

1. Agenda

Documents:

[JUNE 13, 2017 CITY COUNCIL FULL AGENDA.PDF](#)

2. Short Agenda

Documents:

[JUNE 13, 2017 CITY COUNCIL SHORT AGENDA.PDF](#)



BENTONVILLE CITY COUNCIL AGENDA

**Committee of the Whole
Community Development
Planning Commission Meeting Room**

**Tuesday, June 13, 2017 6:00 p.m.
305 SW "A" Street**

**Regular City Council Meeting
Community Development
Planning Commission Meeting Room**

**Tuesday, June 13, 2017 6:00 p.m.
305 SW "A" Street**

**Public Comments on Tonight's Agenda Items (Limited Public Forum)
Questions, Comments and Discussion from Alderman on Tonight's Agenda
Call to Order
Pledge of Allegiance
Moment of Silence – For our Military Forces
Roll Call
Approval of Minutes: May 23, 2017**

AGENDA

1. Presentation of Final Draft for Parks and Recreation 10 Year Master Plan.
(Page 5)
2. Planning:
- 2a. **Lot Split: Lot 19, Block 3, Deming's Addition, Phillips Revocable Trust, John Alan (Trustee), Northwest 'A' Street, R-1, Single Family Residential.**

(Pages 8-11)

The Planning Commission voted 7-0, recommending approval.

The applicant has submitted a proposal for a lot split that will create one new lot from one existing parcel. The new lot will be known as Lot 19, (0.44 acres), Block 3 of Deming's Addition. Additional right-of-way will be dedicated along NW A Street per the current Master Street Plan. A 20'-wide utility easements will also be dedicated along NW A Street with the plat to serve the new lot. The newly created lot will have direct access to public utilities and a public street.

- 2b. **Property Line Adjustment: Lot 29, Block 5, Dunn & Davis Addition, Bike Rack Redevelopment, LLC, Southwest 6th Street & Southwest 'B' Street, D-E, Downtown Edge.**

(Pages 12-15)

The Planning Commission voted 7-0, recommending approval.

The applicant has submitted a property line adjustment that will remove the common lot lines of four existing lots and will create one new lot. The new lot will be known as Lot 29 (0.49 acres), Block 5 of Dunn & Davis Addition. Per the requirements of the current Master Street Plan, a small portion of right-of-way will be dedicated along SW B Street. The new lot will have access to public utilities and a public street. An existing 12' alley to the west will allow any development on the new lot to be rear loaded.

- 2c. **Property Line Adjustment: Lot 3 Food Hub Addition & Lot 3 Market Addition, Food Hub NWA, LLC, 801 Southwest 8th Street, C-2, General Commercial & I-2, Heavy Industrial.**

(Pages 16-19)

The Planning Commission voted 7-0, recommending approval.

The applicant has submitted a property line adjustment that will dedicate right-of-way for the future expansion of SE 'G' Street between existing Lot 1 of the Market Addition and existing Lot 2 of the Food Hub NWA Addition. The two new lots will be known as Lot 3 Food Hub Addition and Lot 3 Market Addition. A 20' wide utility easement adjacent to the newly dedicated right-of-way is being dedicated with the plat. Each new lot has access to public utilities and a public road.

- 2d. **General Plan Amendment: Sewell Family Trust, Southwest H Street, Agricultural to Low Density Residential.**

(Pages 20-24)

The Planning Commission voted 7-0, recommending approval.

This is a land use map amendment amending the boundary of the Map and adopting the Low Density residential designation. The General Plan suggests that the city should encourage the development of a mix of housing types to meet the needs of its residents throughout their lives. A proposed low density residential development will help to create additional density and reduce the impact on the city's infrastructure by utilizing existing public utilities and traffic networks.

- 2e. **General Plan Amendment: DEB Farms Adventures, Inc., Southwest Barron Road and Piercy Road, Agricultural to Low Density Residential.**

(Pages 25-30)

The Planning Commission voted 7-0, recommending approval.

Policy LU-23, Housing Types, within the General Plan suggest that the city should encourage the development of a mix of housing types to meet the needs of its residents throughout their lives. The proposed low density residential land use will help to create additional housing options for the city's residents and will utilize existing utility infrastructure.

- 2f. **General Plan Amendment: Real Assets, Inc., 2415 Southwest Regional Airport Boulevard, Low Density Residential to Office.**

(Pages 31-34)

The Planning Commission voted 7-0, recommending approval.

The Future Land Use Plan depicts this property as Low Density Residential (LDR) , the proposed designation of Office (O) is adjacent to property that is currently designated as Office (O) on the current Land Use Map. Policy LU-18 of the General Plan states that the City should provide greater flexibility in its development regulations to facilitate efficient and appropriate residential, office and commercial uses.

- 2g. **Rezoning: Carroll Electric Cooperative Corp., 707 Southeast Walton Boulevard, From A-1, Agricultural to C-2, General Commercial.**

(Pages 35-39)

The Planning Commission voted 7-0, recommending approval.

The Future Land Use Plan depicts this property as commercial. The C-2, General Commercial zoning designation is a recommended zoning for this classification.

- 2h. **Lot Split: Lots 11-15 Southside Addition, Hurricane WA LLC, Southeast 'A' Street & Southeast 7th Street, D-E, Downtown Edge.**

(Pages 40-43)

The Planning Commission voted 7-0, recommending approval.

The applicant has submitted a proposal for a lot split that will create five new lots from three existing lots. The new lots will be known as Lots 11, 12, 13, 14 & 15 of Southside Addition. Per the requirements of the current Master Street Plan, right-of-way is being dedicated along both SE A Street & SE 6th Street.

3. Staff recommends approval of Change Order No. 1 and Final Reconciliation for Fochtman Enterprises, Inc. for a decrease of \$14,122.68 for the Hwy 62/102 - Hwy 72 Water Line Relocations Associated with AHTD Project CA0902. This final change order reduces the contract amount from \$110,170.00 to \$96,047.32. The reduction is from final quantity measurements. This project qualifies for 97% reimbursement from AHTD. **(Pages 44-46)**
4. Staff requests Council approval to increase the vehicle fleet in Public Works Maintenance fleet by one (1). This request will not increase the overall City fleet, but rather repositions vehicles within departments. This request would transfer a Durango (2013, Unit 3820-16) from Transportation to Police in exchange for an Impala (2009, Unit 2010-79) in need of replacement. Transportation would transfer the Impala to Public Works Maintenance which would trade the Impala for a pickup that would be positioned for surplus, ultimately removing the Impala from the City's current fleet through surplus. The addition of the truck will allow Public Works Maintenance to divide mowing crews to better cover mowing and lawn maintenance throughout the City. **(Pages 47-48)**
5. A resolution setting a public hearing for June 27, 2017 for a Drainage Easement Vacation requested by Gain Robinson located at 2609 S. Walton. (Referenced in layout provided as Drainage Easement) **(Pages 49-51)**
6. A resolution setting a public hearing for June 27, 2017 for a Shared Access Easement requested by Gain Robinson located at 2609 S. Walton. (Referenced in layout provided as Access Easement #1) **(Pages 52-54)**

7. A resolution setting a public hearing for June 27, 2017 for an Ingress/Egress Easement requested by Gain Robinson located at 2609 S. Walton. (Referenced in layout provided as Access Easement #2) **(Pages 55-57)**
8. City recommends council approval of a budget adjustment for surveying services to Sandcreek Engineering in the amount of \$14,120.00. **(Pages 58-76)**
9. A resolution authorizing the Mayor and City Council to enter into a contract with Osmose to provide pole testing to the City of Bentonville Electric Department for an amount not to exceed \$26,600.00. **(Pages 77-102)**
10. A resolution authorizing the Mayor and City Council to enter into an agreement with Fisher & Arnold for the design and bid documents of the new Substation "J" in the amount of \$422,300.00. **(Pages 103-111)**
11. City Council approval of a budget adjustment, in the amount of \$20,637.00, to allow for the purchase of spectator bleachers for the Memorial Park ballfields. **(Pages 112-114)**
12. Staff recommends that the Mayor and City Council approve the reconciliation change order for the Traffic Signals S Walton (US-71B) & SW 18th Street project. The final project cost is \$1,000.00 less than the currently contracted amount of \$73,539.00. The final contract amount is \$72,539.00. In addition to the change in contract price, staff recommends to add 11 calendar days to the contract due to unforeseen circumstances. **(Pages 115-120)**
13. City Council approval of a resolution to enter into an amended Memorandum of Understanding (MOU) with Watershed Conservation Resource Center (WCRC) for data collection, design services and project management for the Demonstration of Stream and Wetland Restoration at Little Sugar Creek in Bentonville, Arkansas. The amended MOU will add \$35,000.00 to WCRC contract for Task 3, #6, "Performing Floodplain analysis" which was originally a City of Bentonville task. This will not be an additional cost to the City. This increase will bring the total contract value to a not to exceed value of \$407,150.00. **(Pages 121-133)**



CHECK ALL THAT APPLY		
	Bid Award	Bid #
	Budget Adjustment	
x	Change Order	
	Informational	
	Ordinance	
	Resolution	
	Other	

AGENDA FORM

CITY COUNCIL MEETING OF:

June 13, 2017

Submitted by:

David Wright

Department

Parks and Rec

Phone

271-6813

ACTION REQUIRED:

Presentation of Final Draft for Parks and Recreation 10 Year Master Plan.

COST TO CITY:

Cost of this Request: \$0

Additional Budget Amount \$0

☐ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	-
Remaining After Adjustment	\$ -

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE



City Council Agenda Items

For City Council Meeting of June 6, 2017

From the June 13, 2017 Planning Commission Meeting



Lot Split: Lot 19, Block 3, Deming's Addition, Phillips Revocable Trust, John Alan (Trustee), Northwest 'A' Street, R-1, Single Family Residential.

The Planning Commission voted 7-0, recommending approval.

The applicant has submitted a proposal for a lot split that will create one new lot from one existing parcel. The new lot will be known as Lot 19, (0.44 acres), Block 3 of Deming's Addition. Additional right-of-way will be dedicated along NW A Street per the current Master Street Plan. A 20'-wide utility easements will also be dedicated along NW A Street with the plat to serve the new lot. The newly created lot will have direct access to public utilities and a public street.

Property Line Adjustment: Lot 29, Block 5, Dunn & Davis Addition, Bike Rack Redevelopment, LLC, Southwest 6th Street & Southwest 'B' Street, D-E, Downtown Edge.

The Planning Commission voted 7-0, recommending approval.

The applicant has submitted a property line adjustment that will remove the common lot lines of four existing lots and will create one new lot. The new lot will be known as Lot 29 (0.49 acres), Block 5 of Dunn & Davis Addition. Per the requirements of the current Master Street Plan, a small portion of right-of-way will be dedicated along SW B Street. The new lot will have access to public utilities and a public street. An existing 12' alley to the west will allow any development on the new lot to be rear loaded.

Property Line Adjustment: Lot 3 Food Hub Addition & Lot 3 Market Addition, Food Hub NWA, LLC, 801 Southwest 8th Street, C-2, General Commercial & I-2, Heavy Industrial.

The Planning Commission voted 7-0, recommending approval.

The applicant has submitted a property line adjustment that will dedicate right-of-way for the future expansion of SE 'G' Street between existing Lot 1 of the Market Addition and existing Lot 2 of the Food Hub NWA Addition. The two new lots will be known as Lot 3 Food Hub Addition and Lot 3 Market Addition. A 20' wide utility easement adjacent to the newly dedicated right-of-way is being dedicated with the plat. Each new lot has access to public utilities and a public road.

General Plan Amendment: Sewell Family Trust, Southwest H Street, Agricultural to Low Density Residential.

The Planning Commission voted 7-0, recommending approval.

This is a land use map amendment amending the boundary of the Map and adopting the Low Density residential designation. The General Plan suggests that the city should encourage the development of a mix of housing types to meet the needs of its residents throughout their

lives. A proposed low density residential development will help to create additional density and reduce the impact on the city's infrastructure by utilizing existing public utilities and traffic networks.

General Plan Amendment: DEB Farms Adventures, Inc., Southwest Barron Road and Piercy Road, Agricultural to Low Density Residential.

The Planning Commission voted 7-0, recommending approval.

Policy LU-23, Housing Types, within the General Plan suggest that the city should encourage the development of a mix of housing types to meet the needs of its residents throughout their lives. The proposed low density residential land use will help to create additional housing options for the city's residents and will utilize existing utility infrastructure.

General Plan Amendment: Real Assets, Inc., 2415 Southwest Regional Airport Boulevard, Low Density Residential to Office.

The Planning Commission voted 7-0, recommending approval.

The Future Land Use Plan depicts this property as Low Density Residential (LDR) , the proposed designation of Office (O) is adjacent to property that is currently designated as Office (O) on the current Land Use Map. Policy LU-18 of the General Plan states that the City should provide greater flexibility in its development regulations to facilitate efficient and appropriate residential, office and commercial uses.

Rezoning: Carroll Electric Cooperative Corp., 707 Southeast Walton Boulevard, From A-1, Agricultural to C-2, General Commercial.

The Planning Commission voted 7-0, recommending approval.

The Future Land Use Plan depicts this property as commercial. The C-2, General Commercial zoning designation is a recommended zoning for this classification.

Lot Split: Lots 11-15 Southside Addition, Hurricane WA LLC, Southeast 'A' Street & Southeast 7th Street, D-E, Downtown Edge.

The Planning Commission voted 7-0, recommending approval.

The applicant has submitted a proposal for a lot split that will create five new lots from three existing lots. The new lots will be known as Lots 11, 12, 13, 14 & 15 of Southside Addition. Per the requirements of the current Master Street Plan, right-of-way is being dedicated along both SE A Street & SE 7th Street.

LOT SPLIT STAFF REPORT



Lots 19, Block 3, Deming's Addition

NW A Street

PC Date: 6/6/2017

Recommendation: Approval

Reviewer: Jon Stanley, Planner

Project Number	16-0500048
Applicant / Current Owner	Phillips Revocable Trust, John Alan (Trustee) 661 Bridgeway Lane Naples, FL 34108
Site Area	0.47 acres
Current Zoning	R-1, Single Family Residential
Future Land Use Map Designation	Downtown High-Density Residential (D-HDR)

<http://geo.bentonvillear.com/mgweb/PZ/pending/>

Location Map



Property Description

This property is currently vacant in a redeveloping neighborhood near the downtown square.

Project Details

The applicant has submitted a proposal for a lot split that will create one new lot from one existing parcel. The new lot will be known as Lot 19, (0.44 acres), Block 3 of Deming's Addition. Additional right-of-way will be dedicated along NW A Street per the current Master Street Plan. A 20'-wide utility easements will also be dedicated along NW A Street with the plat to serve the new lot. The newly created lot will have direct access to public utilities and a public street.

Projected Traffic Impact

The proposed lot split will not adversely impact traffic in the area. The property is located within the downtown area where the existing street grid network will provide adequate options for ingress and egress.

Utility Infrastructure

Per the GIS website, water and sewer are available at this location.

Drainage Report

A drainage report is not required.

Waivers

No waivers requested.

Conclusion

This lot split does meet the minimum requirements of the subdivision regulations.

Standard Conditions of Approval

1. Provide a digital copy of the plat.
2. Address all technical review comments before requesting a building permit.

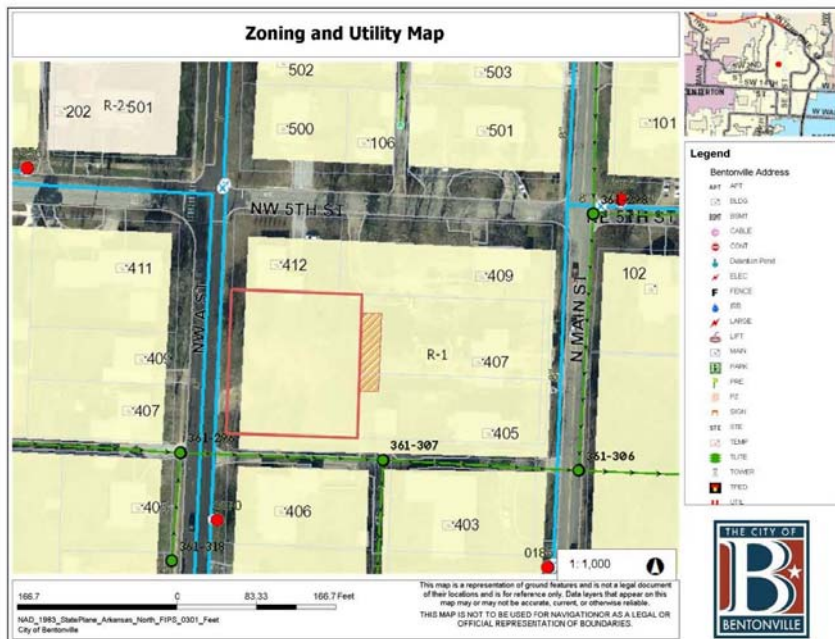
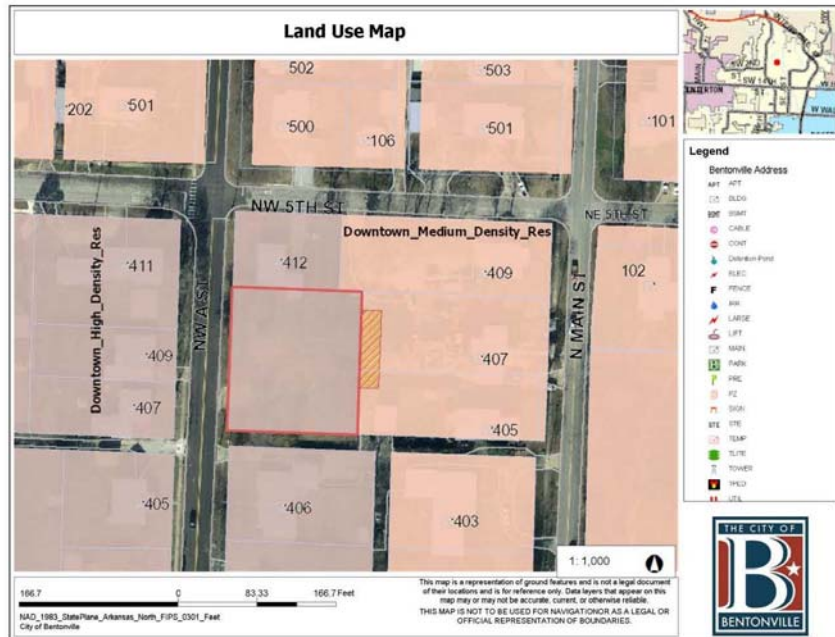
Recommendation

Staff has reviewed this application and based on the findings presented in this report, staff recommends approval.

NOTES

- **Sidewalks.** Sidewalk installation will be the responsibility of individual lot owners at the time of building permit.

LOT SPLIT STAFF REPORT



ORDINANCE NO. _____

AN ORDINANCE ACCEPTING A LOT SPLIT OF LOT 19, BLOCK 3,
DEMING'S ADDITION TO THE CITY OF BENTONVILLE, ARKANSAS.

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the lot split of Lot 19, Block 3, Deming's Addition, Benton County, Arkansas, was submitted to the Bentonville Planning Commission on June 6, 2017; and,

WHEREAS, said lot split is attached hereto as Exhibit "A"; and,

WHEREAS, the Bentonville Planning Commission considered said lot split on the date stated, and at other times, and voted to recommend the approval of said lot split to the City Council; and,

WHEREAS, the lot split of real property as described herein has been submitted to the City Council of the City of Bentonville and, after consideration and deliberation, said Council is of the opinion that said lot split should be approved.

