed received five (5) business days after deposit in the U.S. mail. For notices to Iteris: Contracts Department, Iteris, Inc., 1700 Carnegie Avenue, suite 100, Santa Ana, California 92705 U.S.A. Customer consents to receive notices by email and agree that any such notices that Iteris sends Customer electronically will satisfy any legal communication requirements. A party may change its email or mailing address by giving the other written notice as described above.



19. Governing Law; Severability

This Agreement shall be governed by and construed according to the laws of the State of California without regard to principles of conflict of laws. However, in the event that the Customer is a governmental body or agency, this Agreement shall be governed by and construed according to the laws of state in which the Customer is located without regard to the principles of conflict of laws. If for any reason a court of competent jurisdiction finds any provision, or portion thereof, to be unenforceable, the remainder of this License shall continue in full force and effect.

20. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the successors of each of the Parties, but shall not be assignable by either Party without the prior written consent of the other Party; provided, however, that an assignment of this Agreement to an Affiliate (defined below) of a Party in connection with a reorganization of such Party or an assignment of this Agreement in connection with a transfer of the all or substantially all of the assets of the business to which this Agreement relates shall not require prior written consent of the other Party. Any attempt by a Party to assign its rights or delegate its duties in contravention of this Section shall be void from the beginning. For purposes of this Section, "Affiliate" means, any person or entity which, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Party. "Control" means, for so long and to the extent, a Party owns at least 50.1% of the equity in such entity. A person or entity shall be deemed to control a corporation (or other entity) if such person or entity possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such corporation (or other entity) whether through the ownership of voting securities, by contract or otherwise.

21. Modifications

This Agreement may be modified or updated only: (a) by a written amendment signed by both parties, or (b) to the extent expressly permitted by this Agreement (e.g., by Iteris by posting). Iteris may modify this Agreement at any time, in Iteris' sole discretion. It is important that Customer review the modified Agreement as Customer's continued use of the Services may be subject to Customer first accepting and agreeing to the modified Agreement before continuing access and use of the Service. If Customer does not agree to the modified Agreement, Customer's sole remedy is to stop access and use of the Services and to terminate the Services in accordance with this Agreement.

22. Waiver

Any failure by either party to require strict compliance with any provision of this contract shall not be construed as a waiver of such provision, and either party may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed. Each Party warrants and represents that its respective signatories whose signatures appear below have been and are on the date of signature duly authorized to execute this Agreement.

For: Iteris, Inc.
 By: [Signature]
 Name: Kevin Exner
 Title: Regional Vice President
 Date: 3/3/25

For: City of Bentonville
 By: [Signature]
 Name: Stephanie Orman
 Title: Mayor
 Date: March 20, 2025 | 6:54 AM CDT

Address, facsimile & email for Notice:
 1700 Carnegie Avenue, Suite 100
 Santa Ana, CA 92705-5551, U.S.A.

Address, facsimile & email for Notice:
 Office: sorman@bentonvilleear.com
 Notice:

Attn: _____
 Fax: _____
 E-Mail: _____

Attn: _____
 Fax: _____
 E-mail: _____

Version: 20181217; Updated: 20200501; Updated 20220330sign; Updated 20230105sign; Updated 20240408

RESOLUTION NO. _____

**A RESOLUTION AMENDING THE 2025 BUDGET FOR VANTAGE LIVE SOFTWARE
SUBSCRIPTION RENEWAL IN THE AMOUNT OF FIVE-THOUSAND DOLLARS
(\$5,000.00), AND FOR OTHER PURPOSES.**

WHEREAS, the Bentonville City Street Department is requesting a budget adjustment for Vantage Live subscription renewal for 40 traffic signals and the addition of 30 traffic signals.

WHEREAS, a budget adjustment is necessary.

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

Section 1: The 2025 Budget is hereby adjusted to appropriate Five-Thousand Dollars (\$5,000.00) from street fund reserves to Account 203810-43310 Technical/Data Processing.

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 this _____ day of _____, 2025.

APPROVED:

Stephanie Orman, MAYOR

ATTEST:

Malorie Marrs, CITY CLERK



City of Bentonville, Arkansas Agenda Item Form

Item Details

Council Meeting Date:		Submitted By:	
Phone:		For Department(s):	
Email:			

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:	
Action Recommendation & Justification:	
Additional Comments for Consideration (Optional):	

Amount for Approval:	\$
-----------------------------	----

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
Account Number (ORG-OBJECT)	Account Description	\$	Expense	\$	Revenue
Account Number (ORG-OBJECT)	Account Description	\$	Expense	\$	Revenue
Account Number (ORG-OBJECT)	Account Description	\$	Expense	\$	Revenue

Fund(s) Impacted

(check all that apply)

General Fund

Utility Fund

Street Fund

Other(s): _____

Budget Impact Notes for Consideration (Optional):

Date of Issuance: 2025-04-23	Effective Date: 2025-02-03
Owner: City of Bentonville	Owner's Contract No.: 21EN0009
Contractor: Crossland Heavy Contractors	Contractor's Project No.: _____
Engineer: CEI	Engineer's Project No.: 32245
Project: Drainage Improvements – NW 9th & D St	Contract Name: Drainage Improvements – NW 9th & D St

The Contract is modified as follows upon execution of this Change Order:

Description:

Final RCO to close out project.

Attachments:

Cost request and Delay request by contractor

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ <u>6,529,392.00</u>	Original Contract Times: Substantial Completion: <u>July 5, 2024</u> Ready for Final Payment: <u>August 4, 2024</u> _____ dates
Increase from previously approved Change Order(s) No. <u>3</u> : \$ <u>44,581.46</u>	Increase from previously approved Change Order(s) No. <u>2 & 3</u> : Substantial Completion: <u>52</u> Ready for Final Payment: <u>52</u> _____ days
Contract Price prior to this Change Order: \$ <u>6,573,973.46</u>	Contract Times prior to this Change Order: Substantial Completion: <u>August 26, 2024</u> Ready for Final Payment: <u>September 25, 2024</u> _____ dates
Increase of this Change Order: \$ <u>256,649.53</u>	Increase of this Change Order: Substantial Completion: <u>102</u> Ready for Final Payment: <u>102</u> _____ days
Contract Price incorporating this Change Order: \$ <u>6,830,622.99</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>December 6, 2024</u> Ready for Final Payment: <u>January 5, 2025</u> _____ dates

RECOMMENDED	ACCEPTED:	ACCEPTED:
By: <u>Anna Keogh Stamps</u>	By: _____	By: _____
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)
Title: <u>Department Manager</u>	Title _____	Title _____
Date: _____	Date _____	Date _____

Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____



*Civil Engineering, Landscape Architecture,
Survey, Planning & Program Management*

2600 NE 11th St, Ste 300
Bentonville, AR 72712
Office: 479.273.9472
Toll-free: 1.800.433.4173
ceieng.com

May 15, 2025

**Mr. Cody Vaughn, Staff Engineer
City of Bentonville
3200 SW Municipal Drive
Bentonville, AR 72712**

**RE: NW 9th & D St. Stormwater Improvements, City 21EN0009, CEI 32245;
Change Order #4 – Request for Delays**

As part of Change Order #4 for the NW 9th & D St. Stormwater Improvements project located in Bentonville, Arkansas, Crossland Heavy Contractors (CHC) requested charges for delays incurred at no fault of their own. The request for charges and delays are detailed within the Change Order #4 documents.

Upon CEI and the City of Bentonville's review of the request for additional contract days, the City and CEI agree with said request of one hundred-twenty-five (125) days to be added to the contract duration.

Of the additional contract days requested, the Final GI-4 Revisions request (detailed in the Change Order documents on page 7) was for labor costs incurred on-site. The City requested that CHC stay mobilized on-site after CHC completed all critical path items wherein additional modifications to GI-4 were requested by the City. CHC accrued overhead labor charges for the additional time which equals \$35,485.71 (approximately two Laborers for 154 manhours). CEI reviewed its construction logs for the time period requested by CHC and found that the request is reasonable.

CEI recommends that the City accept these charges as part of Change Order #4.

Should the City require any additional information, please do not hesitate to contact CEI.

CEI Engineering Associates, Inc.