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

Section 1: That the lot split of Lot 19, Block 3, Deming's Addition to the City of Bentonville, Arkansas, should be and the same is hereby accepted and approved for all purposes.

Section 2: That the Mayor and City Clerk be and are hereby authorized and directed to evidence the acceptance of said lot split by certifying said acceptance on the approved lot split.

PASSED AND APPROVED this _____ day of _____, 2017.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

PROPERTY LINE ADJUSTMENT STAFF REPORT



Lot 29, Block 5, Dunn & Davis Addition

SW 6th Street & SW B St
Bentonville, AR 72712

PC Date: 6/6/2017

Recommendation: Approval

Reviewer: Jon Stanley, Planner

Project Number	17-07000022
Applicant / Current Owner	Bike Rack Redevelopment, LLC (Jake Newell) 101 SE G St Bentonville, AR 72712
Site Area	0.49 acres
Current Zoning	DE, Downtown Edge
Future Land Use Map Designation	Downtown Mixed Use Residential (DMUR)

<http://geo.bentonvillear.com/mgweb/PZ/pending/>

Location Map



Property Description

The project consist of four vacant lots in a residential neighborhood. The surrounding area consist of a variety of housing types and densities in a rapidly redeveloping area of southwest downtown.

Project Details

The applicant has submitted a property line adjustment that will remove the common lot lines of four existing lots and will create one new lot. The new lot will be known as Lot 29 (0.49 acres), Block 5 of Dunn & Davis Addition. Per the requirements of the current Master Street Plan, a small portion of right-of-way will be dedicated along SW B Street. The new lot will have access to public utilities and a public street. An existing 12' alley to the west will allow any development on the new lot to be rear loaded.

Utility Infrastructure

Per the GIS website, water and sewer are available at this location.

Drainage Report

A drainage report is not required for this property line adjustment.

Waivers

No waivers requested.

Standard Conditions of Approval

1. Provide digital copy of the plat.
2. Address all technical review comments before requesting a building permit.

Conclusion

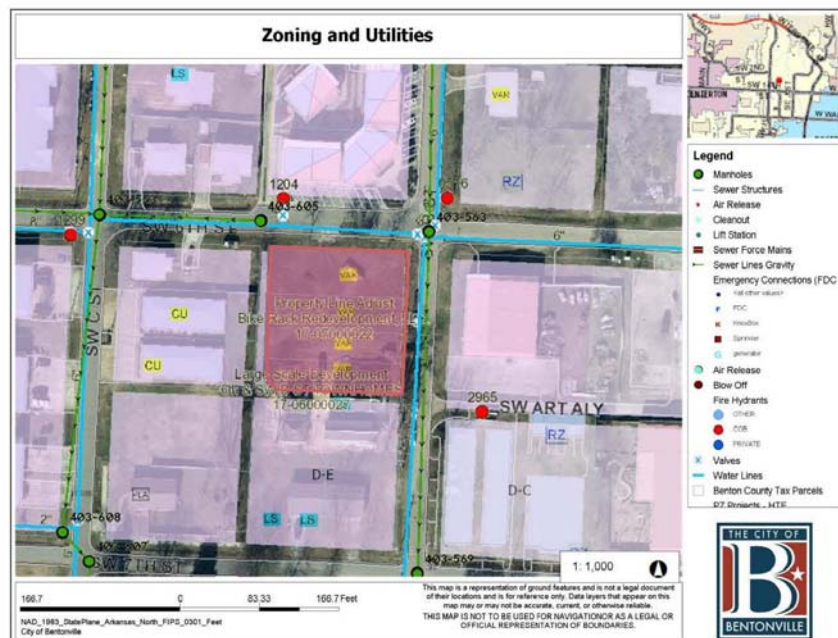
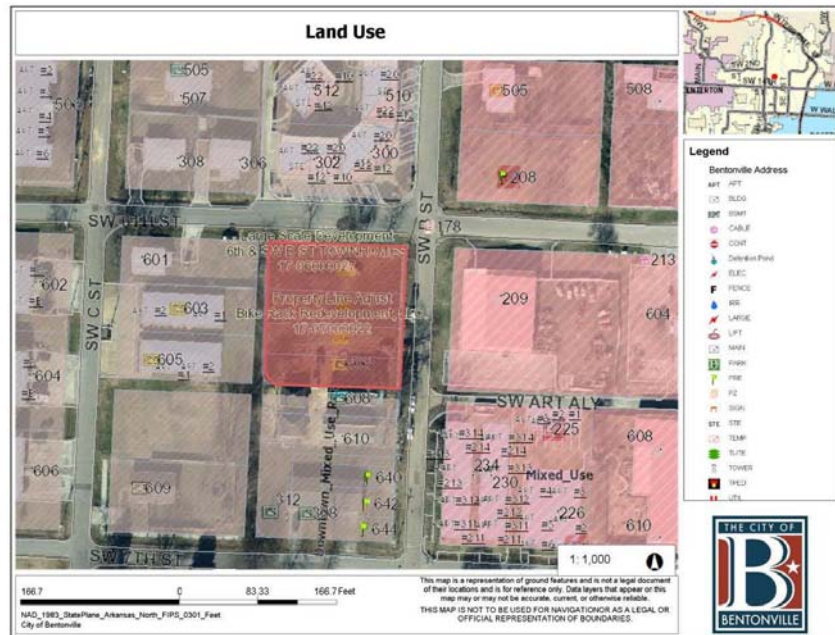
This property line adjustment does meet the minimum requirements of the subdivision regulations.

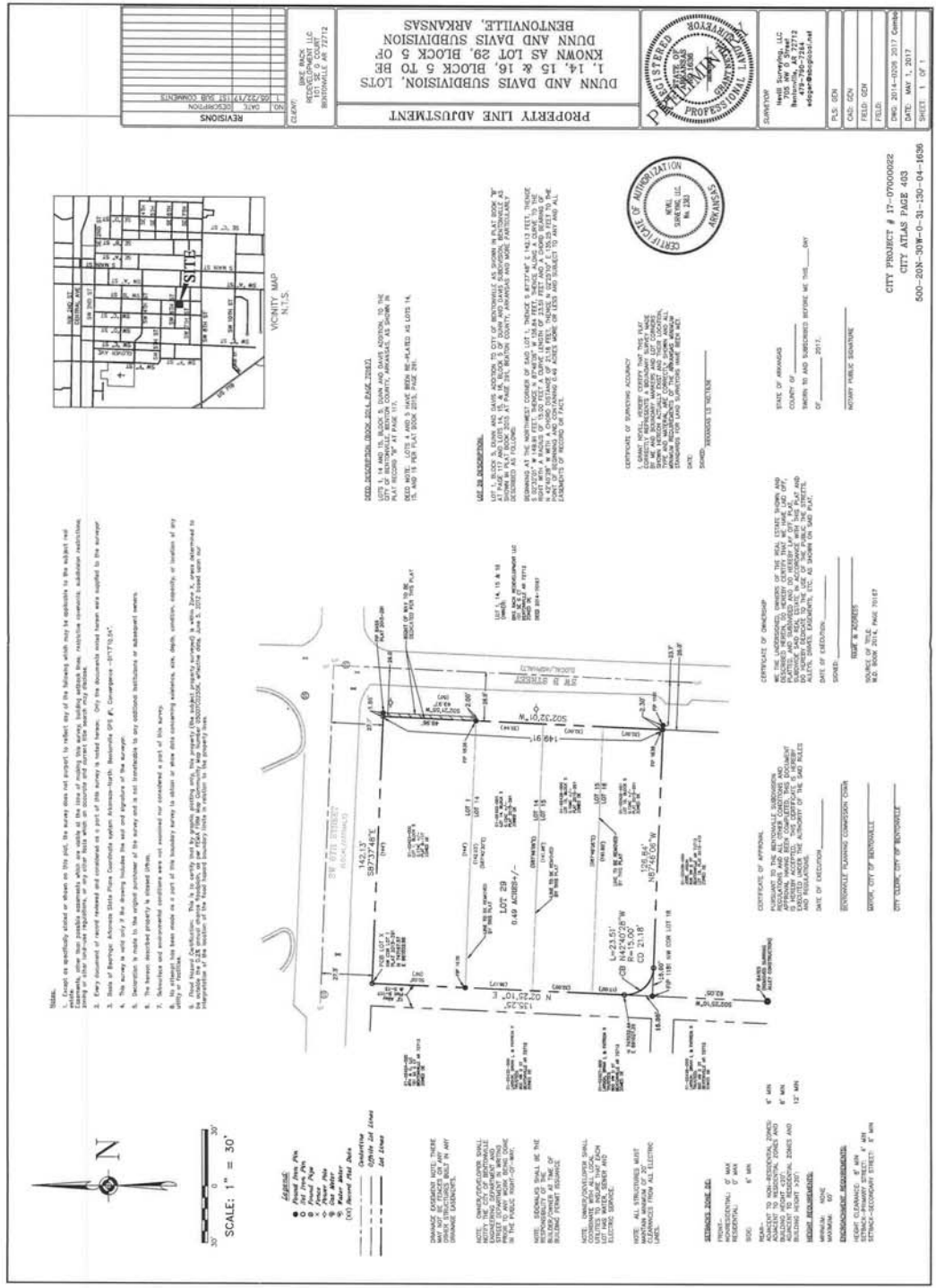
Recommendation

Staff has reviewed this application and based on the findings presented in this report, staff recommends approval.

NOTES

- **Sidewalks.** Sidewalk installation will be the responsibility of individual lot owners at the time of building permit.





ORDINANCE NO. _____

AN ORDINANCE ACCEPTING A PROPERTY LINE ADJUSTMENT OF
LOT 29, BLOCK 5, DUNN & DAVIS ADDITION TO THE CITY OF
BENTONVILLE, ARKANSAS.

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the property line adjustment Lot 29, Block 5, Dunn & Davis Addition of the City of Bentonville, Benton County, Arkansas was submitted to the Bentonville Planning Commission on June 6, 2017; and,

WHEREAS, said property line adjustment is attached hereto as Exhibit "A"; and,

WHEREAS, the Bentonville Planning Commission considered said property line adjustment on the date stated and at other times, and voted to recommend the approval of said property line adjustment to the City Council; and,

WHEREAS, the property line adjustment of real property as described herein has been submitted to the City Council for the City of Bentonville, and after consideration and deliberation, said Council is of the opinion that said property line adjustment should be approved.

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

Section 1: That the property line adjustment Lot 29, Block 5, Dunn & Davis Addition to the City of Bentonville, Arkansas, should be and the same is hereby accepted and approved for all purposes.

Section 2: That the Mayor and City Clerk be and are hereby authorized and directed to evidence the acceptance of said property line adjustment by certifying said acceptance on the approved property line adjustment.

PASSED AND APPROVED this _____ day of _____, 2017.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

801 SW 8th Street

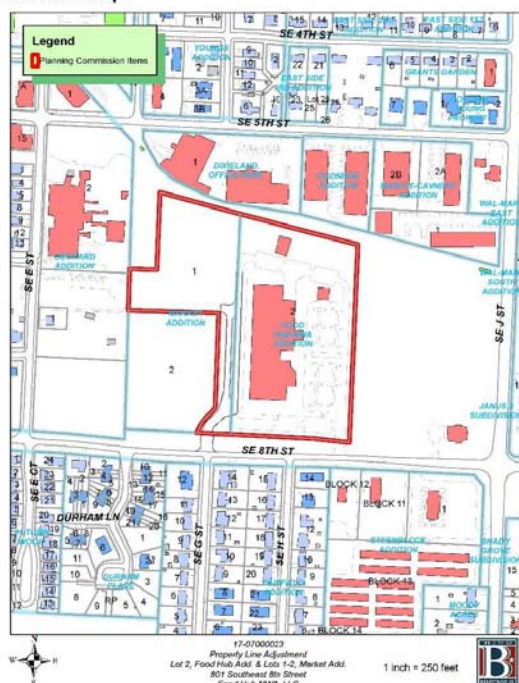
PC Date: 6/6/2017

Recommendation: Approval

Reviewer: Jon Stanley, Planner

Project Number	17-07000023
Applicant / Current Owner	Food Hub NWA, LLC 700 SE 5 th Street Bentonville, AR 72712
Site Area	Lot 3 Food Hub Addition - 9.07 acres Lot 3 Market Addition - 4.45 acres 13.52 total acres combine
Current Zoning	C-2, General Commercial and I-2, Heavy Industry
Future Land Use Map Designation	Mixed Use (MU) and Downtown Mixed Use Residential (DMUR)

Location Map



Property Description

This property is the location of the newly renovated 8th Street Market located at 801 SE 8th Street and the contiguous vacant lot to the northwest.

Project Details

The applicant has submitted a property line adjustment that will dedicate right-of-way for the future expansion of SE 'G' Street between existing Lot 1 of the Market Addition and existing Lot 2 of the Food Hub NWA Addition. The two new lots will be known as Lot 3 Food Hub Addition and Lot 3 Market Addition. A 20' wide utility easement adjacent to the newly dedicated right-of-way is being dedicated with the plat. Each new lot has access to public utilities and a public road.

Utility Infrastructure

Per the GIS website, water and sewer are available to this site.

Drainage Report

A drainage report is not required for this property line adjustment.

Waivers

No waivers requested.

Standard Conditions of Approval

1. Provide digital copy of the plat.
2. Address all technical review comments before requesting a building permit.

Conclusion

This property line adjustment does meet the minimum requirements of the subdivision regulations.

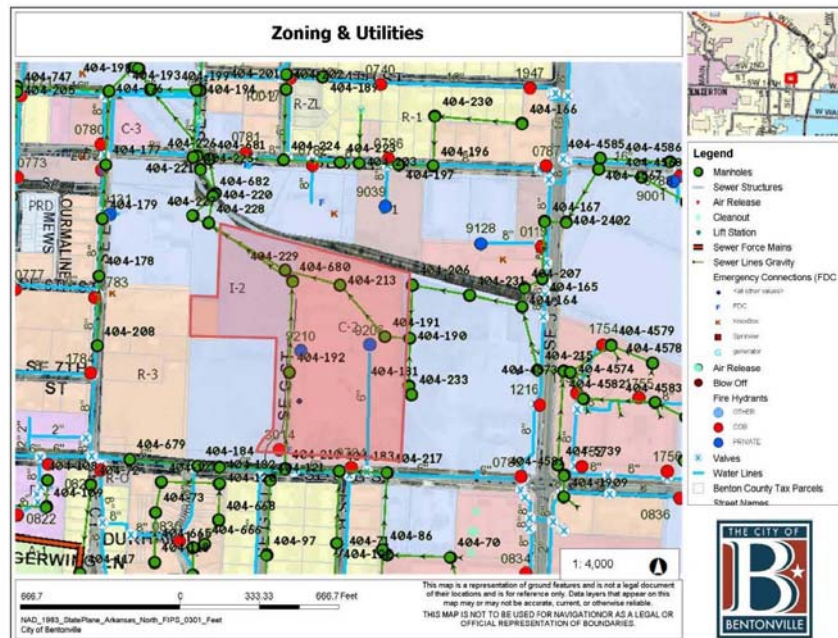
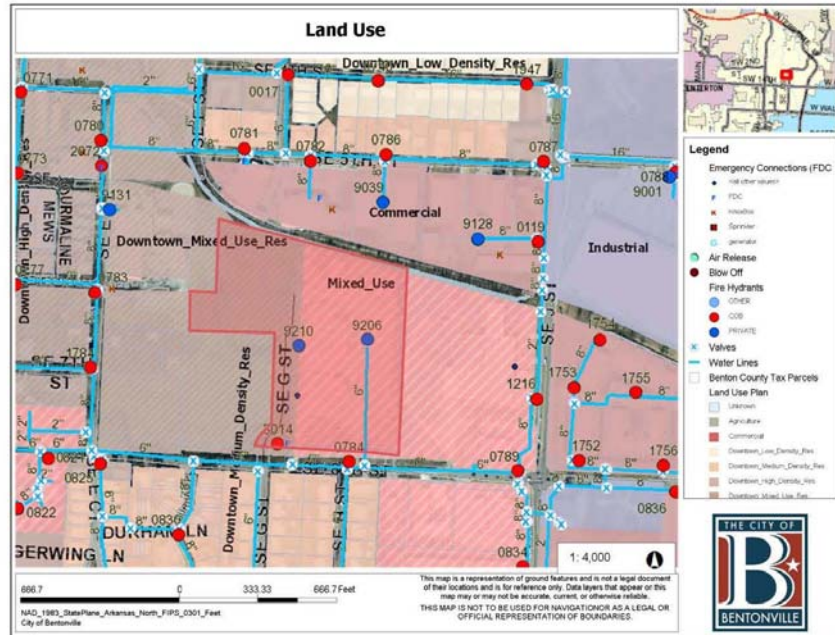
Recommendation

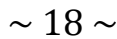
Staff has reviewed this application and based on the findings presented in this report, staff recommends approval.

NOTES

- **Sidewalks.** Sidewalk installation will be the responsibility of individual lot owners at the time of building permit.

PROPERTY LINE ADJUSTMENT STAFF REPORT





ORDINANCE NO. _____

AN ORDINANCE ACCEPTING A PROPERTY LINE ADJUSTMENT OF
LOT 3 FOOD HUB ADDITION & LOT 3 MARKET ADDITION TO THE
CITY OF BENTONVILLE, ARKANSAS.

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the property line adjustment Lot 3 Food Hub Addition & Lot 3 Market Addition of the City of Bentonville, Benton County, Arkansas was submitted to the Bentonville Planning Commission on June 6, 2017; and,

WHEREAS, said property line adjustment is attached hereto as Exhibit "A"; and,

WHEREAS, the Bentonville Planning Commission considered said property line adjustment on the date stated and at other times, and voted to recommend the approval of said property line adjustment to the City Council; and,

WHEREAS, the property line adjustment of real property as described herein has been submitted to the City Council for the City of Bentonville, and after consideration and deliberation, said Council is of the opinion that said property line adjustment should be approved.

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

Section 1: That the property line adjustment Lot 3 Food Hub Addition & Lot 3 Market Addition to the City of Bentonville, Arkansas, should be and the same is hereby accepted and approved for all purposes.

Section 2: That the Mayor and City Clerk be and are hereby authorized and directed to evidence the acceptance of said property line adjustment by certifying said acceptance on the approved property line adjustment.

PASSED AND APPROVED this _____ day of _____, 2017.