Anna Keogh Stamps

Anna Stamps, PE, CFM
Municipal Transportation Department Manager



*Civil Engineering, Landscape Architecture,
Survey, Planning & Program Management*

2600 NE 11th St, Ste 300
Bentonville, AR 72712
Office: 479.273.9472
Toll-free: 1.800.433.4173
ceieng.com

April 25, 2025

NW 9th & D Street
Bentonville, Benton County, AR
CEI Project No. 32245

Summary of Changes for Change Order No. 4

- This change order is being processed as the reconciliation change order for the project. Therefore all line item under-runs and over-runs for the project duration are being captured here.
- Additional new items included in Change Order 4 include:
 - Additional Services – Valve on Lefors – Additional bell restraints were needed for the waterline work on Lefors street at the direction of BWUD
 - Additional Services (3rd Street Sewer Service) - Unknown sewer services had to be relocated due to storm conflict.
 - Additional Services (GI-4 Modifications) – Cost for saw-cutting to make modifications on GI-4 at City's direction.
 - Topsoil - Detention pond had less than 2" of topsoil when it was stripped and was not salvageable. Additional topsoil was required. Also used in other greenspaces throughout job.
 - General Conditions- Increase in construction duration time as lined out on page 4 of this package.

May 15, 2025

501 S. East Ave, P.O. Box 350
Columbus, KS 66725
Tel: 620.429.1410

Anna Negrete, PE, CFM
CEI Engineering
2600 NE 11th Street, Suite 300
Bentonville, AR 72712

23A10SD - Drainage Improvements - NW 9th and D Street
COR: Schedule Delays, Design Changes and Known Overruns

Mrs. Negrete,

Pursuant of Article 4.05 Delays in Contractor's Progress of the General Conditions, our progress was delayed by unanticipated causes not the fault of the Owner or ourselves. Following paragraph C of this article, this delay adversely affected activities on the critical path to completion of the Work, which entitles an adjustment of Contract Times.

Attached is a summary of these impacts.

At your request, additional work on GI-4, additional topsoil not on site, and the relocation of the sewer service on 3rd street and all known overruns are listed as well with breakdown attached.

Crossland Heavy is requesting an additional 125 Calendar Days be added to the contract times.

Total: \$	256,649.53
Additional Days Request to be Added to the Contract Time:	125.00

Respectfully,

Stetson Beck
Sr. Project Manager
417.825.3159
sbeck@heavycontractors.com

Item #	Description	Start Date	End Date	Delay	Revised Days	Type of Delay
1	City CCTV for Sanitary Sewer	12/27/2023	1/4/2024	9	7	Waiting for city department
2	Sub installed SMH-2 in the wrong location. When relocating it the run back to SMH-1 had to be relocated. In order to do this the pipe had to be removed from the manhole. It was discussed with the water department that the pipe could be cored out. The inspector was looking at a different scope while this was being done and did not agree with how it was done. Additionally they wanted the footing to be larger than shown on the standard detail. The manhole had to be ripped out.	1/31/2024	2/20/2024	8	0	Conflict is details, partial coinciding delay
3	Jackson St encountered a waterline that was not potholed during design. CHC had closed the road to start work and had to wait for enough direction to start work.	2/1/2024	2/13/2024	13	13	Waiting for information from CEI
4	Pole on Hook St was impeding the excavation. BEUD was requested on site to hold the pole. Due to a chance of rain they did not come out. If they had it could have been done that same day. The next weekend the tornado hit and tied up the cities trucks.	5/21/2024	6/10/2024	21	0	Waiting for city department
5	Lefors St had a waterline that was not potholed during design. This line veered from what was shown in GIS. Causing it to get into our excavation. Work had to stop for a valve to be added to shut down this line. The crews were moved to limit this delays impact. (still waiting for meter service to be relocated by BWU)	5/29/2024	6/12/2024	2	2	Design conflict, partially coinciding delay
6	Encountered unmarked communication lines at CI-1 that prevented us from shoring. Therefore we had to bench the excavation. The existing waterline was found to have a potential leak stopping work as well.	7/12/2024	7/15/2024	4	1	Unknown utilities
7	Sewer Service in conflict on NW 3rd Street	7/19/2024	7/26/2024	8	8	Unknown utilities
8	CHC potholed more potential conflicts and found another at NW D and Jefferson with an existing waterline. This conflict along with the other two waterline conflicts have prevented us from starting more crews to accommodate schedule.	8/6/2024	9/3/2024	28	28	Design conflict
9	Existing Box Culvert to be tied in to GI-4 had a dirt floor. CHC waiting for direction how to proceed	8/9/2024	9/4/2024	27	3	Existing condition not surveyed
10	GI-4 additional modifications	11/12/2024	11/16/2024	5	5	Owner Changes
11	Final GI-4 Revisions	10/29/2024	12/10/2024	43	35	Owner Changes
				125	102	
	ADDITIONAL ISSUES					
	Gas Line on Jefferson Conflict	4/16/2024	9/11/2024	149		Design conflict

Item	Description	UOM	Unit Price	QTY	EXT Price
5	6" DIP	LF	\$ 254.00	4.00	\$ 1,016.00
6	8" DIP	LF	\$ 285.00	5.00	\$ 1,425.00
8	8" TAPPING SLEEVE & VALVE	EA	\$ 7,525.00	(1.00)	\$ (7,525.00)
9	8" GATE VALVE	EA	\$ 3,300.00	1.00	\$ 3,300.00
11	8" Cut, Cap and Anchor Collar Block	EA	\$ 4,450.00	(1.00)	\$ (4,450.00)
22	4" SEWER SERVICE CONNECTION (SHORT SIDE OF STREET)	EA	\$ 3,300.00	1.00	\$ 3,300.00
28	REMOVAL & DISPOSAL OF ASPHALT PAVEMENT	SY	\$ 15.00	14.00	\$ 210.00
29	REMOVAL & DISPOSAL OF CONCRETE PAVEMENT	SY	\$ 59.00	73.00	\$ 4,307.00
30	REMOVAL & DISPOSAL OF ASPHALT DRIVEWAY	SY	\$ 70.00	(9.00)	\$ (630.00)
31	REMOVAL & DISPOSAL OF CONCRETE DRIVEWAY	SY	\$ 61.00	142.00	\$ 8,662.00
33	REMOVAL & DISPOSAL OF CONCRETE SIDEWALK	SY	\$ 12.00	115.00	\$ 1,380.00
34	REMOVAL & DISPOSAL OF CONCRETE CURB & GUTTER	LF	\$ 8.00	189.00	\$ 1,512.00
39	REMOVE & RELOCATE MAILBOXES	EA	\$ 400.00	8.00	\$ 3,200.00
41	COMPACTED EMBANKMENT	CY	\$ 38.00	4.00	\$ 152.00
42	ASPHALT DRIVEWAY	SY	\$ 200.00	(16.00)	\$ (3,200.00)
43	P.C. CONCRETE DRIVEWAY	SY	\$ 160.00	102.00	\$ 16,320.00
48	18" RCP, CLASS III	LF	\$ 185.00	3.00	\$ 555.00
49	30" RCP, CLASS III	LF	\$ 365.00	10.00	\$ 3,650.00
50	48" RCP, CLASS III	LF	\$ 420.00	1.00	\$ 420.00
60	TYPE C RETANGULAR CURB INLETS (6'X6')	EA	\$ 25,000.00	(1.00)	\$ (25,000.00)
67	TYPE TM INLETS (4'X4')	EA	\$ 12,750.00	1.00	\$ 12,750.00
78	SEEDING	AC	\$ 6,000.00	0.01	\$ 60.00
79	TEMPORARY SEEDING	AC	\$ 5,000.00	0.01	\$ 50.00
87	INLET PROTECTION	LF	\$ 22.00	22.00	\$ 484.00
92	CONCRETE COBINATION CURB & GUTTER (TYPE A 1'-6")	LF	\$ 50.00	105.00	\$ 5,250.00
93	CONCRETE SIDEWALK	SY	\$ 115.00	115.00	\$ 13,225.00
95	STAMPED & COLORED CONCRETE SIDEWALK	SY	\$ 875.00	(5.00)	\$ (4,375.00)
97	WHEELCHAIR RAMPS	EA	\$ 2,500.00	4.00	\$ 10,000.00
98	Thermoplastic Pavement Marking - Reflective White "BIKE" Symbol	EA	\$ 1,580.00	(1.00)	\$ (1,580.00)
99	Thermoplastic Pavement Marking - Yellow (4")	LF	\$ 3.00	156.00	\$ 468.00
102	AGGREGATE BASE SURFACE COURSE (ARDOT CLASS 7) (6") (HookSt)	TN	\$ 92.00	123.00	\$ 11,316.00
103	ASPHALT PAVEMENT REPAIR	SY	\$ 78.00	501.00	\$ 39,078.00
104	P.C. CONCRETE PAVEMENT REPAIR	SY	\$ 152.00	60.00	\$ 9,120.00
105	STAMPED & COLORED CONCRETE PAVEMENT REPAIR	SY	\$ 875.00	(13.00)	\$ (11,375.00)
CO 2	Masonry Retaining Wall	SF	\$ 445.00	(4.00)	\$ (1,780.00)
CO 2	Lower Sewer Service Line	EA	\$ 7,490.00	2.00	\$ 14,980.00
CO 2	Cast-in-Place Concrete End Cap	EA	\$ 4,500.00	1.00	\$ 4,500.00
CO 2	16" Pipe Encasement	LF	\$ 350.00	1.00	\$ 350.00
CO 2	6" Gate Valve	EA	\$ 5,580.00	1.00	\$ 5,580.00
CO 2	8"x6" Hymax Coupling	EA	\$ 2,611.23	1.00	\$ 2,611.23
CO 2	Concrete Anchor Collar Block	EA	\$ 4,000.00	1.00	\$ 4,000.00
CO 2	Granular Backfill for Storm Sewer	TN	\$ 30.00	2,041.00	\$ 61,230.00
CO 3	Additional Services	LS	\$ 641.00	(1.00)	\$ (641.00)
CO 4	Additional Services (Valve on Lefors)	LS	\$ 7,700.00	1.00	\$ 7,700.00
CO 4	Additional Services (3rd St Sewer Service)	LS	\$ 6,301.08	1.00	\$ 6,301.08
CO 4	Additional Services (GI-4 Modifications)	LS	\$ 1,050.00	1.00	\$ 1,050.00
CO 4	Topsoil	CY	\$ 47.25	470.00	\$ 22,207.50
CO 4	Additional Services (Final GI-4 Revisions)	LS	\$ 35,485.71	1.00	\$ 35,485.71
					\$ 256,649.53