APPROVED:

ATTEST:

MAYOR

CITY CLERK

GENERAL PLAN AMENDMENT STAFF REPORT



Sewell Family Trust

SW H Street (Hwy 112)

PC Date: 6/6/2017

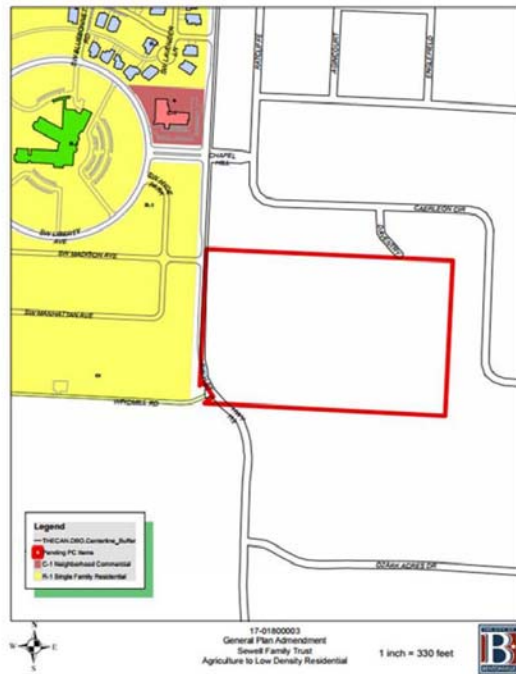
Recommendation: Approval

Reviewer: Jon Stanley, Planner

Project Number	17-01800003
Applicant/ Current Owner	Sewell Family Trust 1315 Chancery Cave Springs, AR 72718
Site Area	24.15 acres
Current Zoning	A-1, Agricultural
Current Future Land Use Map Designation	Agricultural (A)
Requested Future Land Use Map Designation	Low Density Residential (LDR)

<http://geo.bentonvillear.com/mgweb/PZpending/>

Location Map



Property Description

This property is currently located within the City of Cave Springs, however, it is now in the detachment process to be annexed into the City of Bentonville. It is an agricultural designated parcel along SW H Street (HWY 112), south of St. Valery Downs subdivision.

Projected Traffic Impact

The proposed land use designation will not adversely impact traffic in the area. It is adjacent to State Hwy 112 which carries in excess of 10,000 vehicles per day. Careful consideration will be given to the location of any ingress/egress points onto Hwy 112 to establish safe lines of sight.

Utility Infrastructure

Per the GIS website, public water and sewer are available.

Relationship to the General Plan

Policy LU-23, Housing Types, within the General Plan suggests that the city should encourage the development of a mix of housing types to meet the needs of its residents throughout their lives. A proposed low density residential development will help to create additional density and reduce the impact on the city's infrastructure by utilizing existing public utilities and traffic networks.

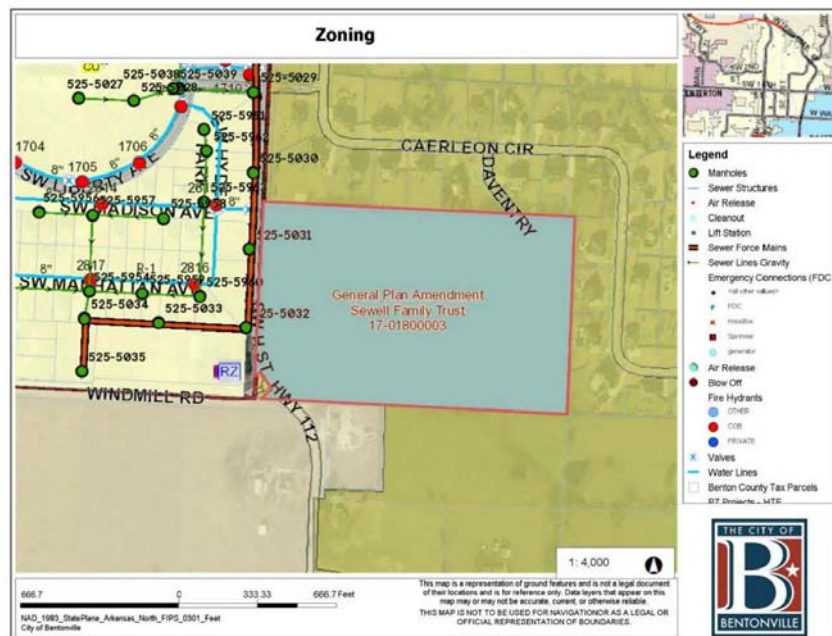
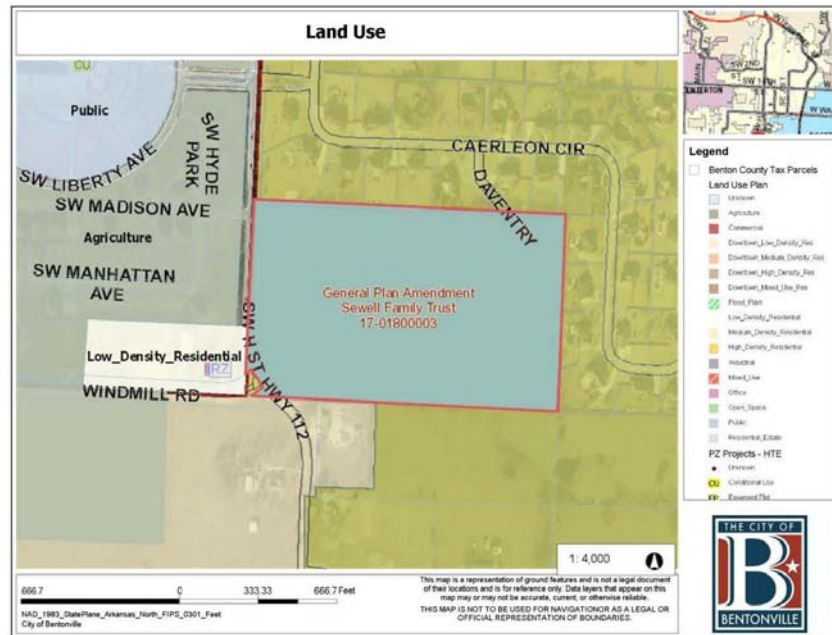
Analysis

In accordance with Zoning Ordinance Sec. 401.5 F, annexed property is accepted as A-1, thus the Future Land Use Plan depicts this property as Agricultural (A). The requested Future Land Use Map designation of Low Density Residential (LDR) is located along and near the intersection of two arterial streets. Additional residential units in the area will provide an opportunity for residents to live and work within the same area of the city. An Agricultural use at this location has the high likelihood to be non-compatible with the existing single-family subdivisions to the north and west. There are several ingress/egress opportunities that can be utilized in the development of the property that will help to facilitate traffic flow and reduce traffic congestion. Public utilities are readily available to the property.

Recommendation

Staff has reviewed this application and based on the findings presented in this report, staff recommends approval of this General Plan Amendment from Agricultural to Low Density Residential.

GENERAL PLAN AMENDMENT STAFF REPORT



Central Heights - Voluntary Land Use Plan Amendment Application Narrative.

The property in questions is 24.15 acres located along the east side of Highway 112, due south of St. Valery Downs Subdivision. This property has recently been annexed into the City of Bentonville and currently is not included in the City Land Use Plan. This application is to request the Land Use Plan be changed to include this property as Low Density Single Family.

The future plan for the property is to develop a single-family subdivision. Nestled in the middle of low density residential property, this land is perfectly suited for low density residential. To the north and east sits single family residential property in the City of Cave Springs. South of this property is undeveloped land in Cave Springs and to the west is single family residential in Bentonville.

There are no know reasons how this Land Use change to the subject property will adversely affect properties adjacent to or in the vicinity of this property. If the Land Use Plan is not changed and zoning changed to single family residential, it is likely this property will remain undeveloped for the foreseeable future.

RESOLUTION NO. _____

**AN RESOLUTION ADOPTING REVISIONS TO THE FUTURE LAND
USE MAP OF THE CITY OF BENTONVILLE TO CHANGE REAL
ESTATE FROM ITS PRESENT LAND USE CLASSIFICATION OF
AGRICULTURAL TO LOW DENSITY RESIDENTIAL.**

WHEREAS, Sewell Family Trust duly filed a petition with the Planning Commission requesting that the hereinafter described property situated in Benton County, Arkansas, be changed from its present classification of Agricultural to Low Density Residential on the City of Bentonville Future Land Use Map, which property is described as follows:

A part of SE 1/4 of the SE 1/4 of Section 13, Township 19 North, Range 31 West, Benton County, Arkansas, more particularly described as follows: Beginning at the SW corner of said SE 1/4 of the SE 1/4; thence along the West line of said SE 1/4 of the SE 1/4, North 02°43'50" East a distance of 825.69 feet; thence South 87°15'34" East a distance of 1314.27 feet to the East line of said SE 1/4 of the SE 1/4; thence along said East line of said SE 1/4 of the SE 1/4, South 02°49'42" West a distance of 834.18 feet; thence North 86°53'20" West a distance of 1312.87 feet to the point of beginning, containing 25.03 acres, more or less, and being subject to the right of way of Arkansas State Highway 112, and the right of way of Windmill Road (Benton County Road 585) along the West line thereof, and subject to any other easements of record or fact. LESS AND EXCEPT Part of the SE 1/4 of the SE 1/4 of Section 13, Township 19 North, Range 31 West of the Fifth Principal Meridian, Benton County, Arkansas, being more particularly described as follows: Beginning at the SW corner of the SE 1/4 of the SE 1/4; thence along the West line of said SE 1/4 of the SE 1/4, North 02°42'49" East a distance of 92.42 feet to the proposed North right of way line of Windmill Road; thence along said North line, North 54°28'37" East a distance of 26.49 feet to the apparent West right of way line of Arkansas State Highway 112; thence along said West line, 90.25 feet along a 387.70 foot radius non tangent curve left, whose chord bears South 33°38'09" East 90.05 feet to the proposed South right of way line of Windmill Road; thence along said South line, South 54°28'37" West a distance of 53.89 feet; thence continuing along said South line, 5.17 feet along a 220.00 foot radius curve right, whose chord bears South 55°08'58" West 5.17 feet to the South line of said SE 1/4 of the SE 1/4; thence along said South line, North 86°51'48" West a distance of 27.76 feet, more or

less, to the point of beginning, containing 0.11 acres, more or less, of which 0.06 acres exists in prescriptive right of way of Windmill Road; and,

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held June 6, 2017 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Benton County Daily Record for the time and in the manner required by law; and,

WHEREAS, the Planning Commission voted to recommend to the City Council that the petition be approved and that said future land use classification as presented on the property be changed.

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

Section 1: That the above described real property is hereby changed from its present classification of Agricultural to Low Density Residential on the Future Land Use Map.

Section 2: That this resolution shall be in full force and effect from and after the date of its passage.

PASSED AND APPROVED this _____ day of _____, 2017.

APPROVED:

Bob McCaslin, Mayor

ATTEST:

City Clerk

GENERAL PLAN AMENDMENT STAFF REPORT



DEB Farm Adventures, Inc.

SW Barron Road & Piercy Road

PC Date: 6/6/2017

Recommendation: Approval

Reviewer: Jon Stanley, Planner

Project Number	17- 01800004
Applicant/ Current Owner	Michael Payne, DEB Farms Adventures Inc. 11276 Talamore Blvd. Bentonville, AR 72712
Site Area	78.23 acres
Current Zoning	A-1, Agricultural
Current Future Land Use Map Designation	Agricultural (A)
Requested Future Land Use Map Designation	Low Density Residential (LDR)

<http://geo.bentonvillear.com/mgweb/PZpending/>

Location Map



Property Description

This property is the location of one recently annexed agricultural parcel situated northeast of the intersection of SW Barron Road and Piercy Road in the southwest region of the city.

Projected Traffic Impact

The proposed land use designation will not adversely impact traffic in the area.

Utility Infrastructure

Per the City's GIS website, public water and sewer are available at this location.

Relationship to the General Plan

Policy LU-23, Housing Types, within the General Plan suggest that the city should encourage the development of a mix of housing types to meet the needs of its residents throughout their lives. The proposed low density residential land use will help to create additional housing options for the city's residents and will utilize existing utility infrastructure.

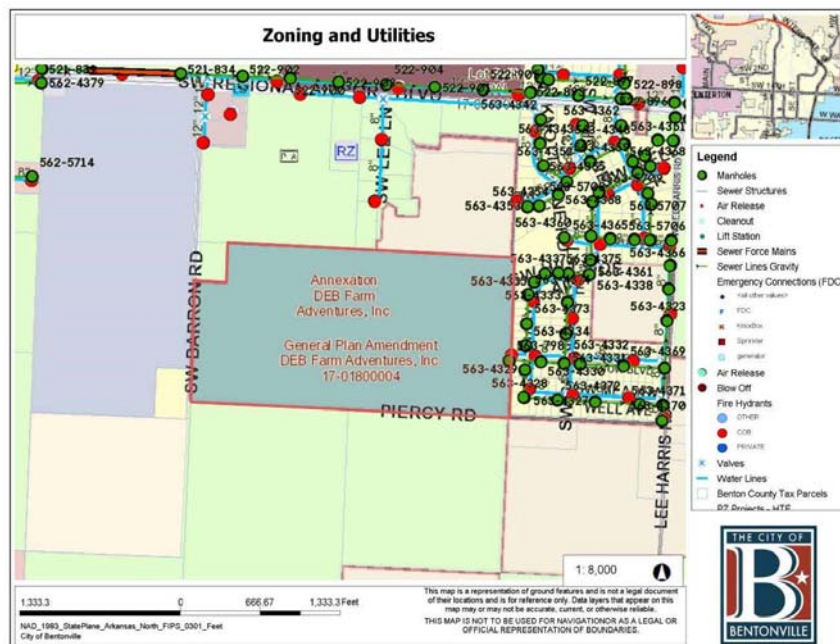
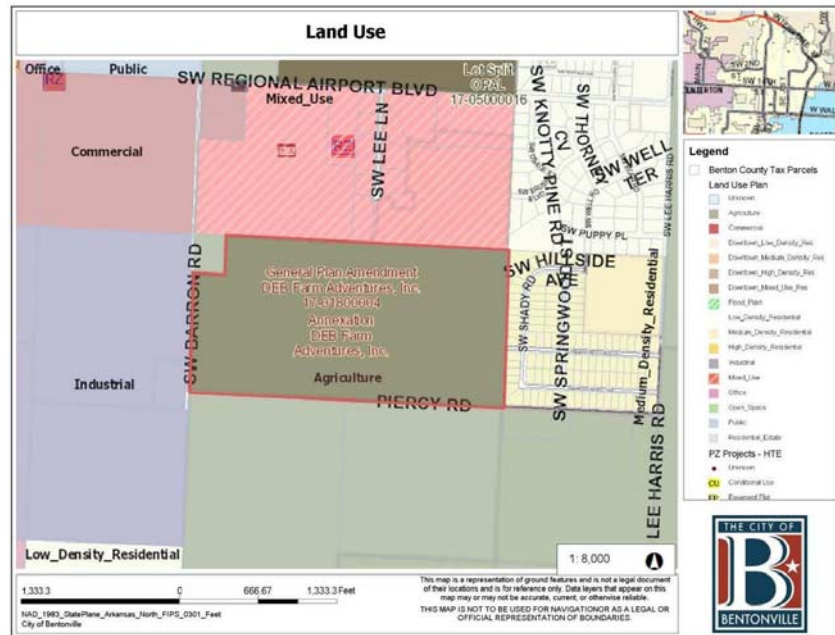
Analysis

The requested Future Land Use Map designation of Low Density Residential (LDR) is located along a future collector street. Additional residential units in the area will provide an opportunity for residents to live and work within the same area of the city and will encourage the future development of goods and services for those living in and around this area. An Agricultural use at this location has the high likelihood to be non-compatible with the existing single-family subdivision located to the east. There are several ingress/egress opportunities that can be utilized in the development of the property that will help to facilitate traffic flow and reduce traffic congestion. Public utilities are readily available to the property.

Recommendation

Staff has reviewed this application and based on the findings presented in this report, staff recommends approval of this General Plan Amendment from Agricultural to Low Density Residential.

GENERAL PLAN AMENDMENT STAFF REPORT



Future Land-Use Amendment Narrative

78 Acres – Barron and Piercy Rd.

1. Reasons for initiation of this proposal. Has information become available that was not available at the time of adoption of the Future Land Use Map? Or, since the adoption of the map has land use in the area changed?

The reason for initiation of this proposal is to request amending the current Land Use designation from Agriculture to Low-Density Residential. The land owners have applied for annexation of the 78 +/- acres from the County to the City of Bentonville. This parcel is under contract for sale. The need for additional Low-Density Residential has changed as the growth of the City of Bentonville moves towards the West. The land in the general area consists of Low-density Residential, Commercial, Industrial, Medium-density Residential, Office, and Mixed-use.

Since the adoption of the Future Land Use Map of 2007, it appears that several tracts of Agriculture designated land have been allowed to develop low-density single family residential subdivisions. Those tracts include Osage Creek Development, located 2 miles North on Ginn Rd. and Adams Rd.; Central Park Addition, located between SW Gator Blvd., and Windmill Rd.; and Summerlin Subdivision, located on S. Morningstar Rd.

(See Exhibit 1)

2. How will this change impact the land use and character of the property in question and surrounding areas?

The revision of the Land Use for this parcel of land will not affect the current use of the land. This tract at some point was planted with walnut trees to be harvested. Agriculture use is restricted by the walnut trees planted many years ago. If the trees are harvested, the land will not be desirable for planting row crops due to any tree remains, and rough ground. It would not be suitable for raising cattle or other livestock with the lack of natural water. There is only one pond on the parcel. It also may be offensive to the neighboring subdivision with the addition of cattle or other livestock. Attempt will be made to preserve as many walnut trees as possible within the subdivision.

This parcel is contiguous on the East, to the Low-Density Residential Subdivision known as High Meadows. This parcel is contiguous to a Mixed-Use tract located on the North. This parcel lies to the East of an Industrial tract located on the West side of Barron Rd.

There is a 40 acre +/- tract to the South of the said Industrial tract that is Low-Density Residential. This tract lies to the North of Agriculture land located on the South side of Piercy Rd. Allowing a Low-Density Residential Subdivision will not negatively change or impact the surrounding area, but bring much needed affordable homes to this area of Bentonville.

(See Exhibits 2 and 3)

3. How is the property more suitable for the proposed land use designation than for the current land use classification presented on the Future Land Use Map?

The property is more suitable for Low-Density Residential because there is a need in the City of Bentonville for affordable housing. There is an abundance of agricultural land that is not feasible for residential development. In the 2007 Land Use Plan, participants described affordable housing in Bentonville as a difficult proposition because of the cost of land. With the escalating prices of land in Bentonville, this same opinion holds true today. Land prices are once again soaring, to where residential developers are impacted with high land prices making the cost of lots priced at a point where building affordable homes is not an option. With the listed price for the subject tract of land being in a more reasonable price range, the developers of the 78 acres will be able to provide lots for homes that will be in the 1500-2000 square foot range and below \$200,000. Also, with this tract being contiguous to an existing subdivision, it is possible to utilize the existing City of Bentonville sewer, water, and electric utilities available.

According to the US Census Bureau, the median household income in Bentonville in 2011-2015 is \$71,400. The median price range of owner-occupied homes in Bentonville in 2011-2015 is \$174,400. Another Market Profile prepared by ESRI for the City of Bentonville, shows in 2014 median home value at \$192,765 and projects in 2019 \$228,414. The report also shows that in 2014, 43.2% owner occupied housing units by value were between \$100,000-\$199,999, in Bentonville. As of today, according to the Northwest Arkansas MLS, there are only 35 homes listed for sale below \$200,000 in Bentonville. There are approximately 3 subdivisions that currently offer new homes under the \$200,000 range.

According to the land listed for sale in the Northwest Arkansas MLS, there are 21 tracts of 20+ acres of land categorized as development potential, mixed use, agriculture, lots, pasture, or residential. None of these are offered in the price range to either develop for affordable residential homes, or have the capability of utilizing existing City of Bentonville sewer, water, and electric. Many are not eligible for annexation, but the proposed tract is. The proposed tract is considered an "island" of county land,

surrounded on 4 sides by City of Bentonville property. This would be an excellent addition of affordable homes and property to the City of Bentonville.
(See Exhibits 4, 5, 6, 7 and 8)

4. Would the uses permitted by the proposed change be detrimental in any way to the surrounding property?

As stated earlier, this parcel is contiguous on the East, to the Low-Density Residential Subdivision known as High Meadows. This parcel is contiguous to a Mixed-Use tract located on the North. This parcel lies to the East of an Industrial tract located on the West side of Barron Rd. There is a 40 acre +/- tract to the South of the said Industrial tract that is Low-Density Residential. This tract lies to the North of Agriculture land located on the South side of Piercy Rd. Allowing a Low-Density Residential Subdivision will not negatively change or impact the surrounding area, or be detrimental in any way to the surrounding property. The subdivision will bring much needed affordable homes to this area of Bentonville. Also, new residents of the subdivision would be in close proximity to employment opportunities such as XNA airport, the proposed Industrial development, Wal-Mart Distribution Center, the Army National Guard facility, hotels, convenience centers, retail stores, schools, and churches. Residents will be within minutes of the growing commercial developments in the area.
(See Exhibit 3)

5. What are the alternative courses of action if the proposed land use change is not approved?

There are no other alternative courses of action if the land change is not approved. The purchase/sale of this parcel of land is contingent upon approval for a single family residential subdivision.

6. What are your plans for the property if the proposed land use change is approved?

The development will be for a subdivision with single family residences. The covenants will be for homes with 1500-2000 square feet, in order to keep the homes at an affordable retail price under \$200,000.

7. What alternatives other than changing the land use designation have been discussed?

No other alternatives are desired for this parcel of land. The development of this parcel is contingent upon the land use being revised to Low-Density Residential.

RESOLUTION NO. _____

**AN RESOLUTION ADOPTING REVISIONS TO THE FUTURE LAND
USE MAP OF THE CITY OF BENTONVILLE TO CHANGE REAL
ESTATE FROM ITS PRESENT LAND USE CLASSIFICATION OF
AGRICULTURAL TO LOW DENSITY RESIDENTIAL.**

WHEREAS, DEB Farm Adventures, Inc. duly filed a petition with the Planning Commission requesting that the hereinafter described property situated in Benton County, Arkansas, be changed from its present classification of Agricultural to Low Density Residential on the City of Bentonville Future Land Use Map, which property is described as follows:

Beginning at the SW Corner of said NW ¼ of said Section 21; Thence N 0°00'00"E, 992.21'; THENCE S89°13'31"E, 263.81; THENCE N0°01'57"E, 330.55'; THENCE S89°20'42"E, 2378.04'; Thence S00°04'26"W, 1324.40'; THENCE N89°17'40"W, 2640.35' to the point of beginning; and,

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held June 6, 2017 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Benton County Daily Record for the time and in the manner required by law; and,

WHEREAS, the Planning Commission voted to recommend to the City Council that the petition be approved and that said future land use classification as presented on the property be changed.

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

Section 1: That the above described real property is hereby changed from its present classification of Agricultural to Low Density Residential on the Future Land Use Map.

Section 2: That this resolution shall be in full force and effect from and after the date of its passage.

PASSED AND APPROVED this _____ day of _____, 2017.

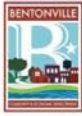
APPROVED:

Bob McCaslin, Mayor

ATTEST:

City Clerk

GENERAL PLAN AMENDMENT STAFF REPORT



Real Assets Inc.

2415 SW Regional Airport Blvd.

PC Date: 6/6/2017

Recommendation: Approval

Reviewer: Jon Stanley, Planner

Project Number	17-01800005
Applicant/ Current Owner	Real Assets Inc. PO Box 1 Fayetteville, AR 72701
Site Area	2.58 acres
Current Zoning	A-1, Agricultural
Current Future Land Use Map Designation	Low Density Residential (LDR)
Requested Future Land Use Map Designation	Office (O)

<http://geo.bentonvillear.com/mgweb/PZpending/>

Location Map



Property Description

The project consists of one parcel containing one unoccupied single family house. It is located at 2415 SW Regional Airport Blvd. in an area with a mixture of office and residential uses.

Projected Traffic Impact

The proposed land use designation will not adversely impact traffic in the area. It is adjacent to State Hwy 12 which carries in excess of 23,000 vehicles per day. Careful consideration will be given to the location of any curb cuts onto Hwy 12 to establish safe points of ingress/egress to the site.

Utility Infrastructure

Per the GIS website, public water and sewer are available.

Relationship to the General Plan

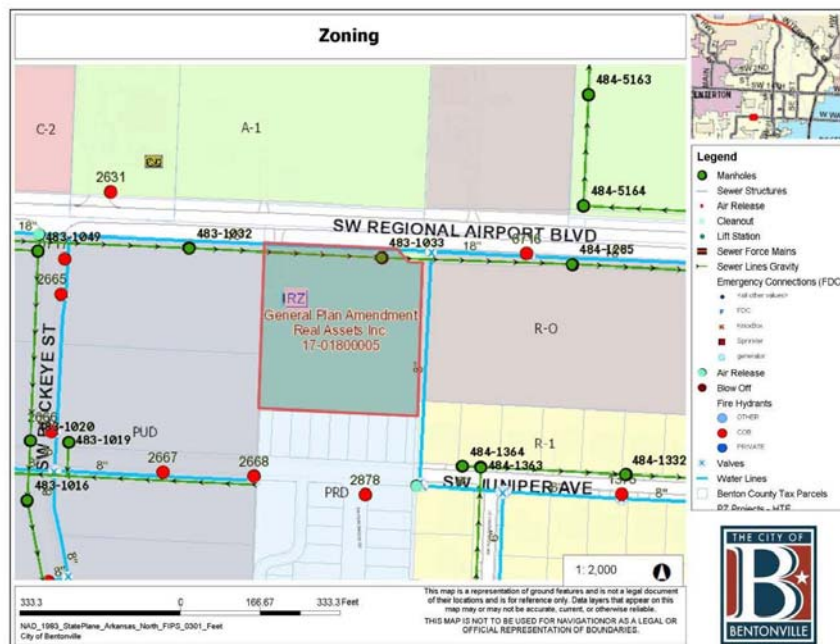
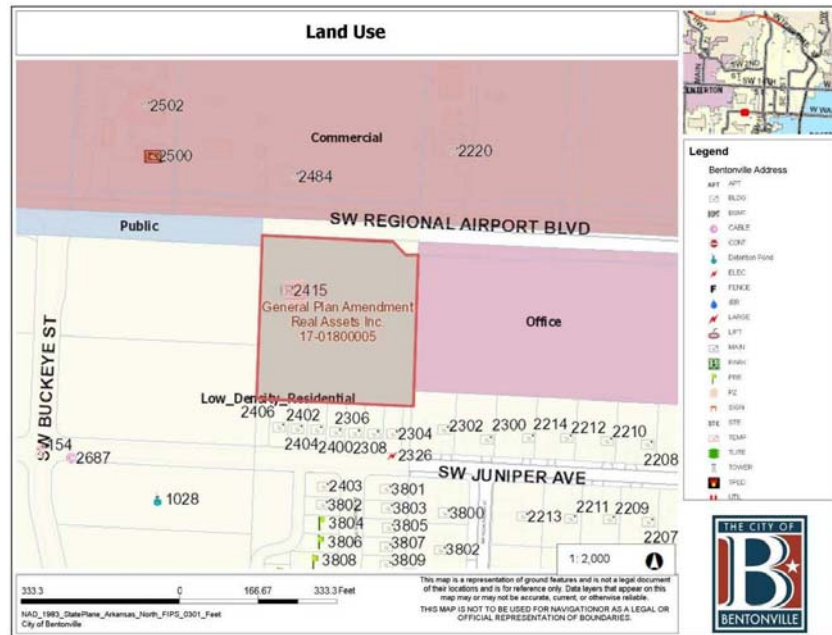
The Future Land Use Plan depicts this property as Low Density Residential (LDR), the proposed designation of Office (O) is adjacent to property that is currently designated as Office (O) on the current Land Use Map. Policy LU-18 of the General Plan states that the City should provide greater flexibility in its development regulations to facilitate efficient and appropriate residential, office and commercial uses.

Analysis

The requested Future Land Use Map designation of Office (O) is located along a major arterial road, (State Hwy 12) which carries in excess of 23,000 vehicles per day. The requested Land use of office (o) will serve as a transition from the heavily traveled arterial road to the north and the existing single family residences to the south while providing good and services to nearby residences. There are several ingress/egress opportunities that can be utilized in the development of the property that will help to facilitate traffic flow and reduce traffic congestion. Public utilities are readily available to the property.

Recommendation

Staff has reviewed this application and based on the findings presented in this report, staff recommends approval of the General Plan Amendment from Low Density Residential to office Space.



- 1) The property is under new ownership and will be developed for office use.
- 2) The proposed usage will not adversely affect adjoining properties.
- 3) Said property is located in a developing area with increased traffic due to road expansion.
- 4) The future uses will in no way be detrimental to the surrounding properties.
- 5) If the commission denies the changed usage request we would seek an alternative designation.
- 6) The property is to be the location for an animal clinic as well as possible dental and tax offices.
- 7) Nothing
- 8) Change of ownership with contracts pending.

RESOLUTION NO. _____

**AN RESOLUTION ADOPTING REVISIONS TO THE FUTURE LAND
USE MAP OF THE CITY OF BENTONVILLE TO CHANGE REAL
ESTATE FROM ITS PRESENT LAND USE CLASSIFICATION OF
LOW DENSITY RESIDENTIAL TO OFFICE.**

WHEREAS, Real Assets Inc. duly filed a petition with the Planning Commission requesting that the hereinafter described property situated in Benton County, Arkansas, be changed from its present classification of Low Density Residential to Office on the City of Bentonville Future Land Use Map, which property is described as follows:

Lot 1 of Arbor Lane II Addition to the City of Bentonville, Benton
County, Arkansas, as shown on plat record book 2014 at page 547

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held June 6, 2017 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Benton County Daily Record for the time and in the manner required by law; and,

WHEREAS, the Planning Commission voted to recommend to the City Council that the petition be approved and that said future land use classification as presented on the property be changed.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF
BENTONVILLE, ARKANSAS:**

Section 1: That the above described real property is hereby changed from its present classification of Low Density Residential to Office on the Future Land Use Map.

Section 2: That this resolution shall be in full force and effect from and after the date of its passage.

PASSED AND APPROVED this _____ day of _____, 2017.

APPROVED:

ATTEST:

Bob McCaslin, Mayor

City Clerk

REZONING STAFF REPORT



Carroll Electric Cooperative Corp.

707 SE Walton Blvd.

PC Date: 6/6/2017

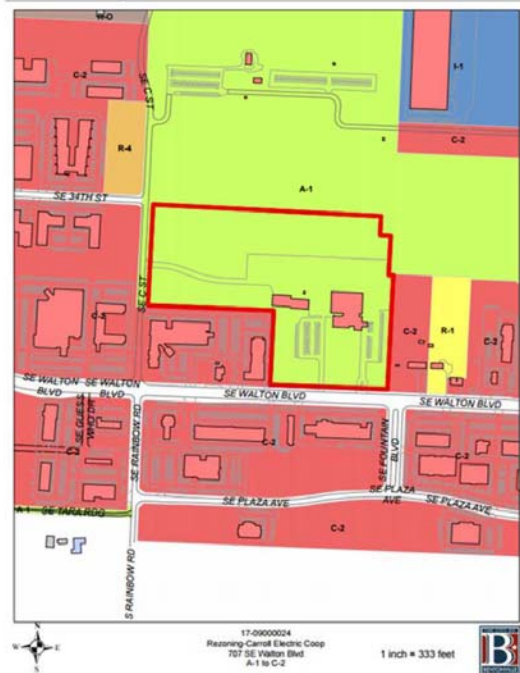
Recommendation: Approval

Reviewer: Jon Stanley, Planner

Project Number	17-09000024
Applicant / Current Owner	Carroll Electric Cooperative Corp. PO Box 4000 Berryville, AR 72616
Site Area	21.8 acres
Current Zoning	A-1, Agricultural
Requested Zoning	C-2, General Commercial
Future Land Use Map Designation	Commercial (C)

<http://geo.bentonvillear.com/mgweb/PZpending/>

Location Map



Property Description

This property is the location of the existing Carroll Electric Facility located at 707 SE Walton Blvd.

Projected Traffic Impact

The proposed zoning designation will not adversely impact traffic in the area.

Utility Infrastructure

Per the city GIS website, public water and sewer are available at this location.

Relationship to the General Plan

The Future Land Use Plan depicts this property as commercial. The C-2, General Commercial zoning designation is a recommended zoning for this classification.

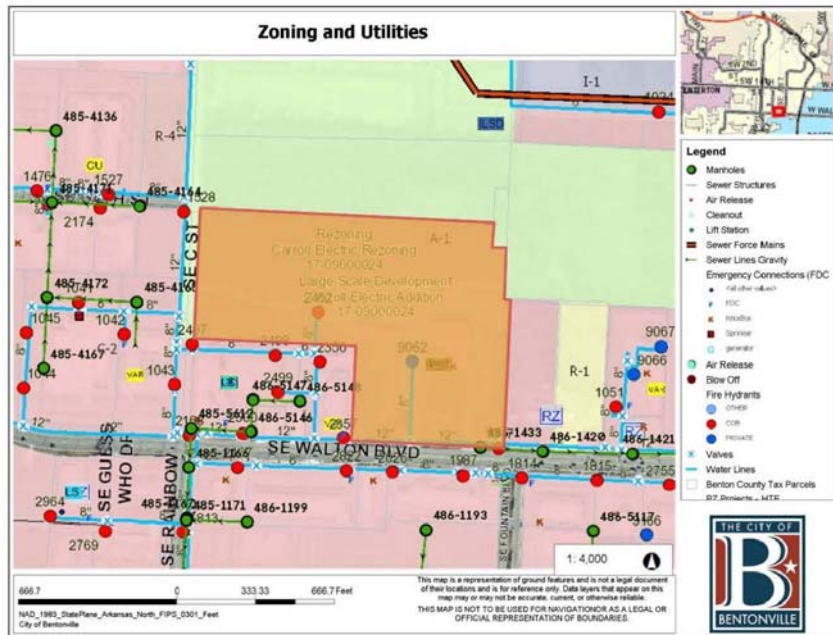
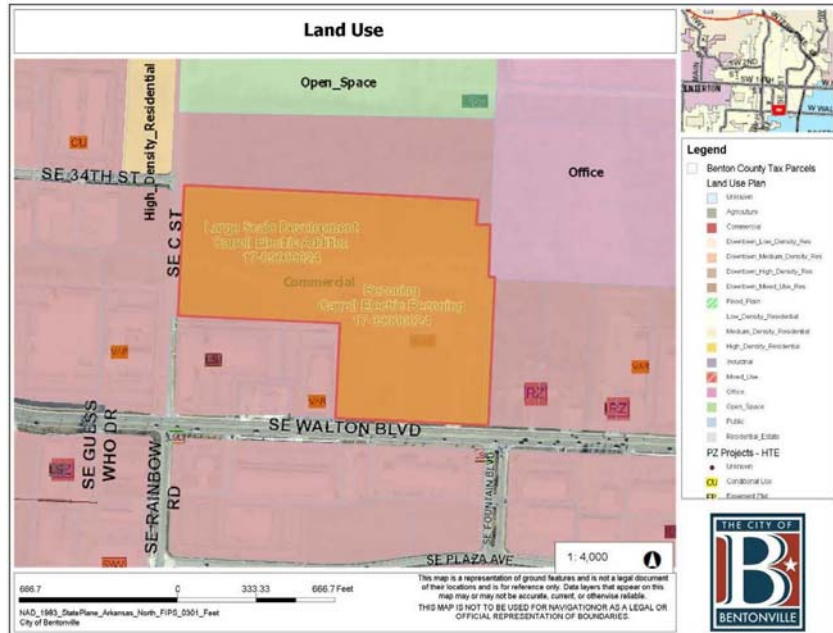
Conclusion

The C-2, General Commercial zoning district is consistent with the City of Bentonville's Future Land Use Map and the General Plan. The property is situated along an established arterial road and is compatible with adjacent uses and zoning therefore, C-2, General Commercial is an appropriate zoning designation for this property.

Recommendation

Staff has reviewed this application and based on the findings presented in this report, staff recommends approval of this rezoning request from A-1, Agricultural to C-2, General Commercial.

REZONING STAFF REPORT





**JORGENSEN
+ASSOCIATES**
Civil Engineering • Surveying
Landscape Architecture Services

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703

Office: 479.442.9127
Fax: 479.582.4807
www.jorgensenassoc.com

October 31, 2016

The City of Bentonville Planning & Engineering Departments
305 SW A Street
Bentonville, AR 72712
Re: Carroll Electric Cooperative Corporation, Rezone

To whom it may concern;

Please accept this application to rezone the property from A-1 to C-2. This rezoning will place the proper usage on the existing facility and allow the expansion to occur by-right. With this expansion, a major increase in traffic is not anticipated. The existing eastern island contains a monument sign that will be removed to aid in pedestrian mobility, a new sign will be located to the west in the greenspace. Elevations of the proposed structures has been included with this submittal along with a site plan.

This development seeks to add additional office space, totaling 26,975 SF. The existing warehouse, has 14,646 SF. The new garage, will have 15,240 SF, and the existing shops, have 11,200 SF. The existing pole yard to the north will be expanded along with upgrades to the existing parking lot.

A fire line will tap the existing private 8" waterline, the existing water meter will remain in-place with a new service line being tapped off this line. A new Fire Hydrant will be installed at the entrance, with a new FDC located just north of this hydrant. The existing forcemain will be abandoned once the new sanitary sewer service is installed.

Sincerely,

Blake Jorgensen, P.E

ORDINANCE NO. _____

AN ORDINANCE CHANGING REAL ESTATE IN THE CITY OF
BENTONVILLE, ARKANSAS, FROM ITS PRESENT CLASSIFICATION OF
A-1, AGRICULTURAL TO C-2, GENERAL COMMERCIAL.

WHEREAS, Carroll Electric Cooperative Corp. duly filed a petition with the Planning Commission requesting that the hereinafter described property situated in Benton County, Arkansas, be changed from its present classification of A-1, Agricultural to C-2, General Commercial to be used in accordance with city zoning laws and state laws, which property is described as follows:

Part of the SW ¼ of the NW ¼ and Part of the SE ¼ of the NW ¼ in Section 8, T19N, R30W in Benton County, Arkansas and more particularly described as follows: Commencing at the NE Corner of said SW ¼ of the NW ¼; Thence S03° 44' 12"W, 198.99'; Thence N87° 39' 54"W, 58.01'; Thence S02° 59' 38"W, 147.63' to the Point of Beginning. Thence S02° 59' 38"W, 103.39'; Thence S87° 39' 54"E, 58.01'; Thence S02° 59' 38"W, 214.02'; Thence S87° 39' 54"E, 25'; Thence S02° 59' 38"W, 618.38'; Thence N87° 46' 07"W, 634.00'; Thence N02° 59' 07"E, 402.33'; Thence N87° 37' 20"W, 681.06'; Thence N02° 59' 58"E, 547.89'; Thence S87° 01' 24"E, 1231.97' to the Point of Beginning.

;and,

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held June 6, 2017 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Benton County Daily Record for the time and in the manner required by law; and,

WHEREAS, the Planning Commission voted to recommend to the City Council that the petition be approved and that said property be rezoned from its present classification of A-1, Agricultural to C-2, General Commercial.