Materials	# of Units	UOM	Unit Price	Extension
Cleanrock	10	TN	\$ 23.00	\$ 230.00
Pipe Material	1	LS	\$ 2,438.39	\$ 2,438.39
Baserock	5	TN	\$ 13.00	\$ 65.00
<u>Total Materials</u>				\$ 2,733.39
<u>Tax</u>				9.75% \$ 266.51
<u>Fee</u>				15% \$ 449.98
<u>Total Materials w/Fee</u>				\$ 3,449.88

Labor	Hourly \$	# of Units	MH/U	Total MH	Extension
Superintendent	\$120.00	1	3	3	\$ 360.00
Field Engineer	\$80.00	1	3	3	\$ 240.00
Craft Superintendent	\$105.00	1	8	8	\$ 840.00
Operator	\$45.00	1	8	8	\$ 360.00
Skilled Laborer	\$36.00	1	8	8	\$ 288.00
<u>Total Labor</u>					\$ 2,088.00
<u>Fee</u>					15% \$ 313.20
<u>Total Labor w/ Fee</u>					\$ 2,401.20

Equipment	Hours	Hourly Rate	Days	Day Rate	Extension
CAT 336E L	8.00	\$ 117.95			\$ 943.60
CAT 950M	8.00	\$ 83.02			\$ 664.16
<u>Total Equipment</u>					\$ 1,607.76
<u>Fee</u>					15% \$ 241.16
<u>Total Equipment w/Fee</u>					\$ 1,848.92

Subcontractor	# of Units	UOM	Unit Price	Extension
				\$ -
<u>Total Direct Cost</u>				\$ -
<u>Fee</u>				5% \$ -
<u>Total Subcontractor w/Fee</u>				\$ -

<u>Subtotal</u>				\$ 7,700.00
<u>Bonds & Insurance</u>				0.0% \$ -
<u>Total Amount w/ B&I</u>				\$ 7,700.00
<u>Days Requested</u>				2

Materials	# of Units	UOM	Unit Price	Extension
Cleanrock	40	TN	\$ 23.00	\$ 920.00
PVC Material	1	LS	\$ 140.00	\$ 140.00
Baserock	20	TN	\$ 13.00	\$ 260.00
<u>Total Materials</u>				\$ 1,320.00
<u>Tax</u>				9.75%
<u>Fee</u>				15%
<u>Total Materials w/Fee</u>				\$ 1,666.01

Labor	Hourly \$	# of Units	MH/U	Total MH	Extension
Superintendent	\$120.00	1	5	5	\$ 600.00
Field Engineer	\$80.00	1	5	5	\$ 400.00
Craft Superintendent	\$105.00	1	5	5	\$ 525.00
Operator	\$45.00	1	5	5	\$ 225.00
Skilled Laborer	\$36.00	1	5	5	\$ 180.00
<u>Total Labor</u>					\$ 1,930.00
<u>Fee</u>					15%
<u>Total Labor w/ Fee</u>					\$ 2,219.50

Equipment	Hours	Hourly Rate	Days	Day Rate	Extension
CAT 336E L	5.00	\$ 117.95			\$ 589.75
CAT 950M	5.00	\$ 83.02			\$ 415.10
<u>Total Equipment</u>					\$ 1,004.85
<u>Fee</u>					15%
<u>Total Equipment w/Fee</u>					\$ 1,155.58

Subcontractor	# of Units	UOM	Unit Price	Extension
Plumber Fee (3rd Street)	1	LS	\$ 1,200.00	\$ 1,200.00
<u>Total Direct Cost</u>				\$ 1,200.00
<u>Fee</u>				5%
<u>Total Subcontractor w/Fee</u>				\$ 1,260.00

<u>Subtotal</u>				\$ 6,301.08
<u>Bonds & Insurance</u>				0.0%
<u>Total Amount w/ B&I</u>				\$ 6,301.08
<u>Days Requested</u>				8

Materials	# of Units	UOM	Unit Price	Extension	
<u>Total Materials</u>				\$ -	
<u>Tax</u> 9.75%				\$ -	
<u>Fee</u> 15%				\$ -	
<u>Total Materials w/Fee</u>				\$ -	
Labor	Hourly \$	# of Units	MH/U	Total MH	Extension
					\$ -
<u>Total Labor</u>					\$ -
<u>Fee</u> 15%					\$ -
<u>Total Labor w/ Fee</u>					\$ -
Equipment	Hours	Hourly Rate	Days	Day Rate	Extension
<u>Total Equipment</u>					\$ -
<u>Fee</u> 15%					\$ -
<u>Total Equipment w/Fee</u>					\$ -
Subcontractor	# of Units	UOM	Unit Price	Extension	
Concrete Cutting (GI-4)	1	LS	\$ 1,000.00	\$ 1,000.00	
<u>Total Direct Cost</u>				\$ 1,000.00	
<u>Fee</u> 5%				\$ 50.00	
<u>Total Subcontractor w/Fee</u>				\$ 1,050.00	
<u>Subtotal</u>				\$ 1,050.00	
<u>Bonds & Insurance</u> 0.0%				\$ -	
<u>Total Amount w/ B&I</u>				\$ 1,050.00	
<u>Days Requested</u>				5	

Materials	# of Units	UOM	Unit Price	Extension	
<u>Total Materials</u>				\$ -	
<u>Tax</u> 9.75%				\$ -	
<u>Fee</u> 15%				\$ -	
<u>Total Materials w/Fee</u>				\$ -	
Labor	Hourly \$	# of Units	MH/U	Total MH	Extension
Superintendent	\$120.00	1	154	154	\$ 18,514.29
Field Engineer	\$80.00	1	154	154	\$ 12,342.86
<u>Total Labor</u>					\$ 30,857.14
<u>Fee</u> 15%					\$ 4,628.57
<u>Total Labor w/ Fee</u>					\$ 35,485.71
Equipment	Hours	Hourly Rate	Days	Day Rate	Extension
<u>Total Equipment</u>					\$ -
<u>Fee</u> 15%					\$ -
<u>Total Equipment w/Fee</u>					\$ -
Subcontractor	# of Units	UOM	Unit Price	Extension	
				\$ -	
<u>Total Direct Cost</u>					\$ -
<u>Fee</u> 5%					\$ -
<u>Total Subcontractor w/Fee</u>					\$ -
<u>Subtotal</u>					\$ 35,485.71
<u>Bonds & Insurance</u> 0.0%					\$ -
<u>Total Amount w/ B&I</u>					\$ 35,485.71
<u>Days Requested</u>					35

Additional revisions were asked of CHC on GI-4 at the end of the project. The down time and changes warranted additional supervision.