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

Section 1: That the above described real property is hereby changed from its present classification of A-1, Agricultural to C-2, General Commercial to be used in accordance with the city zoning laws and state laws.

PASSED AND APPROVED this _____ day of _____, 2017.

APPROVED:

ATTEST:

MAYOR

CITY CLERK

LOT SPLIT STAFF REPORT



Lots 11-15, Southside Addition

SE A Street & SE 7th Street
PC Date: 6/6/2017
Recommendation: Approval
Reviewer: Jon Stanley, Planner

Project Number	17-05000020
Applicant / Current Owner	Hurricane WA LLC 390 W. 5 th St. Fayetteville, AR 72756
Site Area	0.66 acres
Current Zoning	DE, Downtown Edge
Future Land Use Map Designation	Downtown Mixed Use Residential (DMUR)

<http://geo.bentonvillear.com/mgweb/PZ/pending/>

Location Map



Property Description

The project consists of two vacant parcels in a residential neighborhood located just north of SE 8th Street. The surrounding area is primarily single-family houses. However, the future land use plan shows this area as Downtown Mixed Use Residential and infill and redevelopment is beginning to occur as the 8th Street widening project begins.

Project Details

The applicant has submitted a proposal for a lot split that will create five new lots from three existing lots. The new lots will be known as Lots 11, 12, 13, 14 & 15 of Southside Addition. Per the requirements of the current Master Street Plan, right-of-way is being dedicated along both SE A Street & SE 7th Street. A 16' wide private access easement is also being dedicated along the southern property line of each lot to provide rear access. Each new lot will have access to public utilities and a public street.

Projected Traffic Impact

The proposed lot split will not adversely impact traffic in the area. The property is located within the downtown area where the existing street grid network will provide adequate options for ingress and egress.

Utility Infrastructure

Per the GIS website, water and sewer are available at this location.

Drainage Report

A drainage report is not required.

Waivers

No waivers requested.

Conclusion

This lot split does meet the minimum requirements of the subdivision regulations.

Standard Conditions of Approval

1. Provide a digital copy of the plat.
2. Address all technical review comments before requesting a building permit.

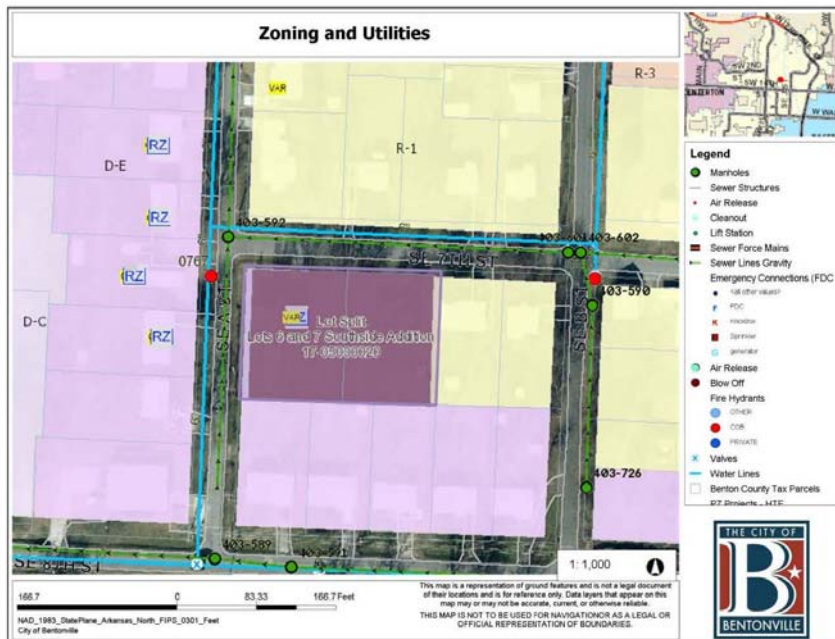
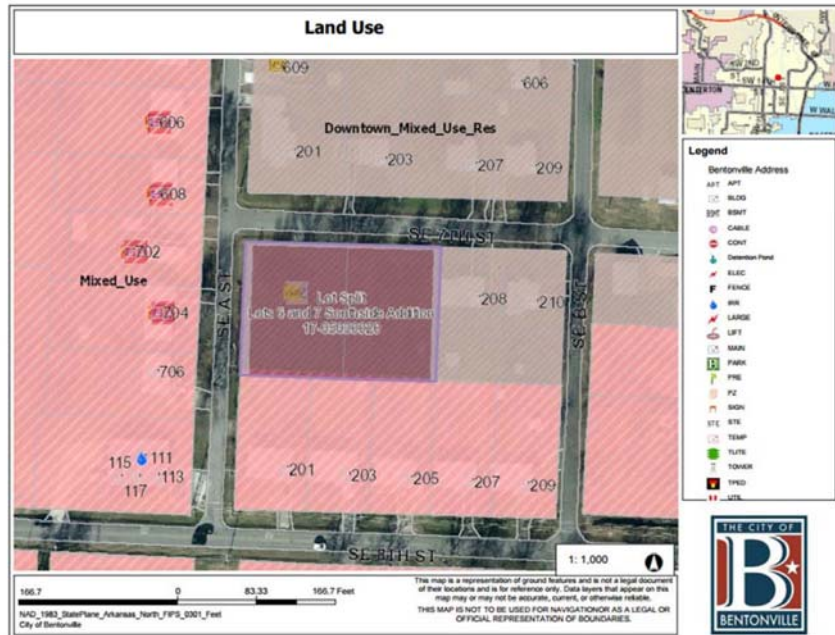
Recommendation

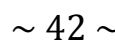
Staff has reviewed this application and based on the findings presented in this report, staff recommends approval.

NOTES

- **Sidewalks.** Sidewalk installation will be the responsibility of individual lot owners at the time of building permit.

LOT SPLIT STAFF REPORT





ORDINANCE NO. _____

AN ORDINANCE ACCEPTING A LOT SPLIT OF LOTS 11-15 SOUTHSIDE
ADDITION TO THE CITY OF BENTONVILLE, ARKANSAS.

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the lot split of Lots 11-15 Southside Addition, Benton County, Arkansas, was submitted to the Bentonville Planning Commission on June 6, 2017; and,

WHEREAS, said lot split is attached hereto as Exhibit "A"; and,

WHEREAS, the Bentonville Planning Commission considered said lot split on the date stated, and at other times, and voted to recommend the approval of said lot split to the City Council; and,

WHEREAS, the lot split of real property as described herein has been submitted to the City Council of the City of Bentonville and, after consideration and deliberation, said Council is of the opinion that said lot split should be approved.

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

Section 1: That the lot split of Lots 11-15 Southside Addition to the City of Bentonville, Arkansas, should be and the same is hereby accepted and approved for all purposes.

Section 2: That the Mayor and City Clerk be and are hereby authorized and directed to evidence the acceptance of said lot split by certifying said acceptance on the approved lot split.

PASSED AND APPROVED this _____ day of _____, 2017.

APPROVED:

MAYOR

ATTEST:

CITY CLERK



CHECK ALL THAT APPLY		
	Bid Award	Bid #
	Budget Adjustment	
X	Change Order	
	Informational	
	Ordinance	
	Resolution	
	Other	

AGENDA FORM

CITY COUNCIL MEETING OF:

June 13, 2017

Submitted by:

Mike Bender

Department

Public Works Dir

Phone

271-6873

ACTION REQUIRED:

Staff recommends approval of Change Order No. 1 and Final Reconciliation for Fochtman Enterprises, Inc. for a decrease of \$14,122.68 for the Hwy 62/102 - Hwy 72 Water Line Relocations Associated with AHTD Project CA0902. This final change order reduces the contract amount from \$110,170.00 to \$96,047.32. The reduction is from final quantity measurements. This project qualifies for 97% reimbursement from AHTD.

COST TO CITY:

Cost of this Request:

Additional Budget Amount

☐ One time amount

☐ Continuing O and M

Previously Budgeted	\$	110,170
Funds Expended to Date		96,047
Remaining Budget		14,123
Budget Adjustment		-
Remaining After Adjustment	\$	14,123

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE



Memo



To: City Council, Mayor McCaslin

From: Mike Bender *[Signature]*

CC:

Date: May 26, 2017

Re: Change Order 1 and Final Reconciliation for Fochtman Enterprises, Inc.
for water relocations associated with AHTD Project CA0902 I-49
Widening and Interchange Improvements, Hwy 62/102 – Hwy 72

Staff recommends approval of Change Order No. 1 and Final Reconciliation for Fochtman Enterprises, Inc. for a decrease of \$14,122.68 for the Hwy 62/102 - Hwy 72 Water Line Relocations Associated with AHTD Project CA0902. This final change order reduces the contract amount from \$110,170.00 to \$96,047.32. The reduction is from final quantity measurements. This project qualifies for 97% reimbursement from AHTD.

Thank you for your consideration of this request.



Construction Contract Change Order									
Project: Hwy 62/102 - Hwy 72 Water Line Relocations Associated with AHTD Job CA0902 Bentonville, Arkansas Garver Job No. 15048180					Change Order No. 1 Date Prepared: 04/27/2017 Prepared by: Larry Gregory				
Owner: City of Bentonville 117 West Central Avenue Bentonville, Arkansas 72712					Contractor: Fochtman Enterprises, Inc. P.O. Box 1168 Fayetteville, AR 72702				
Description of Work Included in Contract Concrete cap over water line at Hwy 62/102 and relocation of 12-inch water line at Hwy 72									
Changes and Reasons Ordered (List Individual Changes as: A, B, C, D, etc.) A. Reconcile estimated quantities to actual quantities installed.									
Attachments:									
Contract Changes	Bid Item No.	Bid Item Description	Unit of Measure	Original Contract Quantity	Contract Unit Price	Revised Estimated Quantity	Revised Unit Price	Original Estimated Cost	Revised Estimated Cost
A.	6	12" C900 PVC Water Line	LF	340	\$50.00	343	\$50.00	\$20,400.00	\$20,580.00
A.	7	8" C900 PVC Water Line	LF	26	\$45.00	0	\$45.00	\$1,170.00	\$0.00
A.	10	Ductile Iron Fittings	LBS	1200	\$17.00	925	\$17.00	\$20,400.00	\$15,725.00
A.	14	Undercut and Granular Backfill	CY	100	\$30.00	0	\$30.00	\$3,000.00	\$0.00
A.	15	Rock Excavation	CY	20	\$350.00	0	\$350.00	\$7,000.00	\$0.00
A.	17 (CO)	8" Ductile Iron Water Line	LF	0	\$0.00	26	\$59.32	\$0.00	\$1,542.32
Summation of Cost								\$51,970.00	\$37,847.32
Net Cost for this Change Order								(\$14,122.68)	
Estimated Project Cost					Time Change				
Original Contract Amount \$110,170.00 This Change Order (\$14,122.68) New Contract Amount \$96,047.32					Original Contract Start Date February 13, 2017 Original Contract Time (calendar days) 60 Additional Calendar Days granted by this Change Order 0 New Contract Time (calendar days) 60 New Construction Completion Date April 14, 2017				
THIS AGREEMENT IS SUBJECT TO ALL ORIGINAL CONTRACT PROVISIONS AND PREVIOUS CHANGE ORDERS									
ISSUED FOR REASONS INDICATED ABOVE Engineer: Garver					Project Manager 04/27/17 Title Date				
ACCEPTED BY CONTRACTOR					President 04/27/17 Title Date				
APPROVED BY OWNER					Title Date				



CHECK ALL THAT APPLY		
☐	Bid Award	Bid #
☐	Budget Adjustment	
☐	Change Order	
☐	Informational	
☐	Ordinance	
☐	Resolution	
☒	Other	

AGENDA FORM

CITY COUNCIL MEETING OF:

June 13, 2017

Submitted by:

Mike Bender

Department

Public Works Director

Phone

271-6873

ACTION REQUIRED:

Staff requests Council approval to increase the vehicle fleet in Public Works Maintenance fleet by one (1). This request will not increase the overall City fleet, but rather repositions vehicles within departments. This request would transfer a Durango (2013, Unit 3820-16) from Transportation to Police in exchange for an Impala (2009, Unit 2010-79) in need of replacement. Transportation would transfer the Impala to Public Works Maintenance which would trade the Impala for a pickup that would be positioned for surplus, ultimately removing the Impala from the City's current fleet through surplus. The addition of the truck will allow Public Works Maintenance to divide mowing crews to better cover mowing and lawn maintenance throughout the City.

COST TO CITY:

Cost of this Request:

Additional Budget Amount

☐ One time amount

☐ Continuing O and M

Previously Budgeted	\$ -
Funds Expended to Date	-
Remaining Budget	-
Budget Adjustment	-
Remaining After Adjustment	\$ -

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE



Memo



To: City Council, Mayor McCaslin

From: Mike Bender *MB*

CC:

Date: June 5, 2017

Re: Increase Vehicle Fleet in Public Works Maintenance by One

Staff requests Council approval to increase the vehicle fleet in Public Works Maintenance fleet by one (1). This request will not increase the overall City fleet, but rather repositions vehicles within departments. This request would transfer a Durango (2013, Unit 3820-16) from Transportation to Police in exchange for an Impala (2009, Unit 2010-79) in need of replacement. Transportation would transfer the Impala to Public Works Maintenance which would trade the Impala for a pickup that would be positioned for surplus, ultimately removing the Impala from the City's current fleet through surplus. The addition of the truck will allow Public Works Maintenance to divide mowing crews to better cover mowing and lawn maintenance throughout the City. Utilizing the additional truck and an existing, extra trailer, staff can further split crews and equipment to be more efficient and productive.

Thank you for your consideration of this request.



CHECK ALL THAT APPLY		
	Bid Award	Bid #
	Budget Adjustment	
	Change Order	
	Informational	
	Ordinance	
X	Resolution	
	Other	

AGENDA FORM

CITY COUNCIL MEETING OF:

June 13, 2017

Submitted by:

Travis Matlock

Department

Electric

Phone

271-5941

ACTION REQUIRED:

A resolution setting a public hearing for June 27, 2017 for a Drainage Easement Vacation requested by Gain Robinson located at 2609 S. Walton. (Referenced in layout provided as Drainage Easement)

COST TO CITY:

Cost of this Request:

Additional Budget Amount

☐ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	-
Remaining After Adjustment	\$ -

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE



RESOLUTION NO. _____

IN THE CITY COUNCIL FOR THE CITY OF BENTONVILLE, ARKANSAS

WHEREAS, a petition was duly filed with the City Council of Bentonville, Arkansas by Gain Robinson, requesting a drainage easement within the City of Bentonville, Arkansas be vacated, which said easement is described as follows:

A drainage easement twenty (20) feet in width per Plat Book 2007 Page 835, located in the SE Quarter of the SE Quarter of Section 6, Township 19 N, Range 30 W and described as follows:

Commencing at the NW Corner of Lot 5 of the Ron Blackwell Ford Addition to the City of Bentonville, Arkansas; thence South 181.24 feet along easterly right-of-way line of US Highway 71B to point of beginning of the easement; thence South 79° 08' 52" East for 317.69 feet; thence S 10° 51' 08" West for 20.00 feet; thence North 79° 08' 52" West for 314.66 feet; thence North along easterly right-of-way line of US Highway 71B 20.23 feet to the point of beginning of easement.

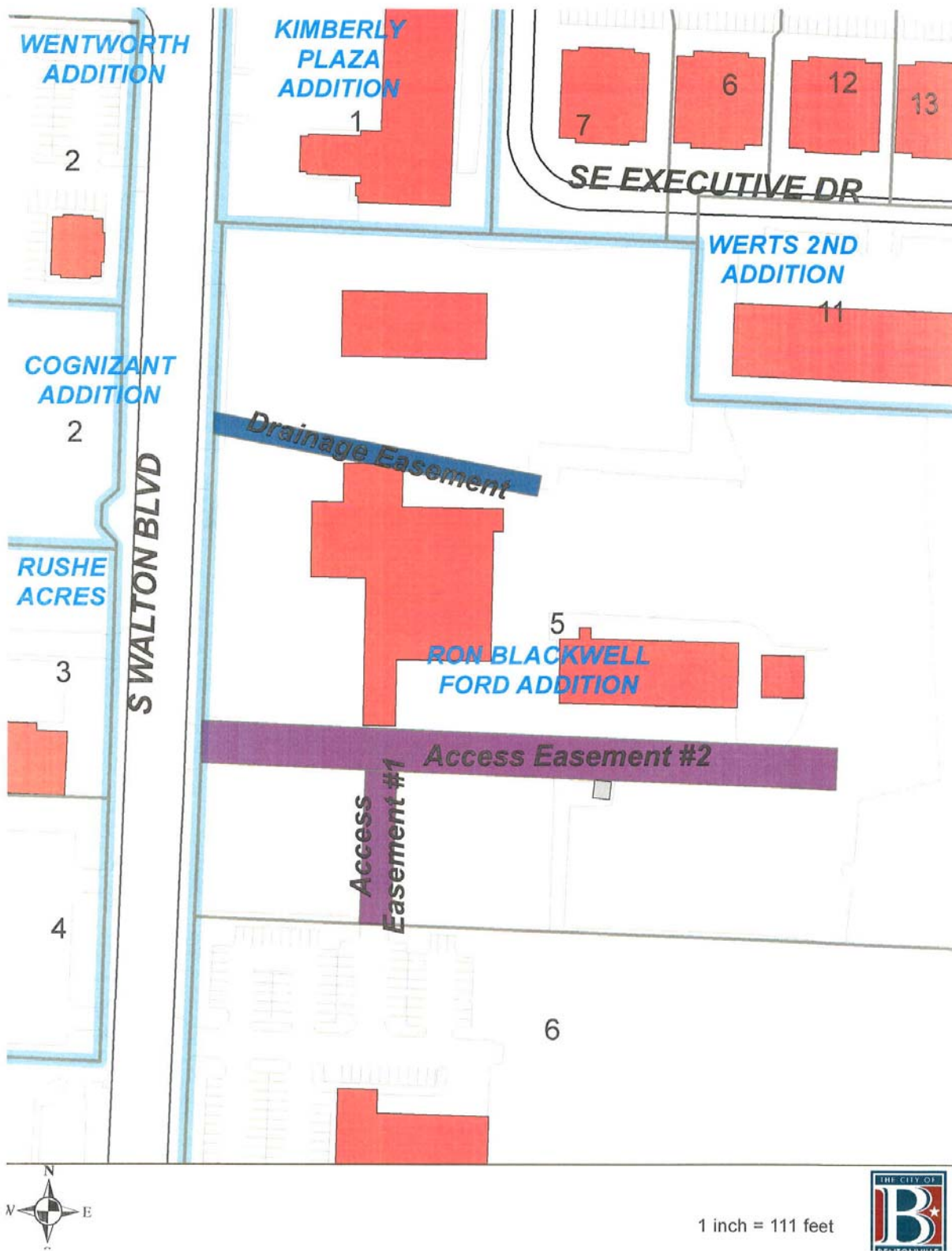
WHEREAS, Ark. Code Ann. Section 14-301-302(c) provides that the City Council shall by resolution fix a day for the hearing of the petition and shall direct the City Clerk and Recorder to give notice of the meeting, by publication, once per week for two (2) consecutive weeks in some newspaper published in and having general circulation in Bentonville, Benton County, Arkansas.

NOW, THEREFORE, BE IT RESOLVED, by the City of Bentonville, Arkansas, that the petition to close and vacate a drainage easement at the above described property is set for hearing on June 27, 2017 at 6:00 p.m. in the City Council Room of the City of Bentonville, Arkansas, and the Bentonville City Clerk and Recorder is directed to give notice of this meeting by publication as set forth by Ark. Code Ann. Section 14-301-302(c).

The above and foregoing resolution was passed, approved and adopted the _____ day of _____, 2017 at a regular meeting of the City Council of the City of Bentonville, Arkansas.

Linda Spence, City Clerk
Bentonville, Arkansas

Bob McCaslin, Mayor
City of Bentonville, Arkansas





CHECK ALL THAT APPLY		
	Bid Award	Bid #
	Budget Adjustment	
	Change Order	
	Informational	
	Ordinance	
X	Resolution	
	Other	

AGENDA FORM

CITY COUNCIL MEETING OF:

June 13, 2017

Submitted by:

Travis Matlock

Department

Electric

Phone

271-5941

ACTION REQUIRED:

A resolution setting a public hearing for June 27, 2017 for a Shared Access Easement requested by Gain Robinson located at 2609 S. Walton. (Referenced in layout provided as Access Easement #1)

COST TO CITY:

Cost of this Request:

Additional Budget Amount

☐ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	-
Remaining After Adjustment	\$ -

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE



RESOLUTION NO. _____

IN THE CITY COUNCIL FOR THE CITY OF BENTONVILLE, ARKANSAS

WHEREAS, a petition was duly filed with the City Council of Bentonville, Arkansas by Gain Robinson, requesting a shared access easement within the City of Bentonville, Arkansas be vacated, which said easement is described as follows:

A shared access drive easement thirty (30) feet in width per Plat Book 2007 Page 835 located in the SE Quarter of the SE Quarter of Section 6, Township 19 N, Range 30 W and described as follows:

Commencing at the NW Corner of Lot 5 of the Ron Blackwell Ford Addition to the City of Bentonville, Arkansas; thence South 514.80 feet along easterly right-of-way line of US Highway 71B; thence South 87° 35' 08" East for 155.93 feet to the point of beginning of the easement; continuing South 87° 35' 08" East for 40 feet; thence South 2° 13' 54" West for 147.10 feet; thence North 87° 40' 29" West for 30 feet; thence North 2° 13' 55" East for 147.10 feet to the point of beginning of easement.

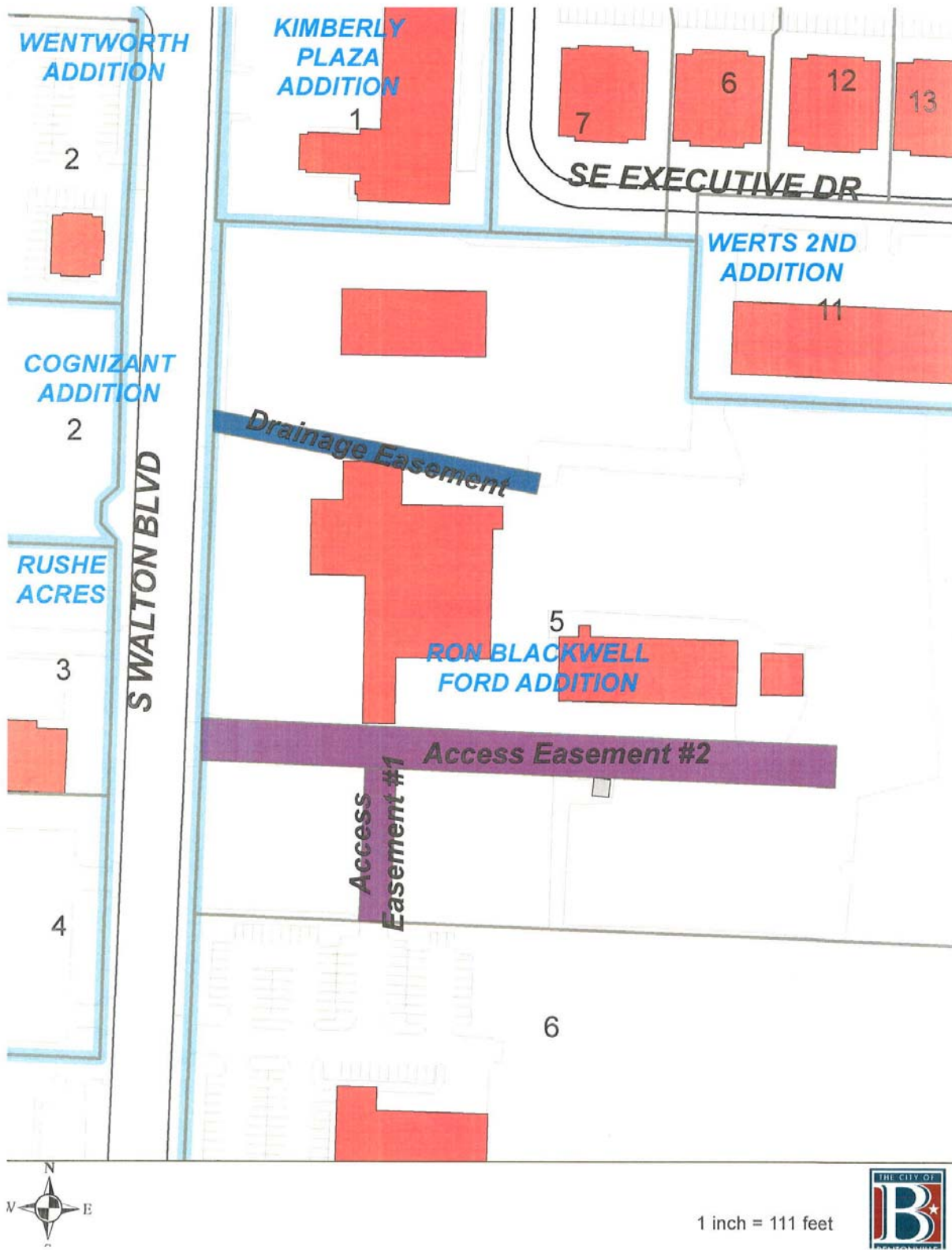
WHEREAS, Ark. Code Ann. Section 14-301-302(c) provides that the City Council shall by resolution fix a day for the hearing of the petition and shall direct the City Clerk and Recorder to give notice of the meeting, by publication, once per week for two (2) consecutive weeks in some newspaper published in and having general circulation in Bentonville, Benton County, Arkansas.

NOW, THEREFORE, BE IT RESOLVED, by the City of Bentonville, Arkansas, that the petition to close and vacate a drainage easement at the above described property is set for hearing on June 27, 2017 at 6:00 p.m. in the City Council Room of the City of Bentonville, Arkansas, and the Bentonville City Clerk and Recorder is directed to give notice of this meeting by publication as set forth by Ark. Code Ann. Section 14-301-302(c).

The above and foregoing resolution was passed, approved and adopted the _____ day of _____, 2017 at a regular meeting of the City Council of the City of Bentonville, Arkansas.

Linda Spence, City Clerk
Bentonville, Arkansas

Bob McCaslin, Mayor
City of Bentonville, Arkansas





CHECK ALL THAT APPLY		
	Bid Award	Bid #
	Budget Adjustment	
	Change Order	
	Informational	
	Ordinance	
X	Resolution	
	Other	

AGENDA FORM

CITY COUNCIL MEETING OF:

June 13, 2017

Submitted by:

Travis Matlock

Department

Electric

Phone

271-5941

ACTION REQUIRED:

A resolution setting a public hearing for June 27, 2017 for an Ingress/Egress Easement requested by Gain Robinson located at 2609 S. Walton. (Referenced in layout provided as Access Easement #2)

COST TO CITY:

Cost of this Request:

Additional Budget Amount

☐ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	-
Remaining After Adjustment	\$ -

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE



RESOLUTION NO. _____

IN THE CITY COUNCIL FOR THE CITY OF BENTONVILLE, ARKANSAS

WHEREAS, a petition was duly filed with the City Council of Bentonville, Arkansas by Gain Robinson, requesting a ingress/egress easment within the City of Bentonville, Arkansas be vacated, which said easement is described as follows:

An ingress/egress easement forty (40) feet in width per Plat Book 2003 Page 317 located in the SE Quarter of the SE Quarter of Section 6, Township 19 N, Range 30 W and described as follows:

Commencing at the NW Corner of Lot 5 of the Ron Blackwell Ford Addition to the City of Bentonville, Arkansas; thence South 474.80 feet along easterly right-of-way line of US Highway 71B to the point of beginning of the easement; thence South 87° 35' 08" East for 604.80 feet; thence S 02° 24' 52" West for 40.00 feet; thence North 87° 35' 08" West for 604.67 feet; thence North 40 feet along the easterly right-of-way line of US Highway 71B to the point of beginning of easement.

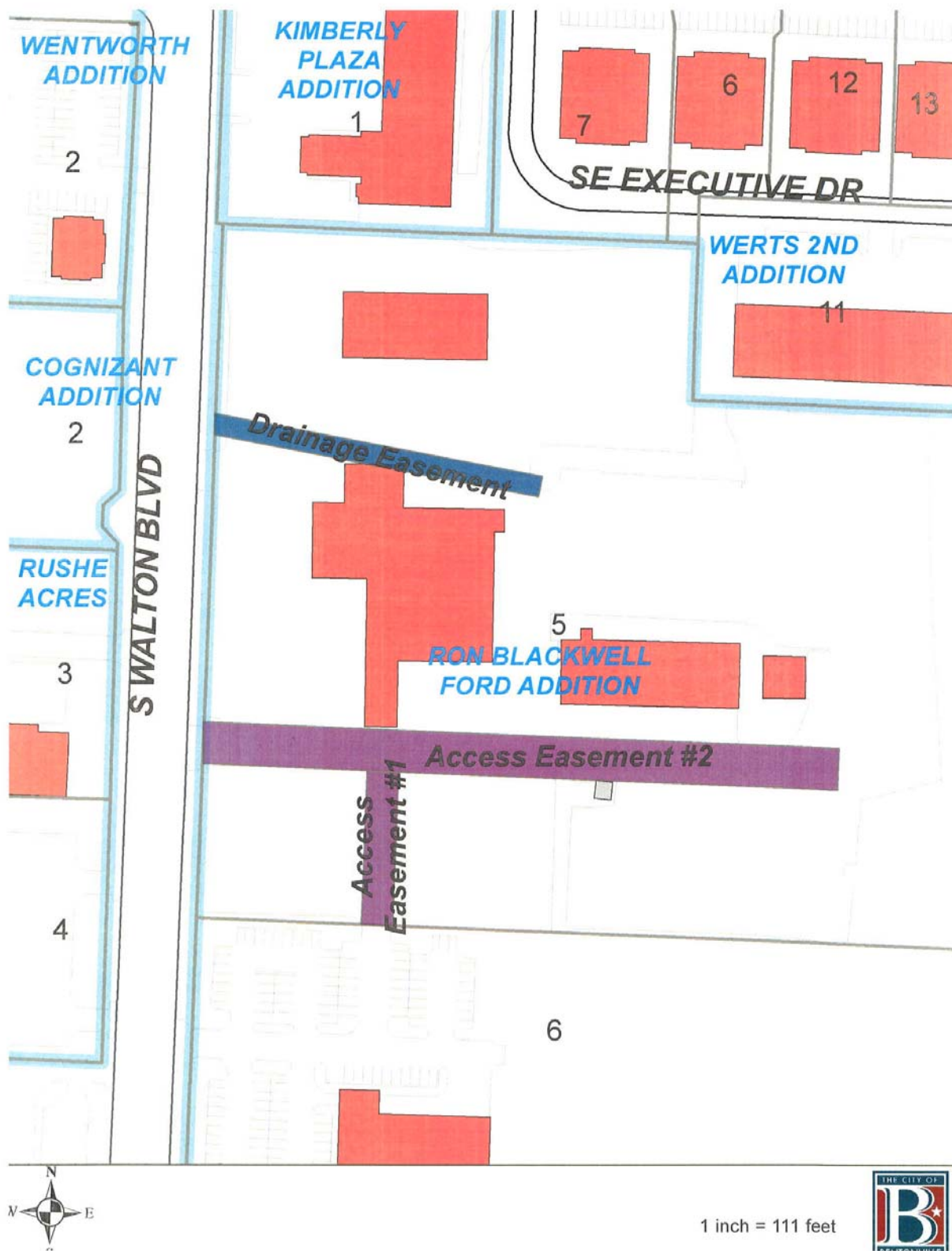
WHEREAS, Ark. Code Ann. Section 14-301-302(c) provides that the City Council shall by resolution fix a day for the hearing of the petition and shall direct the City Clerk and Recorder to give notice of the meeting, by publication, once per week for two (2) consecutive weeks in some newspaper published in and having general circulation in Bentonville, Benton County, Arkansas.

NOW, THEREFORE, BE IT RESOLVED, by the City of Bentonville, Arkansas, that the petition to close and vacate a drainage easement at the above described property is set for hearing on June 27, 2017 at 6:00 p.m. in the City Council Room of the City of Bentonville, Arkansas, and the Bentonville City Clerk and Recorder is directed to give notice of this meeting by publication as set forth by Ark. Code Ann. Section 14-301-302(c).

The above and foregoing resolution was passed, approved and adopted the _____ day of _____, 2017 at a regular meeting of the City Council of the City of Bentonville, Arkansas.

Linda Spence, City Clerk
Bentonville, Arkansas

Bob McCaslin, Mayor
City of Bentonville, Arkansas





CHECK ALL THAT APPLY			
	Bid Award	Bid #	
x	Budget Adjustment		
	Change Order		
	Informational		
	Ordinance		
	Resolution		
	Other		

AGENDA FORM

CITY COUNCIL MEETING OF:

June 13, 2017

Submitted by:

Travis Matlock

Department

Electric

Phone

271-5941

ACTION REQUIRED:

City recommends council approval of a budget adjustment for surveying services to Sandcreek Engineering in the amount of \$14,120.00.

COST TO CITY:

Cost of this Request: \$14,120

Additional Budget Amount

☐ One time amount

☒ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	-
Remaining After Adjustment	\$ -

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE



M E M O R A N D U M

DATE: June 13, 2017

TO: City Council, Mayor McCaslin

FROM: Travis Matlock, Engineer Director

RE: Budget Adjustment – Survey with Sandcreek

Staff recommends a budget adjustment in the amount of \$14,120.00 in order to pay for surveying services to Sandcreek Engineering.

There are two areas experiencing drainage concerns during medium to large rain events. One is located in Summerlin Subdivision off Morningstar Road; the other is between Meadowbrook and College Place Phase 1 & 9. In order to determine the proper solution, Bentonville needs to know the existing conditions.

Once the solutions are designed, Bentonville will evaluate whether or not the solution can be performed in house or needs to go out to bid.

PROPOSAL FOR SURVEY SERVICES

TO: City of Bentonville – Travis Matlock
("Client")
608 S.E. 3rd Street
City, State Zip
(479) 271-5941 Phone
(479) 271-5994 Fax
trmatlock@bentonvillear.com

FROM: Sand Creek Engineering and Landscape Architecture, Inc.
("Sand Creek Engineering")
1610 NW 12th Street
Bentonville, AR 72712
(479) 464-9282 Phone
(479) 464-9284 Fax

RE: Topographic Survey for
Drainage Analysis
Summerlin Subdivision
Bentonville, Arkansas

DATE: 05-24-17

PROJECT: #

DESCRIPTION OF PROJECT

The project consists of preparation of Boundary Survey. The proposed project is located on SW Wentworth Avenue, Summerlin Subdivision in Bentonville, Arkansas. Following is a list of services to be provided as well as a list of the responsibilities of the Client.

BASIC SERVICES

- Preparation of Topographic Survey
 - Flood Zone designation per FIRM FLOOD MAPS
 - Contours at 1' intervals
 - Exterior footprints of all buildings at ground level
 - Substantial visible improvements such as signs, above ground utilities, power poles, fire hydrants, fences, etc.
 - Observed evidence of utilities
 - Survey work will comply with state and local standards
 - Horizontal Datum will be NAD 1983
 - Vertical Datum will be NAVD 1988

FEE FOR SERVICES

The fee for the above listed scope of services shall be \$5,080.00, plus reimbursable expenses. The stated fee will be appropriate if the proposed scope does not change. This fee is based on all information included in this proposal being acceptable to the Client. Any change to this information or request for services not covered in this proposal shall be in writing by change order and billed accordingly as an addition. This proposal is void if not signed and retainer received within 30 days of issuance.

- Retainer Fee
 - A retainer of \$0.00 is required at signing of contract, (the retainer is in addition to and separate from the contracted amount), and is applied to the initial consultation for the possible project. This proposal is void if not signed and retainer received within 30 days of issuance.

RESPONSIBILITIES OF THE CLIENT

- Notify affected land owners of work to be done

ADDITIONAL SERVICES

Additional services are those items that may be required for the development but are not included in the project scope of services. Fees for the additional services shall be billed on an hourly basis in accordance with the fee schedule listed herein. Additional services may include but are not limited to:

- Platting services required by city

FEE SCHEDULE

Additional services shall be performed in accordance with the rates and conditions contained in the fee schedule. Engineering services and costs are divided into three categories: Labor, Sub-Consultants and Reimbursable Expenses.

- **Labor**

Fees for Labor are charged for all activity directly attributable to a Client's project. No charge is made for general office overhead, accounting or maintenance. Labor charges are billed by the following categories:

CATEGORY	RATE	CATEGORY	RATE
Owner/Principal	\$150.00	Construction Observation	\$80.00
Engineer	\$120.00	CAD Technician/Survey Field	\$70.00
Landscape Architect (Contracted)	\$120.00	Licensed Surveyor	\$110.00
Project Manager	\$100.00	Two Man Crew	\$135.00
Sr. Resource Manager	\$80.00	Clerical	\$60.00

(Hourly rates are subject to changing one time annually and this contract will be subject to the new rates if the change occurs during the life of this project.)

- **Sub-consultants**

In cases where the Engineer retains a Sub-Consultant to provide services, the cost of such services will be billed at actual invoice amount plus 10%, and sub-consultant will be paid upon receipt of payment by Client. Client may independently retain sub-consultant and pay for services directly, with the approval of the engineer regarding the sub-consultant selected.

- **Reimbursable Expenses**

Out-of-pocket materials and services will be billed at actual cost. Common items to which this rate would apply include, but are not limited to: printing and photographic work, delivery services, service laboratory testing, subsistence expenses, and survey crew supplies such as rebar, stakes, and paint. Vehicle mileage is billed at the rate of \$0.56 per mile beginning from Engineer's office to job/project and back to Engineer's offices. Aircraft travel, car rental and other similar expenses are billed at actual invoice amount.

CATEGORY	RATE	CATEGORY	RATE
Fax	\$0.15/Sheet	Mileage	\$0.56/Mile
8.5" x 11" Copies	\$0.15/Sheet	Field Survey Equipment	\$30.00/Hour
Reproducible Copies (24" x 36" Paper)	\$0.30/S.F.		

INVOICES

All outstanding invoices shall be paid prior to submittal for planning commission approval, a governing agency approval, or any documentation distributed to client or agents of client. Submittal for approval will not be made without payment prior to the submittal deadline. If surveying services are estimated to take longer than 30 days, invoices will be rendered monthly, either as final or progress billing, and will be due upon receipt. An account becomes past due thirty (30) days after the date of invoice and a late payment charge of \$100.00 per month will be assessed at Sand Creek Engineering's discretion. At Sand Creek Engineering's discretion, all work will cease on any project that becomes past due based on these procedures or as outlined in the schedule of conditions.