Project: NW 9th and NW D Street
 COR: Additional Topsoil

Materials	# of Units	UOM	Unit Price	Extension	
			<u>Total Materials</u>	\$ -	
			<u>Tax</u> 9.75%	\$ -	
			<u>Fee</u> 15%	\$ -	
			<u>Total Materials w/Fee</u>	\$ -	
Labor	Hourly \$	# of Units	MH/U	Total MH	Extension
					\$ -
			<u>Total Labor</u>		\$ -
			<u>Fee</u> 15%		\$ -
			<u>Total Labor w/ Fee</u>		\$ -
Equipment	Hours	Hourly Rate	Days	Day Rate	Extension
			<u>Total Equipment</u>		\$ -
			<u>Fee</u> 15%		\$ -
			<u>Total Equipment w/Fee</u>		\$ -
Subcontractor	# of Units	UOM	Unit Price	Extension	
Second Nature (Topsoil)	470	CY	\$ 45.00	\$ 21,150.00	
			<u>Total Direct Cost</u>	\$ 21,150.00	
			<u>Fee</u> 5%	\$ 1,057.50	
			<u>Total Subcontractor w/Fee</u>	\$ 22,207.50	
			<u>Subtotal</u>	\$ 22,207.50	
			<u>Bonds & Insurance</u> 0.0%	\$ -	
			<u>Total Amount w/ B&I</u>	\$ 22,207.50	
			<u>Days Requested</u>	0	

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND THE CITY CLERK TO ENTER INTO CHANGE ORDER NO. 4 WITH CROSSLAND HEAVY CONTRACTORS IN AN AMOUNT NOT TO EXCEED TWO-HUNDRED FIFTY-SIX THOUSAND SIX-HUNDRED FORTY-NINE DOLLARS AND FIFTY-THREE CENTS (\$256,649.53); AND FOR OTHER PURPOSES.

WHEREAS, this change order is for re-conciliating over-runs/under-runs, unknown utility work, unknown site conditions causing additional material/work, and awarding delays; and

WHEREAS, this project is funded with money in the Street Bond Funds; therefore, no budget adjustment is needed.

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

Section 1: The Mayor and City Clerk are hereby authorized to enter into Change Order No. 4 with Crossland Heavy Contractors in an amount not to exceed Two-Hundred Fifty-Six Thousand Six-Hundred Forty-Nine Dollars and Fifty-Three Cents (\$256,649.53).

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 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 and APPROVED this _____ day of _____, 2025.

APPROVED:

STEPHANIE ORMAN, Mayor

ATTEST:

MALORIE MARRS, City Clerk



City of Bentonville, Arkansas Agenda Item Form

Item Details

Council Meeting Date:		Submitted By:	
Phone:		For Department(s):	
Email:			

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:	
Action Recommendation & Justification:	
Additional Comments for Consideration (Optional):	

Amount for Approval:	\$
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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
Account Number (ORG-OBJECT)	Account Description	\$	\$
		Expense	Revenue
Account Number (ORG-OBJECT)	Account Description	\$	\$
		Expense	Revenue
Account Number (ORG-OBJECT)	Account Description	\$	\$
		Expense	Revenue

Fund(s) Impacted

(check all that apply)

General Fund Utility Fund Street Fund Other(s): _____

Budget Impact Notes for Consideration (Optional):

City of Bentonville, Arkansas

City Hall

305 SW A Street Bentonville, AR 72712



CITY OF BENTONVILLE, ARKANSAS

Purchasing Department – 1000 SW 14th Street, Bentonville Arkansas 72712

City Hall – 305 SW A Street Bentonville, Arkansas 72712

AMENDMENT TO INVITATION FOR BID CONTRACT

This amendment (the “Amendment”), dated July 8, 2025 is made by the City of Bentonville, Arkansas (“City”) and Mo-Ark Utilities (“Contractor”), parties to the Invitation for Bid (IFB)-24-70 with Bentonville Water Department, for Indefinite Delivery – Indefinite Quantity (IDIQ) Water Service Line Replacement, dated November 20, 2024 (the “Agreement”).

1. The Original Agreement that was approved by City Council on November 12, 2024, in an amount not to exceed \$500,000 per year for each contract awarded.
2. The First Contract Amendment was approved by City Council on January 14, 2025, in an amount not to exceed \$1,000,000.00 per year for each contract awarded.
3. The Second Contract Amendment was approved by City Council on April 8, 2025, in an amount not to exceed \$1,500,000.00 per year for each contract awarded.
4. The Agreement is Amended as follows:
5. The estimated total of payments for the contract is estimated to be \$2,000,000.00 per contract term.
6. This Amendment shall be effective immediately when fully executed.
7. Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is conflict between this Amendment and the Agreement, or any earlier Amendment, the terms of this Amendment shall prevail.

THE CITY OF BENTONVILLE, ARKANSAS

BY: _____
Stephanie Orman, Mayor

DATE: _____

Company Name: _____

BY: _____

Name(printed): _____

DATE: _____

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN AMENDED AGREEMENT WITH MO-ARK UTILITIES, INCREASING THE CONTRACT AMOUNT BY FIVE-HUNDRED THOUSAND DOLLARS (\$500,000.00); AMENDING THE 2025 BUDGET; AND FOR OTHER PURPOSES.

WHEREAS, The City of Bentonville has entered into a contract with Mo-Ark Utilities dated November 20, 2024, which has previously been amended twice;

WHEREAS, the need has arisen to amend the contract for a third time to continue repairs to the water service lines and reduce water loss; and

WHEREAS, a budget adjustment is needed to fund this amendment.

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

Section 1: The Mayor and City Clerk are authorized to enter into an amended agreement with Mo-Ark Utilities for additional services, increasing the contract amount by five hundred thousand dollars (\$500,000.00);

Section 2: The 2025 Budget is hereby adjusted to appropriate five hundred thousand dollars (\$500,000.00) from Utility Fund Reserves into Account #503020-44450 – Public Works by Project Maintenance;

Section 3 - 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 4 - 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 _____, 2025.

APPROVED:

STEPHANIE ORMAN, MAYOR

ATTEST:

MALORIE MARRS, CITY CLERK



City of Bentonville, Arkansas Agenda Item Form

Item Details

Council Meeting Date:		Submitted By:	
Phone:		For Department(s):	
Email:			

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:	
Action Recommendation & Justification:	
Additional Comments for Consideration (Optional):	

Amount for Approval:	\$
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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
Account Number (ORG-OBJECT)	Account Description	\$	\$
		Expense	Revenue
Account Number (ORG-OBJECT)	Account Description	\$	\$
		Expense	Revenue
Account Number (ORG-OBJECT)	Account Description	\$	\$
		Expense	Revenue

Fund(s) Impacted

(check all that apply)

General Fund

Utility Fund

Street Fund

Other(s): _____

Budget Impact Notes for Consideration (Optional):

City of Bentonville, Arkansas

City Hall

305 SW A Street Bentonville, AR 72712



PROFESSIONAL SERVICES AGREEMENT

PROJECT NAME: SOQ-25-38 II Reduction Program ("PROJECT")

THIS AGREEMENT ("AGREEMENT") is made in Benton County, Arkansas, by and between the City of Bentonville, Arkansas, hereinafter referred to as "CITY", and Trekk Design Group, LLC hereinafter referred to as "PROFESSIONAL CONSULTANT" (collectively, the "PARTIES").

The PARTIES have caused this AGREEMENT to be effective this _____ ("EFFECTIVE DATE").

RECITALS:

- A. WHEREAS, the CITY has a need to perform capital improvement projects for the City of Bentonville, Arkansas; and
- B. WHEREAS, The CITY has selected the PROFESSIONAL CONSULTANT and negotiated this AGREEMENT using the procedures as set forth in Ark. Code Ann. § 19-11-801; and
- C. WHEREAS, the CITY wishes to contract for Professional Services; and
- D. WHEREAS, The PROFESSIONAL CONSULTANT has the skill, experience, ability, background, certifications and knowledge to provide these services; and
- E. WHEREAS, The PROFESSIONAL CONSULTANT wishes to perform such professional services under this AGREEMENT with the CITY.

NOW, THEREFORE, in consideration of the terms in this AGREEMENT, the CITY and PROFESSIONAL CONSULTANT agree to the following:

ARTICLE I - PROJECT DESCRIPTION

The PROJECT shall be as described in APPENDIX A, "Project Description", attached hereto and incorporated herein by reference.

ARTICLE II - SCOPE OF SERVICE

Upon issuance of a written Notice to Proceed by the CITY, PROFESSIONAL CONSULTANT agrees to provide the CITY the necessary professional services related to the PROJECT, as set forth in APPENDIX B, "Scope of Services" ("SCOPE"), attached hereto and incorporated herein by reference.

ARTICLE III - STANDARD OF CARE

PROFESSIONAL CONSULTANT shall at all times material hereto adhere to the generally accepted standard of care typically exhibited by similarly situated professionals performing similar scope(s) of service on projects of like size, scope, nature, cost, schedule, and complexity, at the same time and in the same general regional locale ("Standard of Care").

ARTICLE IV - ADDITIONAL SERVICES

- A. Any service outside of the work described herein or included by reference hereto must be pre-approved by the CITY and executed as an AMENDMENT to this AGREEMENT by the Parties prior to any such work being completed; any such AMENDMENT shall be in accordance with the CITY'S purchasing laws and guidelines and may require approval from the Bentonville City Council.
- B. PROFESSIONAL CONSULTANT shall make no claims for additional services or changes in the services until an AMENDMENT has been fully executed by the Parties.

ARTICLE V - SCHEDULE OF FEES, SERVICES AND PAYMENT

- A. The term of this AGREEMENT shall commence on the EFFECTIVE DATE and shall proceed in accordance with APPENDIX C, "Schedule of Fees and Services, Key Milestones, and Durations for Major Tasks", attached hereto and incorporated herein by reference.
- B. The cost of this AGREEMENT shall be in accordance with APPENDIX C.
- C. CITY agrees to pay PROFESSIONAL CONSULTANT for all services authorized by inclusion in this AGREEMENT which have been properly performed by PROFESSIONAL CONSULTANT in accordance with this AGREEMENT.
- D. All fees paid to PROFESSIONAL CONSULTANT shall be based on invoices submitted by PROFESSIONAL CONSULTANT for work performed under this AGREEMENT, less any previous payments. PROFESSIONAL CONSULTANT shall submit invoices for services related to this AGREEMENT on a monthly basis.
- E. CITY reserves the right to delay, without penalty, any partial payment when, in the opinion of the CITY, PROFESSIONAL CONSULTANT has not made satisfactory progress on the Project based on the SCOPE. If CITY objects to any portion of an invoice, the CITY shall notify PROFESSIONAL CONSULTANT and shall pay all other portions of the invoice which are not in dispute. In the event of dispute, CITY and PROFESSIONAL CONSULTANT shall immediately make every effort to settle the disputed portion of the invoice.

- F. In the event that the CITY becomes credibly informed that any representations of PROFESSIONAL CONSULTANT provided in its invoicing are wholly or partially inaccurate, CITY may withhold payment of sums then, or in the future, otherwise due to PROFESSIONAL CONSULTANT until the inaccuracy and the cause thereof is corrected to the CITY's reasonable satisfaction.
- G. If the CITY fails to make any payment, not in dispute, due to PROFESSIONAL CONSULTANT within thirty (30) days after receipt of an invoice, then the amount due to the PROFESSIONAL CONSULTANT will increase at the lesser of one percent (1 %) per month or the maximum amount allowed by law after the 30th day. In addition, PROFESSIONAL CONSULTANT may, after giving seven (7) days' written notice to CITY, suspend its services and any deliverables until PROFESSIONAL CONSULTANT has been paid in full for all amounts outstanding more than thirty (30) days.

ARTICLE VI - INSURANCE

- A. PROFESSIONAL CONSULTANT shall during the term hereof maintain in full force and effect the following insurance:
 - 1. A comprehensive general liability policy of insurance for bodily injury, death and property damage insuring against all claims, demands or actions relating to the PROFESSIONAL CONSULTANT's performance of services pursuant to this AGREEMENT with a combined single limit of not less than \$1,000,000.00 per occurrence and \$2,000,000 in the aggregate for injury to persons (including death), and for property damage;
 - 2. A policy of automobile liability insurance covering any vehicles owned and/or operated by PROFESSIONAL CONSULTANT, its officers, agents, and employees, and used in the performance of this AGREEMENT with policy limits of not less than \$1,000,000.00 combined single limit and aggregate for bodily injury and property damage;
 - 3. Statutory Worker's Compensation Insurance at the statutory limits and Employers Liability covering all of PROFESSIONAL CONSULTANT's employees involved in the provision of services under this AGREEMENT with policy limit of not less than \$1,000,000.00; and
 - 4. Professional Liability/Errors and Omissions coverage covering negligent acts, errors and omissions in the performance of professional services with policy limit of not less than \$1,000,000.00.
- B. All insurance and certificate(s) of insurance shall contain the following provisions:
 - 1. Include CITY as additional insured as to all applicable coverage with the exception of Workers Compensation Insurance and Professional Liability/Errors and Omissions coverage; and
 - 2. provide for at least thirty (30) days prior written notice to CITY for cancellation or non-renewal of the insurance;
 - 3. provide for a waiver of subrogation against CITY for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance, except for Professional Liability/Errors and Omissions coverage.
- C. PROFESSIONAL CONSULTANT shall provide 30 day written notice to CITY of any material change of or to the insurance required herein.
- D. All insurance companies providing the required insurance shall be authorized to transact business in Arkansas and rated at least "A" by AM Best or other equivalent rating service. A certificate of insurance evidencing the required insurance and all endorsements required by this Agreement shall be submitted prior to commencement of services.

- E. In the event that additional or greater insurance requirements are warranted, these requirements shall be included as an Appendix, which will be attached hereto and incorporated by reference.

ARTICLE VII - RIGHT OF ACCESS

- A. CITY will obtain and/or furnish right-of-access for PROFESSIONAL CONSULTANT to perform any required studies, surveys, tests or other necessary investigations in relation to the PROJECT.
- B. PROFESSIONAL CONSULTANT will take reasonable precautions to minimize damage to the personal or real property in the performance of such surveys, tests, studies and investigations.
- C. CITY recognizes that PROFESSIONAL CONSULTANT's operations and use of equipment may unavoidably alter existing conditions or affect the environment at the PROJECT site. The cost of repairing such damage shall be the responsibility of PROFESSIONAL CONSULTANT, at no additional cost to the CITY. In the event that PROFESSIONAL CONSULTANT fails to correct such damages, CITY is entitled to utilize CITY forces or other labor to repair the damage; any costs incurred by CITY for such work shall be deducted from the monies due to PROFESSIONAL CONSULTANT.

ARTICLE VIII - RECORDS AND RETENTION

- A. All surveys, studies, proposals, applications, drawings, plans, specifications and other documents, including those in electronic form, prepared by PROFESSIONAL CONSULTANT and its PROFESSIONAL CONSULTANTS, subcontractors, agents, representatives, and/or employees in connection with this AGREEMENT ("PROJECT DOCUMENTS") are intended for the use and benefit of CITY. PROFESSIONAL CONSULTANT and its PROFESSIONAL CONSULTANTS, subcontractors, agents, representatives, and/or employees shall be deemed the authors of their respective part of the PROJECT DOCUMENTS. Notwithstanding anything to the contrary, CITY shall own, have, and retain all rights, title and interest in and to all PROJECT DOCUMENTS, whether in draft form or final form, which are produced at CITY's request or otherwise produced from PROFESSIONAL CONSULTANT's performance of the work described herein for CITY. The CITY's ownership of PROJECT DOCUMENTS shall not apply to PROFESSIONAL CONSULTANT's proprietary standard details that were developed by the PROFESSIONAL CONSULTANT prior to the commencement of this PROJECT.
- B. CITY shall have full authority to reuse, reproduce, publish, disclose and distribute PROJECT DOCUMENTS, as needed, according to Arkansas State Law.
- C. PROFESSIONAL CONSULTANT shall, upon completion of the services and full payment for the PROFESSIONAL CONSULTANT'S services by the CITY, or earlier termination and appropriate compensation as provided by this AGREEMENT, provide the CITY with all PROJECT DOCUMENTS prepared by PROFESSIONAL CONSULTANT pursuant to this AGREEMENT in formats requested by the CITY.
- D. All instruments of service (including plans, specifications, drawings, reports, designs, computations, computer programs, estimates, surveys, other data or work items, etc.) prepared under this AGREEMENT shall be submitted for approval to the CITY. All instruments of service shall be professionally sealed in accordance to applicable laws or at CITY's request.
- E. Acceptance and approval of the PROJECT DOCUMENTS by the CITY shall not constitute nor be deemed a release of the responsibility and liability of PROFESSIONAL CONSULTANT, its employees, associates, agents and PROFESSIONAL CONSULTANTS for the accuracy or competency of their designs, working drawings and specifications, or other documents and work; nor shall such approval be deemed to be an

assumption of such responsibility by the CITY for any defect in the designs, working drawings and specifications, or other documents prepared by PROFESSIONAL CONSULTANT, its employees, contractor, agents and PROFESSIONAL CONSULTANTS.