SCHEDULE OF CONDITIONS

SCHEDULE FOR RENDERING SERVICES

Time for Completion

- If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- If Client authorizes changes in the scope, extent, or character of the Project, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- Client shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.

INVOICES AND PAYMENTS

Payments

- Failure to Pay.** If Client fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:
 - Engineer may, after giving seven days written notice to Client, suspend services under this Agreement until Client has paid in full all amounts due for services, expenses, and other related charges. Client waives any and all claims against Engineer for any such suspension.
- Disputed Invoices.** If Client contests an invoice, Client may withhold only that portion so contested, and must pay the undisputed portion. Written notice from the Client regarding the contested amount must be received within 30 days of the invoice date.

OPINIONS OF COST

Opinions of Probable Construction Cost

- Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, since Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Client wishes greater assurance as to probable Construction Cost, Client shall employ an Independent cost estimator.

Opinions of Total Project Costs

- A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Client in collating the various cost categories which comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

GENERAL CONSIDERATIONS

Standards of Performance

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services.
- B. Client shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct any such deficiencies in technical accuracy without additional compensation except to the extent such corrective action is directly attributable to deficiencies in Client-furnished information.
- C. Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Client.
- D. Subject to the standard of care set forth above, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. Engineer and Client shall comply with applicable Laws and Regulations and Client-mandated standards that Client has provided to Engineer in writing. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to Client's responsibilities or to Engineer's scope of services, limits of performance, and compensation.
- F. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Client agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents.
- G. Engineer shall not at any time supervise, direct, or have control over Contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work.
- H. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- I. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Engineer's own employees and its Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made on interpretations or clarifications of the Contract Documents given by Client without consultation and advice of Engineer.

Design Without Construction Phase Services

- A. If Engineer's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, then (1) Engineer's services under this Agreement shall be deemed complete no later than the end of the approval of documents by governing municipality; (2) Engineer shall have no design or shop drawing review obligations during construction; (3) Client assumes all responsibility for the application and interpretation of the Contract Documents, contract administration, construction observation and review, and all other necessary Construction Phase engineering and professional services; and (4) Client waives any claims against the Engineer that may be connected in any way thereto.

Use of Documents

- A. All Documents are instruments of service in respect to this Project, and Engineer shall retain an Ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed. Client shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants.
- B. A party may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- C. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.
- D. When transferring documents in electronic media format, the transferring party makes no representations as to long-term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.
- E. Client may make and retain copies of Documents for information and reference in connection with use on the Project by Client. Engineer grants Client a license to use the Documents on the Project, extensions of the Project, and other projects of Client, subject to the following limitations: (1) Client acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Client or others on extensions of the Project or on any other project without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Client's sole risk and without liability or legal exposure to Engineer or to Engineer's Consultants; (3) Client shall indemnify and hold harmless Engineer and Engineer's Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification without written verification, completion, or adaptation by Engineer; (4) such limited license to Client shall not create any rights in third parties.
- F. If Engineer at Client's request verifies or adapts the Documents for extensions of the Project or for any other project, then Client shall compensate Engineer at rates or in an amount to be agreed upon by Client and Engineer.

Insurance

- A. Client shall require Contractor to purchase and maintain general liability and any other insurance required to protect Client and engineer from construction related activities, and to cause Engineer and Engineer's Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.
- B. All policies of property insurance relating to the Project shall contain provisions to the effect that Engineer's and Engineer's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against Engineer or its Consultants, or any insureds or additional insureds thereunder.

Suspension and Termination

- A. **Suspension.**
By Client: Client may suspend the Project upon seven days written notice to Engineer.
By Engineer: If Engineer's services are substantially delayed through no fault of Engineer, Engineer may, after giving seven days written notice to Client, suspend services under this Agreement.
- B. **Termination.** The obligation to provide further services under this Agreement may be terminated:
1. For cause,
 - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
 - b. By Engineer:
 - 1) upon seven days written notice if Client demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

- 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
 - 3) Engineer shall have no liability to Client on account of such termination.
2. For convenience,
 - a. By Client effective upon Engineer's receipt of notice from Client.
 - C. *Effective Date of Termination.* The terminating party may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
 - D. *Payments Upon Termination.*
 1. In the event of any termination, Engineer will be entitled to invoice Client and to receive full payment for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Client shall have the limited right to the use of Documents, at Client's sole risk.
 2. In the event of termination by Client for convenience or by Engineer for cause, Engineer shall be entitled, to invoice Client and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services.
- Controlling Law*
- A. This Agreement is to be governed by the law of the state in which the Project is located.
- Successors, Assigns, and Beneficiaries*
- A. Client and Engineer are hereby bound and the partners, successors, executors, administrators and legal representatives of Client and Engineer are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
 - B. Neither Client nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
 - C. Unless expressly provided otherwise in this Agreement:
 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Client or Engineer to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.
 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and Engineer and not for the benefit of any other party.
 3. Client agrees that the substance of the provisions of this Paragraph C. shall appear in the Contract Documents between Client and contractor.
- Dispute Resolution*
- A. Client and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of mediation or other provisions of this Agreement, or exercising their rights under law.
 - B. If the parties fail to resolve a dispute through negotiation, then either or both may invoke the procedures of mediation.
 1. Mediation. Client and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation by ADR, Inc. (Frank Hamlin) or other firm as selected if needed. If such mediation is unsuccessful in resolving a Dispute, then (a) the parties may mutually agree to a dispute resolution of their choice, or (b) either party may seek to have the Dispute resolved by a court of competent jurisdiction.
- Environmental Condition of Site*
- A. Client has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, Hazardous Substances, Wetlands, Endangered Species, Historical Sites, and other Constituents of Concern located at or near the Site, including type, quantity, and location.
 - B. Client represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.
 - C. If Engineer encounters an undisclosed Constituent of Concern, then Engineer shall notify (1) Client and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
 - D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern. If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Client: (1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
 - E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days notice.
 - F. Client acknowledges that Engineer is performing professional services for Client and that Engineer is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.
- Indemnification and Mutual Waiver*
- A. *Indemnification by Client.* Without waiving immunity pursuant to the law and to the fullest extent permitted by law, Client shall indemnify and hold harmless Engineer, Engineer's officers, directors, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Client or Client's officers, directors, partners, agents, consultants, or employees, or others retained by or under contract to the Client with respect to this Agreement or to the Project.
 - B. *Environmental Indemnification.* In addition to the indemnity provided under this Agreement, and to the fullest extent permitted by law, Client shall indemnify and hold harmless Engineer and its officers, directors, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (i) any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate Client to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
 - C. *Mutual Waiver.* To the fullest extent permitted by law, Client and Engineer waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.
- Miscellaneous Provisions*
- A. *Notices.* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
 - B. *Survival.* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

- C. **Severability.** Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Client and Engineer, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. **Waiver.** A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it effect the enforceability of that provision or of the remainder of this Agreement.
- E. **Accrual of Claims.** To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

Role of Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative ("RPR"), assistants, and other field staff to assist Engineer in observing progress and quality of the Work. The RPR, assistants, and other field staff under may provide full time representation or may provide representation to a lesser degree.
- B. Through such additional observations of Contractor's work in progress and field checks of materials and equipment by the RPR and assistants, Engineer shall endeavor to provide further protection for Client against defects and deficiencies in the Work. However, Engineer shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over the Contractor's Work nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to the Contractor's work in progress, for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's performing and furnishing the Work, or responsibility for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- C. The duties and responsibilities of the RPR are as follows:
 - 1. **General.** RPR is Engineer's agent at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions. RPR's dealings in matters pertaining to the Contractor's work in progress shall in general be with Engineer and Contractor, keeping Client advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Client with the knowledge of and under the direction of Engineer.
 - 2. **Conferences and Meetings.** Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and advise engineer of contents of such meetings.
 - 3. **Liaison:**
 - a. Serve as Engineer's liaison with Contractor, working principally through Contractor's superintendent, assist in providing information regarding the intent of the Contract Documents.
 - b. Assist Engineer in serving as Client's liaison with Contractor when Contractor's operations affect Client's on-Site operations.
 - c. Assist in obtaining from Client additional details or information, when required for proper execution of the Work.
 - 4. **Interpretation of Contract Documents:** Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
 - 5. **Modifications:** Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
 - 6. **Review of Work and Rejection of Defective Work:**
 - a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will impair the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
 - 7. **Inspections, Tests, and System Startups:**
 - a. Consult with Engineer in advance of scheduled major inspections, tests, and systems startups of important phases of the Work.
 - b. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
 - c. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to Engineer.
 - 8. **Records:**
 - a. Prepare a daily report or keep a diary or log book, recording Contractor's general activities on the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
 - b. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.
 - 9. **Reports:**
 - a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
 - b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
 - c. Furnish to Engineer and Client copies of all inspection, test, and system start-up reports.
 - d. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Constituent of Concern.
 - 10. **Payment Requests:** Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.
 - 11. **Completion:**
 - a. Participate in a Substantial Completion inspection, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.
 - b. Participate in a final inspection in the company of, Client, and Contractor and prepare a final list of items to be completed and deficiencies to be remedied.
 - c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance.
- D. Resident Project Representative shall not:
 - 1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
 - 2. Exceed limitations of Engineer's authority as set forth in the Agreement or the Contract Documents.
 - 3. Undertake any of the responsibilities of Contractor, subcontractors, suppliers, or Contractor's superintendent.
 - 4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work unless such advice or directions are specifically required by the Contract Documents.
 - 5. Advise on, issue directions regarding, or assume control over safety practices, precautions, and programs in connection with the activities or operations of Client or Contractor.

6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Client to occupy the Project in whole or in part.

Client's Responsibilities

In addition to other responsibilities of Client as set forth in this Agreement, Client shall at its expense:

- A. Provide Engineer with all criteria and full information as to Client's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Client will require to be included in the Drawings and Specifications; and furnish copies of Client's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.
- B. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.
- C. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 1. Property descriptions.
 2. Zoning, deed, and other land use restrictions.
 3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
 5. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
 6. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.
- D. Give prompt written notice to Engineer whenever Client observes or otherwise becomes aware of the presence at the Site of any Constituent of Concern, or of any other development that affects the scope or time of performance of Engineer's services, or any defect or nonconformance in Engineer's services, the Work, or in the performance of any Contractor.
- E. Authorize Engineer to provide Additional Services as set forth in the Agreement as required.
- F. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
- G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Client deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.
- I. Provide, as required for the Project:
 1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
 2. Legal services with regard to issues pertaining to the Project as Client requires, Contractor raises, or Engineer reasonably requests.
 3. Such auditing services as Client requires to ascertain how or for what purpose Contractor has used the moneys paid.
 4. Placement and payment for advertisement for Bids in appropriate publications, plan rooms, etc., as required by Client.
- J. Advise Engineer of the identity and scope of services of any independent consultants employed by Client to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
- K. Furnish to Engineer data as to Client's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Client so that Engineer may assist Client in collating the various cost categories which comprise Total Project Costs.
- L. If Client designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Client at the Site, define and set forth as an attachment to this Agreement the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- M. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Agreement that is to be mutually agreed upon and made a part of this Agreement before such services begin.
- N. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment inspections.
- O. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of Samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of Client, prior to their incorporation into the Work with appropriate professional interpretation thereof.

DEFINITIONS

Defined Terms

- A. Wherever used in this Agreement terms (including the singular and plural forms) have the meanings indicated:
 1. *Additional Services* – The services to be performed for or furnished to Client by Engineer in accordance with this Agreement at hourly rates.
 2. *Basic Services* – The services to be performed for or furnished to Client by Engineer in accordance with this Agreement at contracted amount.
 3. *Construction Cost* – The cost to Client of those portions of the entire Project designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants, cost of land or rights-of-way, or compensation for damages to properties, or Client's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to Client pursuant to this Agreement. Construction Cost is one of the items comprising Total Project Costs.
 4. *Constituent of Concern* – Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; and (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material. In addition, any site features such as but not limited to Corps of Engineers designated Wetlands, Waters of the US, Endangered Species, or Historical Sites shall be considered a Constituent of Concern.
 5. *Consultants* – Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates, consultants, subcontractors, or vendors.
 6. *Documents* – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Client pursuant to this Agreement.
 7. *Drawings* – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.
 8. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
 9. *Reimbursable Expenses* – The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Project.

10. *Resident Project Representative* – The authorized representative of Engineer, if any, assigned to assist Engineer at the Site during the Construction Phase. The Resident Project Representative will be Engineer's agent or employee and under Engineer's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative as assigned by the engineer. The duties and responsibilities of the Resident Project Representative, if any, are set forth in this document.
11. *Specifications* – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
12. *Total Project Costs* – The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Client furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Client's costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Client pursuant to this Agreement.

Total Agreement

- A. This Agreement constitutes the entire agreement between Client and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument agreeable to both Client and engineer.

Designated Representatives

- A. With the execution of this Agreement, Engineer and Client shall designate specific individuals to act as Engineer's and Client's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Client under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

This document has been prepared in part by utilizing EJCDC E-500 Standard Form of Agreement between Client and Engineer for Professional Services Copyright ©2002 National Society of Professional Engineers for EJCDC. All rights reserved.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Client:

By: _____

Title: _____

Date Signed: _____

Address for giving notices:

Designated Representative:

Title: _____

Phone Number: _____

Facsimile Number: _____

E-Mail Address: _____

Engineer:

Timothy R. Sorey, P.E.

By: _____

Title: President

Date Signed: 5/25/17

Engineer License or Certificate No. 9253

State of: Arkansas

Address for giving notices:

Sand Creek Engineering and Landscape Architecture, Inc.
1610 NW 12th Street
Bentonville, AR 72712

Designated Representative:

Jim Collins

Title: Survey Manager

Phone Number: (479) 464-9282

Facsimile Number: (479) 464-9284

E-Mail Address: jcollins@sandcreek.us



ACKNOWLEDGMENT

To: "NEW CLIENT"

Re: **Acknowledgement of Sand Creek Engineering Receivable Policy**

Sand Creek Engineering's Receivable Policy is as stated in the contract. If an invoice becomes past due, a late payment charge of \$100 per month will be assessed and a statement of the account will be issued. Until a full payment of the invoiced amount and late payments are received, no further work will be provided by Sand Creek Engineering on the project. This may adversely affect the project's scheduled progress and completion.

Signing this acknowledgment and the contract indicates your understanding and willing participation of the policy.

Client Signature Date

Accounts Payable Contact

Accts. Payable Email Address

Accts. Payable Phone Number

Sand Creek Representative Date
05-24-17

Lisa Morris
Sand Creek Engineering
Office Mgr. / Accts. Receivable
lmorris@sandcreek.us

(479) 464-9282

All invoices and statements will be emailed to the client's accounts payable contact with receipt confirmation. If communication of email fails, a phone call will be made to verify receipt of correspondence. A hard copy of the invoice can be mailed if requested by the client.

PROPOSAL FOR SURVEY SERVICES

TO: City of Bentonville – Travis Matlock ("Client")
608 S.E. 3rd Street
City, State Zip
(479) 271-5941 Phone
(479) 271-5994 Fax
tmallock@bentonvillear.com

FROM: Sand Creek Engineering and Landscape Architecture, Inc.
("Sand Creek Engineering")
1610 NW 12th Street
Bentonville, AR 72712
(479) 464-9282 Phone
(479) 464-9284 Fax

RE: Topographic Survey for
Drainage Analysis
Meadowbrook Subdivision
Bentonville, Arkansas

DATE: 05-24-17

PROJECT: #

DESCRIPTION OF PROJECT

The project consists of preparation of Boundary Survey. The proposed project is located on SE 8th Street, Meadowbrook Subdivision in Bentonville, Arkansas. Following is a list of services to be provided as well as a list of the responsibilities of the Client.

BASIC SERVICES

- Preparation of Topographic Survey
 - Flood Zone designation per FIRM FLOOD MAPS
 - Contours at 1' intervals
 - Exterior footprints of all buildings at ground level
 - Substantial visible Improvements such as signs, above ground utilities, power poles, fire hydrants, fences, etc.
 - Observed evidence of utilities
 - Survey work will comply with state and local standards
 - Horizontal Datum will be NAD 1983
 - Vertical Datum will be NAVD 1988

FEE FOR SERVICES

The fee for the above listed scope of services shall be **\$9,040.00, plus reimbursable expenses**. The stated fee will be appropriate if the proposed scope does not change. This fee is based on all information included in this proposal being acceptable to the Client. Any change to this information or request for services not covered in this proposal shall be in writing by change order and billed accordingly as an addition. This proposal is void if not signed and retainer received within 30 days of issuance.

- Retainer Fee
 - A retainer of **\$0.00** is required at signing of contract, (the retainer is in addition to and separate from the contracted amount), and is applied to the initial consultation for the possible project. This proposal is void if not signed and retainer received within 30 days of issuance.

RESPONSIBILITIES OF THE CLIENT

- Notify affected land owners of work to be done

ADDITIONAL SERVICES

Additional services are those items that may be required for the development but are not included in the project scope of services. Fees for the additional services shall be billed on an hourly basis in accordance with the fee schedule listed herein. Additional services may include but are not limited to:

- Platting services required by city

FEE SCHEDULE

Additional services shall be performed in accordance with the rates and conditions contained in the fee schedule. Engineering services and costs are divided into three categories: Labor, Sub-Consultants and Reimbursable Expenses.

- **Labor**

Fees for Labor are charged for all activity directly attributable to a Client's project. No charge is made for general office overhead, accounting or maintenance. Labor charges are billed by the following categories:

CATEGORY	RATE	CATEGORY	RATE
Owner/Principal	\$150.00	Construction Observation	\$80.00
Engineer	\$120.00	CAD Technician/Survey Field	\$70.00
Landscape Architect (Contracted)	\$120.00	Licensed Surveyor	\$110.00
Project Manager	\$100.00	Two Man Crew	\$135.00
Sr. Resource Manager	\$80.00	Clerical	\$60.00

(Hourly rates are subject to changing one time annually and this contract will be subject to the new rates if the change occurs during the life of this project.)

- **Sub-consultants**

In cases where the Engineer retains a Sub-Consultant to provide services, the cost of such services will be billed at actual invoice amount plus 10%, and sub-consultant will be paid upon receipt of payment by Client. Client may independently retain sub-consultant and pay for services directly, with the approval of the engineer regarding the sub-consultant selected.

- **Reimbursable Expenses**

Out-of-pocket materials and services will be billed at actual cost. Common items to which this rate would apply include, but are not limited to: printing and photographic work, delivery services, service laboratory testing, subsistence expenses, and survey crew supplies such as rebar, stakes, and paint. Vehicle mileage is billed at the rate of \$0.56 per mile beginning from Engineer's office to job/project and back to Engineer's offices. Aircraft travel, car rental and other similar expenses are billed at actual invoice amount.

CATEGORY	RATE	CATEGORY	RATE
Fax	\$0.15/Sheet	Mileage	\$0.56/Mile
8.5" x 11" Copies	\$0.15/Sheet	Field Survey Equipment	\$30.00/Hour
Reproducible Copies (24" x 36" Paper)	\$0.30/S.F.		