- F. PROFESSIONAL CONSULTANT will retain the PROJECT DOCUMENTS for a period of three years following project completion. During this three year period, any requests for document recovery and reproduction will be assessed a fee in accordance with PROFESSIONAL CONSULTANT's FEES.

ARTICLE IX - SAFETY

- A. CITY agrees to inform PROFESSIONAL CONSULTANT of any applicable site safety procedures and regulations known to CITY as well as any special safety concerns or dangerous conditions at the site of which the CITY is aware, which PROFESSIONAL CONSULTANT shall communicate to its employees. PROFESSIONAL CONSULTANT and its employees shall adhere to such procedures and regulations once notice has been given by the CITY.
- B. Unless specifically provided in the SCOPE, PROFESSIONAL CONSULTANT shall not have any responsibility for overall job safety at the site. If in the PROFESSIONAL CONSULTANT's opinion, its field personnel are unable to access required locations or perform required services in conformance with applicable safety standards, PROFESSIONAL CONSULTANT may immediately suspend performance until such safety standards can be attained.
- C. PROFESSIONAL CONSULTANT agrees to indemnify and hold harmless the CITY for any safety conditions that may arise out of PROFESSIONAL CONSULTANT's performance of this AGREEMENT.

ARTICLE X - TERMINATION

- A. CITY may suspend or terminate this AGREEMENT for cause or without cause at any time by giving written notice to PROFESSIONAL CONSULTANT. In the event suspension or termination is without cause, payment to PROFESSIONAL CONSULTANT, in accordance with the terms of this AGREEMENT, will be made on the basis of services reasonably determined by the CITY to be satisfactorily performed to the date of suspension or termination. Such payment will be due upon delivery of all instruments of service to CITY.
- B. Should the CITY require a modification of this AGREEMENT with the PROFESSIONAL CONSULTANT, and in the event the CITY and PROFESSIONAL CONSULTANT fail to agree upon a modification to this AGREEMENT, the CITY shall have the option of terminating this AGREEMENT and the PROFESSIONAL CONSULTANT's services hereunder at no additional cost other than the payment to PROFESSIONAL CONSULTANT, in accordance with the terms of this AGREEMENT, for the services reasonably determined by the CITY to be properly performed by PROFESSIONAL CONSULTANT prior to such termination date.
- C. If, for whatever adequate funding is not made available by CITY to support or justify continuation of the level of services to be provided by PROFESSIONAL CONSULTANT under this AGREEMENT, CITY may terminate or reduce the amount of services to be provided by PROFESSIONAL CONSULTANT under this AGREEMENT. In such event, CITY will notify PROFESSIONAL CONSULTANT in writing at least thirty (30) days in advance of such termination or reduction of services for lack of funds.
- D. In no event shall the CITY pay to PROFESSIONAL CONSULTANT fees for termination outside of payment for services reasonably determined by the City to be properly performed prior to termination.

ARTICLE XI - INDEMNIFICATION

- A. For purposes of this AGREEMENT, PROFESSIONAL CONSULTANT agrees to indemnify, hold harmless the CITY, its officers and employees from any loss, damage, liability or expense, of any nature whatsoever to the extent caused by the negligence, willful misconduct, or other actionable fault of PROFESSIONAL CONSULTANT, its affiliates, subsidiaries, employees, agents, assignees, and subcontractors and their respective employees and agents. PROFESSIONAL CONSULTANT is not required hereunder to defend the CITY, its officers, appointees, employees, or agents from assertions that they were negligent, nor to indemnify and hold them harmless from liability based on the CITY's negligence
- B. Nothing contained herein shall waive any governmental immunity CITY may be entitled to by law.
- C. This provision shall survive the termination of this AGREEMENT.

ARTICLE XII - CONTINGENCY CLAUSE

- A. The CITY may add a contingency amount to the contract to cover additional services as described in APPENDIX B. Any use of such contingency funds for additional services shall be executed as an AMENDMENT to this AGREEMENT.
- B. The Contingency shall in no manner substitute for an official AMENDMENT.

ARTICLE XIII - RELATIONSHIP OF THE PARTIES

It is understood and agreed by and between the parties that the PROFESSIONAL CONSULTANT, in satisfying the conditions of this AGREEMENT, is acting independently, and that the CITY assumes no responsibility or liabilities to any third party in connection with PROFESSIONAL CONSULTANT's actions. All services to be performed by the PROFESSIONAL CONSULTANT pursuant to this AGREEMENT shall be in the capacity of an Independent Contractor, and not as an agent or employee of CITY. The PROFESSIONAL CONSULTANT shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this AGREEMENT. There is no intended third party beneficiary to the AGREEMENT and nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.

ARTICLE XIV - DISPUTE RESOLUTION

- A. CITY and PROFESSIONAL CONSULTANT agree that disputes relative to the services will first be addressed by negotiations between the Parties. If direct negotiations fail to resolve the dispute, the Party initiating the claim that is the basis for dispute may take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute, PROFESSIONAL CONSULTANT will proceed with the services as per this AGREEMENT as if no dispute existed, and CITY will continue to make payment for PROFESSIONAL CONSULTANT's completed services; and provided further that no dispute will be submitted to arbitration without both Parties' express written consent.

ARTICLE XV - OPINIONS OF PROBABLE COST

- A. Since the PROFESSIONAL CONSULTANT has no control over the cost of labor, materials, equipment or services furnished by others, or over methods of determining prices, or over competitive bidding or market conditions, the PROFESSIONAL CONSULTANT's estimates of PROJECT costs and construction costs provided for herein are to be made on the basis of the PROFESSIONAL CONSULTANT's experience and

qualifications and represent the PROFESSIONAL CONSULTANT's judgement in accordance with the "Standard of Care". The PROFESSIONAL CONSULTANT cannot and does not guarantee that proposals, bids or actual PROJECT or construction costs will not vary from estimates prepared by the PROFESSIONAL CONSULTANT.

- B. The CITY understands that the construction cost estimates developed by the PROFESSIONAL CONSULTANT do not establish a limit for construction contract amount. If the actual amount of the low construction bid exceeds the construction budget established by the CITY, the PROFESSIONAL CONSULTANT will not be required to re-design the PROJECT or any part thereof without additional compensation.

ARTICLE XVI - APPLICABLE LAWS

PROFESSIONAL CONSULTANT shall comply with all Federal, State, Local laws, ordinances, resolutions, specifications, regulations and all other laws or regulations relating or applicable to service to be performed under this AGREEMENT. Interpretation of this AGREEMENT and disputes arising out of or related to this AGREEMENT will be subject to and governed by the laws of the State of Arkansas. Jurisdiction and venue for any suit arising out of or related to this AGREEMENT will be in the Benton County Circuit Court of Benton County, Arkansas.

ARTICLE XVII - PRECEDENCE

This AGREEMENT shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice to proceed, or any other like document regarding the PROJECT or PROFESSIONAL CONSULTANT's services.

ARTICLE XVIII - SEVERABILITY

- A. In the event that one or more provisions contained herein shall, for any reason, be deemed invalid, illegal, void or unenforceable, in whole or in part, the remaining provisions hereof shall remain in full force and effect.
- B. In the event that any provision hereof is in conflict with any statutory provision of the State of Arkansas, said provision, which may be in conflict therewith, shall be deemed inoperative, null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provisions; provided, however, that the remaining provisions of this AGREEMENT will be unaffected and will continue to be valid and enforceable.

ARTICLE XIX - SURVIVAL OF OBLIGATIONS

The obligations of the Parties contained in this AGREEMENT, which by their nature survive after the term of the AGREEMENT, shall survive the termination or expiration of this AGREEMENT and continue indefinitely or as otherwise provided by this AGREEMENT.

ARTICLE XIX – ENTIRE AGREEMENT

This AGREEMENT, including all documents and Appendices included by reference herein, constitutes the entire agreement between the PARTIES and supersedes all prior agreements, whether oral or written, covering the same subject matter. This AGREEMENT may not be modified or amended except in writing, mutually agreed upon and accepted by both PARTIES to this AGREEMENT.

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The cost of this AGREEMENT including all reimbursable expenses as described in the FEES AND SCHEDULE, **shall not exceed** one hundred twenty thousand one hundred sixty-four dollars and zero cents (\$120,164.00), unless otherwise approved by the CITY through an official AMENDMENT agreed and executed by CITY and PROFESSIONAL CONSULTANT.

IN WITNESS THEREOF, the CITY and PROFESSIONAL CONSULTANT have executed this AGREEMENT, the EFFECTIVE DATE of which is indicated on page 1 of this AGREEMENT.

CITY OF BENTONVILLE	
CITY	PROFESSIONAL CONSULTANT
BY	BY
MAYOR	
TITLE	TITLE
DATE SIGNED	DATE SIGNED

APPENDIX A PROJECT DESCRIPTION

BASIC PROJECT INFORMATION:

The general scope of this work includes public inflow and infiltration (I/I) rehabilitation project deliverables and private inflow and infiltration (I/I) professional services. As part of the public I/I portion, TREKK will work with the City of Bentonville Water Utility engineers and staff to select rehabilitation methods for mainlines and manhole defects identified through completed Phase I and Phase II sanitary sewer evaluation studies (SSES). TREKK shall provide detailed information for mainline and manhole defects to be rehabilitated through rehabilitation plans and specifications. As part of the private I/I portion, TREKK will work with the City of Bentonville Water Utilities engineers and staff to provide informational communication materials, complete a review of existing ordinances, codes, and permitting requirements, notify property owners of defects identified through Phase I and Phase II SSES, complete a cost effective analysis of private I/I efforts and recommendations for future basin work.

APPENDIX B

SCOPE OF SERVICES

SERVICES BY THE CITY

- Furnish required information and approvals and perform responsibilities and activities in a timely manner to facilitate orderly progress of the work.
- Provide criteria and information as to the requirements for the PROJECT, including design objectives and constraints, right-of-way, capacity and performance requirements, and any budgetary limitations.
- Furnish copies of design and construction standards that the CITY will require to be included in the drawings and specifications.
- Assist the PROFESSIONAL CONSULTANT by placing at their disposal all available information pertinent to the PROJECT, including previous reports and other data relative to design or construction of the PROJECT.
- Arrange for access to public and private property as required for the PROJECT.
- Obtain the necessary lands, easements and rights-of-way for the PROJECT.
- Reimburse all plan review, advertising costs, permits and approvals in connection with the PROJECT.
- Pay the PROFESSIONAL CONSULTANT in accordance with the terms of the AGREEMENT.

If the CITY observes or otherwise becomes aware of any fault or defect in the PROJECT, the CITY shall give prompt written notice thereof to the PROFESSIONAL CONSULTANT.

SERVICES BY THE PROFESSIONAL CONSULTANT

- Meet all requirements of the AGREEMENT including any AMENDMENTS.
- Produce all documents and services needed for the PROJECT, including but not limited to:
Construction Support Services, Project Management Services, Public Rehabilitation plans and assessments, Project Tracking and Project Closeout.
- Project Management services for the entire life of the project that align with the Project Management Institute Project Management Book of Knowledge Latest Edition.
- All Design and Construction shall conform to Federal, State and Local regulations.
- Coordinate PROJECT with Franchise Utility Companies to assure adequate space for all facilities and timely relocations.
- Coordinate and Furnish approvals and permits from all Regulatory Agencies having jurisdiction over the PROJECT.
- Provide all services relevant to City of Bentonville Plan Review procedures.
- Create and provide all documents for property acquisitions and assist with any layout or staking required.
- Subcontracting of services by the PROFESSIONAL CONSULTANT shall have prior approval of the CITY.



SCOPE OF SERVICES FOR
I/I Reduction Program – Phase I
BENTONVILLE, ARKANSAS

The general scope of this work includes public inflow and infiltration (I/I) rehabilitation project deliverables and private inflow and infiltration (I/I) professional services. As part of the public I/I portion, TREKK will work with the City of Bentonville Water Utility engineers and staff to select rehabilitation methods for mainlines and manhole defects identified through completed Phase I and Phase II sanitary sewer evaluation studies (SSES). TREKK shall provide detailed information for mainline and manhole defects to be rehabilitated through rehabilitation plans and specifications. As part of the private I/I portion, TREKK will work with the City of Bentonville Water Utilities engineers and staff to provide informational communication materials, complete a review of existing ordinances, codes, and permitting requirements, notify property owners of defects identified through Phase I and Phase II SSES, complete a cost effective analysis of private I/I efforts and recommendations for future basin work.

TASK 1 – PROJECT MANAGEMENT AND ADMINISTRATION:

1. **Project Management and Administration** - The Consultants in-house project management, administration, budget tracking, and monthly billing (based on 12 months).

Deliverables:

- Monthly Invoices and Project Status Reports

2. **Project Kick-Off Meeting** - The Consultant will meet with City staff during an initial project kick-off meeting. The purpose of the initial kick-off meeting will be to discuss the project goals and objectives, review expectations, coordinate services, review schedule, and confirm deliverables.

Deliverables:

- Meeting Agendas, Meeting Materials, and Meeting Minutes

3. **Project Progress Meetings and Progress Updates** - The Consultant shall attend up to six (6) - one (1) hour progress meetings during the Project to discuss complete work and necessary coordination efforts. The project manager and appropriate team leaders involved with current work activities shall attend on behalf of the Consultant. The Consultant shall prepare an agenda for each meeting and a summary following the meeting. The Consultant shall provide progress updates to BWU on a weekly basis.

Deliverables:

- Meeting Agendas, Meeting Materials, Meeting Minutes, and Progress Updates

TASK 2 – PUBLIC REHABILITATION:

Consultant shall utilize previously recommended rehabilitation efforts to develop rehabilitation plans including plan view maps identifying manholes and mainlines with detailed tables including specific rehabilitation types and methods of each manhole and mainline. Consultant shall attend up to one (1) meeting with BWU to discuss manhole rehabilitation methods, select approve methods to be included in rehabilitation plan, and review cost estimates and deliverables for recommended rehabilitation efforts.

1. **Manhole Rehabilitation Assessment** – Consultant shall coordinate with BWU to review and assess use, effectiveness, warranties, useful life, and cost of manhole rehabilitation methods that are suitable for manhole defects identified.

Deliverables:

- Summary of Manhole Rehabilitation Options Assessed
2. **Rehabilitation Plans** – Consultant shall develop rehabilitations plan view maps based on Priority 1 and Priority 2 defects identified through Phase I and Phase II sanitary sewer evaluation studies. Detailed tables with specific rehabilitation methods and quantities of each manhole and mainline will be provided. Consultant shall develop cost estimate tables for recommended rehabilitation efforts on both manholes and mainlines.

Deliverables:

- Mainline Pipe Rehabilitation Project Plans (Up to 2 Projects)
 - Manhole Rehabilitation Project Plans (Up to 2 Projects)
3. **Rehabilitation Specifications** – Consultant shall review BWU's current sewer main and manhole rehabilitation specifications. Consultant shall prepare project specific specifications for one sewer mainline rehabilitation project and one manhole rehabilitation project. Front end bid documents provided by BWU shall be utilized for project bidding. Consultant shall provide BWU with project scopes and bid schedules to be included in both mainline rehabilitation and manhole rehabilitation front end bid documents.

Deliverables:

- Mainline Pipe Rehabilitation Project Specifications (Up to 2 Projects)
 - Manhole Rehabilitation Project Specifications (Up to 2 Projects)
4. **Project Bidding for Construction** – Consultant shall attend up to four (4) pre-bid meeting, assist BWU in answering bidder questions, assist BWU in delivering up to four (4) addendum, and review bids with BWU prior to contract award.
 5. **Construction Administration** – Consultant shall attend up to four (4) pre-construction meetings. Consultant shall review and approve or take appropriate action with respect to shop drawings and other contractor submittals including evaluating and determining the acceptability or substitute of "or equal" materials. The Consultant shall work with BWU in response to requests for information.
 6. **Pay Application Review** – Consultant shall coordinate with BWU on an as needed basis during pay application review.

7. **Post Rehabilitation Review** – Consultant shall perform post rehabilitation visual inspections as requested by BWU to confirm that work has been completed and to note any defects.
8. **Final Acceptance** – Consultant shall coordinate with BWU for final acceptance and final payment once all rehabilitation work has been completed and reviewed. Following final acceptance, the Consultant will coordinate with BWU to confirm all rehabilitation information has been integrated into GIS.

TASK 3 – PRIVATE REHABILITATION:

Consultant shall assist BWU through their implementation of private I/I reduction, with the goal of remediating private I/I defects identified through Phase I and Phase II SSES and removing illicit stormwater connections on private property.

1. **Comprehensive Review of Existing Ordinances, Codes, and Permitting Requirements** – Consultant will review existing City ordinances, codes, and permitting requirements. Consultant shall provide recommendations on adjustments that may be warranted.

Deliverables:

- Summary of Comprehensive Review and Recommendations
2. **Informational Management and Communications** – Consultant shall coordinate with BWU leadership and information staff to develop property owner outreach notification letters, communication materials (including post cards and brochures), and website materials.

Deliverables:

- Notification Letter Verbiage to Property Owners
 - Notification Post Card to Property Owners
 - Informational Brochure on Private I/I Defects
 - Informational Social Media Post Material
 - One Page of Website Material including Information and Graphics on Private I/I Defects, Rehabilitation Benefits, and Community Goals
3. **Property Owner Notifications** – Consultant shall provide and mail notification letters on BWU letterhead to property owners for private defects identified through previously completed Phase I and Phase II SSES (Up to 200 properties).

Notification letters will be mailed through a three-attempt approach (estimated with 45-day and 90-day follow ups) including property outreach notification materials developed in Task 3.4.

Deliverables:

- Mailed Notification Letters (or Post Cards) to Property Owners (Up to Three (3) Attempts)
- Property Owner Notification Tacking in GIS Dashboard

4. **Property Owner Coordination** – Consultant shall provide coordination with property owners through email and/or phone calls following property owner notifications. Consultant shall coordinate with BWU staff if there are calls or emails received that require BWU attention.

Deliverables:

- Property Owner Coordination Tracking in GIS Dashboard

TASK 4 – PROJECT TRACKING:

1. **Rehabilitation Tracking in GIS Dashboard** – Consultant shall coordinate with BWU to develop a GIS dashboard to view and track public rehabilitation project progress and private property owner notifications and rehabilitation. The GIS dashboard created will be utilized to create monthly summary reports. Consultant shall update dashboard as property owner notifications are mailed and if property owners reach out through phone or email. Consultant shall coordinate with BWU staff to answer questions that may arise as BWU tracks public project progress and private property rehabilitation

Deliverables:

- GIS Rehabilitation Tracking Dashboard

End of Scope

APPENDIX C FEE AND SCHEDULE

TASK DESCRIPTION	Labor														Direct Expenses		Labor Total Fee	Units Total Fee	Direct Expenses Total Fee	Grand Total
	Project Principal	Project Manager	Senior Professional Engineer	Project Engineer II	Senior Industry Specialist	Industry Specialist I	Office Technician III	Senior GIS Analyst	GIS Analyst I	GIS Analyst II	Senior Marketing Specialist	Marketing Specialist I	PMO Specialist II	Labor Hr Sub-Total	Mileage	Notification Letters				
	Billing Rate	\$308.00	\$168.00	\$247.00	\$152.00	\$268.00	\$205.00	\$89.00	\$156.00	\$137.00	\$107.00	\$226.00	\$163.00	\$121.00	\$0.70	\$1.25				
1 Project Management and Administration	4	56	8	0	2	8	0	0	0	0	0	0	14	92	70	0				\$ 16,535.00
1.1 Project Management and Administration (Based on 12 Month Period)	4	32			2	2							14	50			\$ 8,302.00	\$ -	\$ -	\$ 8,302.00
1.2 Project Kick-Off Meeting (Up to 1)		4	2		2	2								10	10		\$ 2,112.00	\$ -	\$ 7.00	\$ 2,119.00
1.3 Project Progress Meetings (Up to 6) and Progress Updates		20	6		6	6								32	60		\$ 6,072.00	\$ -	\$ 42.00	\$ 6,114.00
2 Public Rehabilitation	2	66	50	168	0	2	0	2	8	20	0	0	0	318	90	0				\$ 53,611.00
2.1 Manhole Rehabilitation Assessment		2	4	8		2								16	10		\$ 2,950.00	\$ -	\$ 7.00	\$ 2,957.00
2.2 Rehabilitation Plans	2	8	16	24				2	8	20				80			\$ 13,108.00	\$ -	\$ -	\$ 13,108.00
2.3 Rehabilitation Specifications		8	12	28										48			\$ 8,564.00	\$ -	\$ -	\$ 8,564.00
2.4 Project Bidding for Construction		12	2	12										26	40		\$ 4,334.00	\$ -	\$ 28.00	\$ 4,362.00
2.5 Construction Administration		16		28										44	40		\$ 6,944.00	\$ -	\$ 28.00	\$ 6,972.00
2.6 Pay Application Review		12		24										36			\$ 5,664.00	\$ -	\$ -	\$ 5,664.00
2.7 Post Rehabilitation Review		4	16	40										60			\$ 10,704.00	\$ -	\$ -	\$ 10,704.00
2.8 Final Acceptance		4		4										8			\$ 1,280.00	\$ -	\$ -	\$ 1,280.00
3 Private Rehabilitation	2	18	0	0	10	16	84	0	0	0	20	20	0	170	0	600				\$ 25,606.00
3.1 Comprehensive Review of Existing Ordinances, Codes, and Permitting Requirements		2			4	8								14			\$ 3,048.00	\$ -	\$ -	\$ 3,048.00
3.2 Informational Management and Communications		8			4						20	20		52			\$ 10,196.00	\$ -	\$ -	\$ 10,196.00
3.3 Property Owner Notifications	2	8			2	8	84							104		600	\$ 11,612.00	\$ -	\$ 750.00	\$ 12,362.00
3.4 Property Owner Coordination		2			8	60								70		600	\$ 14,780.00	\$ -	\$ 750.00	\$ 15,530.00
4 Project Tracking	0	6	0	20	0	0	6	10	20	0	0	0	0	62	0	0				\$ 8,882.00
4.1 Rehabilitation Tracking in GIS Dashboard		6		20			6	10	20					62			\$ 8,882.00	\$ -	\$ -	\$ 8,882.00
TOTAL HOURS BILLING RATE	8	148	58	188	20	86	90	12	28	20	20	20	14	712	160	1200				\$ 120,164.00
TOTAL LABOR COST	\$2,464.00	\$24,864.00	\$14,326.00	\$28,576.00	\$5,360.00	\$17,630.00	\$8,010.00	\$1,872.00	\$3,836.00	\$2,140.00	\$4,520.00	\$3,260.00	\$1,694.00	\$118,552.00	\$112.00	\$1,500.00				

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH TREKK DESIGN GROUP IN AN AMOUNT OF ONE-HUNDRED TWENTY THOUSAND ONE-HUNDRED SIXTY-FOUR DOLLARS (\$120,164.00); AND FOR OTHER PURPOSES.

WHEREAS, the need has arisen for the City of Bentonville to enter into a contract with TREKK Design Group to develop and implement a private I/I program and select rehabilitation methods for defects on the public system identified through the sanitary sewer evaluation study (SSES).

WHEREAS, this is a budgeted item, and no budget adjustment is necessary.

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

Section 1: The Mayor and City Clerk are authorized to enter into an agreement with TREKK Design Group for services not to exceed One-Hundred Twenty Thousand One-Hundred Sixty-Four Dollars (\$120,164.00) to develop and implement a private I/I program and select rehabilitation methods for defects on the public system identified through the sanitary sewer evaluation study (SSES).

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 _____, 2025.

APPROVED:

STEPHANIE ORMAN, MAYOR

ATTEST:

MALORIE MARRS, CITY CLERK