INVOICES

All outstanding invoices shall be paid prior to submittal for planning commission approval, a governing agency approval, or any documentation distributed to client or agents of client. Submittal for approval will not be made without payment prior to the submittal deadline. If surveying services are estimated to take longer than 30 days, invoices will be rendered monthly, either as final or progress billing, and will be due upon receipt. An account becomes past due thirty (30) days after the date of invoice and a late payment charge of \$100.00 per month will be assessed at Sand Creek Engineering's discretion. At Sand Creek Engineering's discretion, all work will cease on any project that becomes past due based on these procedures or as outlined in the schedule of conditions.

SCHEDULE OF CONDITIONS

SCHEDULE FOR RENDERING SERVICES

Time for Completion

- If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- If Client authorizes changes in the scope, extent, or character of the Project, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- Client shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.

INVOICES AND PAYMENTS

Payments

- Failure to Pay.** If Client fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:
 - Engineer may, after giving seven days written notice to Client, suspend services under this Agreement until Client has paid in full all amounts due for services, expenses, and other related charges. Client waives any and all claims against Engineer for any such suspension.
- Disputed Invoices.** If Client contests an invoice, Client may withhold only that portion so contested, and must pay the undisputed portion. Written notice from the Client regarding the contested amount must be received within 30 days of the invoice date.

OPINIONS OF COST

Opinions of Probable Construction Cost

- Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, since Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Client wishes greater assurance as to probable Construction Cost, Client shall employ an independent cost estimator.

Opinions of Total Project Costs

- A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Client in collating the various cost categories which comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

GENERAL CONSIDERATIONS

Standards of Performance

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services.
- B. Client shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct any such deficiencies in technical accuracy without additional compensation except to the extent such corrective action is directly attributable to deficiencies in Client-furnished information.
- C. Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Client.
- D. Subject to the standard of care set forth above, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. Engineer and Client shall comply with applicable Laws and Regulations and Client-mandated standards that Client has provided to Engineer in writing. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to Client's responsibilities or to Engineer's scope of services, times of performance, and compensation.
- F. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Client agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents.
- G. Engineer shall not at any time supervise, direct, or have control over Contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work.
- H. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- I. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Engineer's own employees and its Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made on interpretations or clarifications of the Contract Documents given by Client without consultation and advice of Engineer.

Design Without Construction Phase Services

- A. If Engineer's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, then (1) Engineer's services under this Agreement shall be deemed complete no later than the end of the approval of documents by governing municipality; (2) Engineer shall have no design or shop drawing review obligations during construction; (3) Client assumes all responsibility for the application and interpretation of the Contract Documents, contract administration, construction observation and review, and all other necessary Construction Phase engineering and professional services; and (4) Client waives any claims against the Engineer that may be connected in any way thereto.

Use of Documents

- A. All Documents are instruments of service in respect to this Project, and Engineer shall retain an Ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed. Client shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants.
- B. A party may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- C. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.
- D. When transferring documents in electronic media format, the transferring party makes no representations as to long-term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.
- E. Client may make and retain copies of Documents for information and reference in connection with use on the Project by Client. Engineer grants Client a license to use the Documents on the Project, extensions of the Project, and other projects of Client, subject to the following limitations: (1) Client acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Client's sole risk and without liability or legal exposure to Engineer or to Engineer's Consultants; (3) Client shall indemnify and hold harmless Engineer and Engineer's Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification without written verification, completion, or adaptation by Engineer; (4) such limited license to Client shall not create any rights in third parties.
- F. If Engineer at Client's request verifies or adapts the Documents for extensions of the Project or for any other project, then Client shall compensate Engineer at rates or in an amount to be agreed upon by Client and Engineer.

Insurance

- A. Client shall require Contractor to purchase and maintain general liability and any other insurance required to protect Client and engineer from construction related activities, and to cause Engineer and Engineer's Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.
- B. All policies of property insurance relating to the Project shall contain provisions to the effect that Engineer's and Engineer's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against Engineer or its Consultants, or any insureds or additional insureds thereunder.

Suspension and Termination

- A. *Suspension.*
By Client: Client may suspend the Project upon seven days written notice to Engineer.
By Engineer: If Engineer's services are substantially delayed through no fault of Engineer, Engineer may, after giving seven days written notice to Client, suspend services under this Agreement.
- B. *Termination.* The obligation to provide further services under this Agreement may be terminated:
1. For cause,
 - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
 - b. By Engineer:
 - 1) upon seven days written notice if Client demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

- 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
 - 3) Engineer shall have no liability to Client on account of such termination.
2. For convenience,
 - a. By Client effective upon Engineer's receipt of notice from Client.
 - C. *Effective Date of Termination.* The terminating party may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
 - D. *Payments Upon Termination.*
 1. In the event of any termination, Engineer will be entitled to invoice Client and to receive full payment for all services performed or furnished and all Reimbursable Expenses Incurred through the effective date of termination. Upon making such payment, Client shall have the limited right to the use of Documents, at Client's sole risk.
 2. In the event of termination by Client for convenience or by Engineer for cause, Engineer shall be entitled, to invoice Client and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services.
- Controlling Law*
- A. This Agreement is to be governed by the law of the state in which the Project is located.
- Successors, Assigns, and Beneficiaries*
- A. Client and Engineer are hereby bound and the partners, successors, executors, administrators and legal representatives of Client and Engineer are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
 - B. Neither Client nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
 - C. Unless expressly provided otherwise in this Agreement:
 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Client or Engineer to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.
 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and Engineer and not for the benefit of any other party.
 3. Client agrees that the substance of the provisions of this Paragraph C. shall appear in the Contract Documents between Client and contractor.
- Dispute Resolution*
- A. Client and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of mediation or other provisions of this Agreement, or exercising their rights under law.
 - B. If the parties fail to resolve a dispute through negotiation, then either or both may invoke the procedures of mediation.
 1. Mediation. Client and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation by ADR, Inc. (Frank Hamlin) or other firm as selected if needed. If such mediation is unsuccessful in resolving a Dispute, then (a) the parties may mutually agree to a dispute resolution of their choice, or (b) either party may seek to have the Dispute resolved by a court of competent jurisdiction.
- Environmental Condition of Site*
- A. Client has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, Hazardous Substances, Wetlands, Endangered Species, Historical Sites, and other Constituents of Concern located at or near the Site, including type, quantity, and location.
 - B. Client represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.
 - C. If Engineer encounters an undisclosed Constituent of Concern, then Engineer shall notify (1) Client and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
 - D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern. If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Client: (1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
 - E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days notice.
 - F. Client acknowledges that Engineer is performing professional services for Client and that Engineer is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.
- Indemnification and Mutual Waiver*
- A. *Indemnification by Client.* Without waiving immunity pursuant to the law and to the fullest extent permitted by law, Client shall indemnify and hold harmless Engineer, Engineer's officers, directors, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Client or Client's officers, directors, partners, agents, consultants, or employees, or others retained by or under contract to the Client with respect to this Agreement or to the Project.
 - B. *Environmental Indemnification.* In addition to the Indemnity provided under this Agreement, and to the fullest extent permitted by law, Client shall indemnify and hold harmless Engineer and its officers, directors, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (i) any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate Client to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
 - C. *Mutual Waiver.* To the fullest extent permitted by law, Client and Engineer waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.
- Miscellaneous Provisions*
- A. *Notices.* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
 - B. *Survival.* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement shall survive its completion or termination for any reason.

- C. **Severability.** Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Client and Engineer, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. **Waiver.** A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. **Accrual of Claims.** To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.
- Role of Resident Project Representative**
- A. Engineer shall furnish a Resident Project Representative ("RPR"), assistants, and other field staff to assist Engineer in observing progress and quality of the Work. The RPR, assistants, and other field staff under may provide full time representation or may provide representation to a lesser degree.
- B. Through such additional observations of Contractor's work in progress and field checks of materials and equipment by the RPR and assistants, Engineer shall endeavor to provide further protection for Client against defects and deficiencies in the Work. However, Engineer shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over the Contractor's Work nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to the Contractor's work in progress, for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's performing and furnishing the Work, or responsibility for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- C. The duties and responsibilities of the RPR are as follows:
- General:** RPR is Engineer's agent at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions. RPR's dealings in matters pertaining to the Contractor's work in progress shall in general be with Engineer and Contractor, keeping Client advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Client with the knowledge of and under the direction of Engineer.
 - Conferences and Meetings:** Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and advise engineer of contents of such meetings.
 - Liaison:**
 - Serve as Engineer's liaison with Contractor, working principally through Contractor's superintendent, assist in providing information regarding the intent of the Contract Documents.
 - Assist Engineer in serving as Client's liaison with Contractor when Contractor's operations affect Client's on-Site operations.
 - Assist in obtaining from Client additional details or information, when required for proper execution of the Work.
 - Interpretation of Contract Documents:** Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
 - Modifications:** Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
 - Review of Work and Rejection of Defective Work:**
 - Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will impair the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
 - Inspections, Tests, and System Startups:**
 - Consult with Engineer in advance of scheduled major inspections, tests, and systems startups of important phases of the Work.
 - Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
 - Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to Engineer.
 - Records:**
 - Prepare a daily report or keep a diary or log book, recording Contractor's general activities on the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
 - Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.
 - Reports:**
 - Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
 - Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
 - Furnish to Engineer and Client copies of all inspection, test, and system start-up reports.
 - Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Constituent of Concern.
 - Payment Requests:** Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.
 - Completion:**
 - Participate in a Substantial Completion inspection, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.
 - Participate in a final inspection in the company of, Client, and Contractor and prepare a final list of items to be completed and deficiencies to be remedied.
 - Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance.
- D. Resident Project Representative shall not:
- Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
 - Exceed limitations of Engineer's authority as set forth in the Agreement or the Contract Documents.
 - Undertake any of the responsibilities of Contractor, subcontractors, suppliers, or Contractor's superintendent.
 - Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work unless such advice or directions are specifically required by the Contract Documents.
 - Advise on, issue directions regarding, or assume control over safety practices, precautions, and programs in connection with the activities or operations of Client or Contractor.

6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Client to occupy the Project in whole or in part.

Client's Responsibilities

In addition to other responsibilities of Client as set forth in this Agreement, Client shall at its expense:

- A. Provide Engineer with all criteria and full information as to Client's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Client will require to be included in the Drawings and Specifications; and furnish copies of Client's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.
- B. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.
- C. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 1. Property descriptions.
 2. Zoning, deed, and other land use restrictions.
 3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
 5. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
 6. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.
- D. Give prompt written notice to Engineer whenever Client observes or otherwise becomes aware of the presence at the Site of any Constituent of Concern, or of any other development that affects the scope or time of performance of Engineer's services, or any defect or nonconformance in Engineer's services, the Work, or in the performance of any Contractor.
- E. Authorize Engineer to provide Additional Services as set forth in the Agreement as required.
- F. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
- G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Client deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.
- I. Provide, as required for the Project:
 1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
 2. Legal services with regard to issues pertaining to the Project as Client requires, Contractor raises, or Engineer reasonably requests.
 3. Such auditing services as Client requires to ascertain how or for what purpose Contractor has used the moneys paid.
 4. Placement and payment for advertisement for Bids in appropriate publications, plan rooms, etc., as required by Client.
- J. Advise Engineer of the identity and scope of services of any independent consultants employed by Client to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
- K. Furnish to Engineer data as to Client's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Client so that Engineer may assist Client in collating the various cost categories which comprise Total Project Costs.
- L. If Client designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Client at the Site, define and set forth as an attachment to this Agreement the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- M. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Agreement that is to be mutually agreed upon and made a part of this Agreement before such services begin.
- N. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment inspections.
- O. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of Samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of Client, prior to their incorporation into the Work with appropriate professional interpretation thereof.

DEFINITIONS

Defined Terms

- A. Wherever used in this Agreement terms (including the singular and plural forms) have the meanings indicated:
 1. **Additional Services** – The services to be performed for or furnished to Client by Engineer in accordance with this Agreement at hourly rates.
 2. **Basic Services** – The services to be performed for or furnished to Client by Engineer in accordance with this Agreement at contracted amount.
 3. **Construction Cost** – The cost to Client of those portions of the entire Project designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants, cost of land or rights-of-way, or compensation for damages to properties, or Client's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to Client pursuant to this Agreement. Construction Cost is one of the items comprising Total Project Costs.
 4. **Constituent of Concern** – Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to [a] the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); [b] the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; [c] the Resource Conservation and Recovery Act, 42 U.S.C. §§6001 et seq. ("RCRA"); [d] the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; [e] the Clean Water Act, 33 U.S.C. §§1251 et seq.; [f] the Clean Air Act, 42 U.S.C. §§7401 et seq.; and [g] any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material. In addition, any site features such as but not limited to Corps of Engineers designated Wetlands, Waters of the US, Endangered Species, or Historical Sites shall be considered a Constituent of Concern.
 5. **Consultants** – Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates, consultants, subcontractors, or vendors.
 6. **Documents** – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Client pursuant to this Agreement.
 7. **Drawings** – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.
 8. **Laws and Regulations; Laws or Regulations** – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
 9. **Reimbursable Expenses** – The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Project.

10. *Resident Project Representative* – The authorized representative of Engineer, if any, assigned to assist Engineer at the Site during the Construction Phase. The Resident Project Representative will be Engineer's agent or employee and under Engineer's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative as assigned by the engineer. The duties and responsibilities of the Resident Project Representative, if any, are set forth in this document.
11. *Specifications* – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
12. *Total Project Costs* – The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Client furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Client's costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Client pursuant to this Agreement.

Total Agreement

- A. This Agreement constitutes the entire agreement between Client and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument agreeable to both Client and engineer.

Designated Representatives

- A. With the execution of this Agreement, Engineer and Client shall designate specific individuals to act as Engineer's and Client's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Client under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

This document has been prepared in part by utilizing EJCDC E-500 Standard Form of Agreement between Client and Engineer for Professional Services Copyright ©2002 National Society of Professional Engineers for EJCDC. All rights reserved.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Client:

By: _____

Title: _____

Date Signed: _____

Address for giving notices:

Designated Representative:

Title: _____

Phone Number: _____

Facsimile Number: _____

E-Mail Address: _____

Engineer:

Timothy R. Sorey, P.E.

By: _____

Title: President

Date Signed: 5/25/17

Engineer License or Certificate No. 9253

State of: Arkansas

Address for giving notices:

Sand Creek Engineering and Landscape Architecture, Inc.

1610 NW 12th Street

Bentonville, AR 72712

Designated Representative:

Jim Collins

Title: Survey Manager

Phone Number: (479) 464-9282

Facsimile Number: (479) 464-9284

E-Mail Address: jcollins@sandcreek.us



ACKNOWLEDGMENT

To: "NEW CLIENT"

Re: Acknowledgement of Sand Creek Engineering Receivable Policy

Sand Creek Engineering's Receivable Policy is as stated in the contract. If an invoice becomes past due, a late payment charge of \$100 per month will be assessed and a statement of the account will be issued. Until a full payment of the invoiced amount and late payments are received, no further work will be provided by Sand Creek Engineering on the project. This may adversely affect the project's scheduled progress and completion.

Signing this acknowledgment and the contract indicates your understanding and willing participation of the policy.

Client Signature Date

Accounts Payable Contact

Accts. Payable Email Address

Accts. Payable Phone Number

Sand Creek Representative Date
05-24-17

Lisa Morris
Sand Creek Engineering
Office Mgr. / Accts. Receivable
lmorris@sandcreek.us

(479) 464-9282

All invoices and statements will be emailed to the client's accounts payable contact with receipt confirmation. If communication of email fails, a phone call will be made to verify receipt of correspondence. A hard copy of the invoice can be mailed if requested by the client.



CHECK ALL THAT APPLY			
	Bid Award	Bid #	
	Budget Adjustment		
	Change Order		
	Informational		
	Ordinance		
X	Resolution		
	Other		

AGENDA FORM

CITY COUNCIL MEETING OF:

June 13, 2017

Submitted by:

Travis Matlock

Department

Electric

Phone

271-5941

ACTION REQUIRED:

A resolution authorizing the Mayor and City Council to enter into a contract with Osmose to provide pole testing to the City of Bentonville Electric Department for an amount not to exceed \$26,600.00.

COST TO CITY:

Cost of this Request: \$26,600

Additional Budget Amount

☒ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	-
Remaining After Adjustment	\$ -

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE



MEMORANDUM

DATE: June 13, 2017

TO: City Council, Mayor McCaslin

FROM: Travis Matlock, Engineer Director

RE: Resolution for the Mayor and City Council to
enter into an agreement with Osmose

The Electric Department recommends entering into a contract with Osmose to provide power pole testing and engineering services to the City of Bentonville, for an amount not to exceed \$26,600.

Osmose will test approximately 700 of the City's poles for structural integrity. If they do find a problem (such as internal voids or decay), Osmose will perform repairs that will add approximately 10 yrs to the life of the poles. The testing will also identify poles that require immediate attention from the Electric Department due to the amount of internal or external decaying that endangers the integrity of the system.

Osmose has been treating power poles for the last few years, establishing a treatment cycle. This is a 2017-budgeted item.



May 17, 2017

ACCEPTANCE COPY

Mr. Travis Matlock
Engineering Director
CITY OF BENTONVILLE
608 Southeast Third St.
Bentonville, AR 72712

RE: POLE INSPECTION AND TREATMENT PRICING PROPOSAL – 2017

Dear Mr. Matlock:

At the request of our Director-Business Development, Mr. Dave LaPlante, we are submitting the attached unit prices (Schedule 1) for your approval and acceptance. This pertains to the inspection and treatment of approximately 700 distribution poles in 2017. Please note this is not to exceed an amount of \$26,000.

If the attached pricing is acceptable, Osmose will perform the work in accordance with the terms and conditions under our General Services Agreement dated January 9, 2012.

Due to recent revisions in our specifications, please note that Osmose will perform the work in accordance with the attached updated Exhibit A. Exhibit A is an integral part of this proposal and outlines the technical specifications we are proposing. Any contract or agreement that results from this proposal shall include Exhibit A, whether or not it is specifically referenced in the contract and should be referenced in any Purchase Order issued for work specified under this contract. This new specification will replace all other specifications previously submitted.

An insurance certificate covering Osmose for this work is attached for your convenience.

If you need further assistance or have any questions concerning this proposal, please do not hesitate to contact Dave at 573-590-0137.

We look forward to working with you on this important project. If these prices are acceptable, please sign, date, and return an acceptance copy so that we can schedule crews to begin this project.

Sincerely,



John W. DuVal
Director-Contracts

Accepted By:

Attachment

JWD/cd

C: File
1022439

Name: _____
Title: _____
CITY OF BENTONVILLE

Date

Osmose Utilities Services, Inc.
635 Highway 74 South • Peachtree City, GA 30269
Phone: 770-632-6700 • Fax: 678-364-0844

Osmose Utilities Services, Inc.

SCHEDULE 1

05/17/2017

(Approximately 700 Distribution Poles)

UNIT DESCRIPTION	PRICE
EXTERNAL TREAT	\$ 50.19
EXCAVATED REJECT	\$ 46.68
REJECT WITH EXTERNAL TREAT	\$ 50.19
VISUAL	\$ 9.26
SOUND AND BORE	\$ 11.67
INTERNAL TREAT	\$ 23.35
MITC-FUME PER TUBE	\$ 9.48
INSTALL POLE STENCIL	\$ 0.30
ONLINE DELIVERY	\$ N/C
INSTALL GUY MARKER-CUSTOMER PROVIDED	\$ 9.34
*GROUNDWIRE REPAIR	\$ 21.87
EXCAVATE CABLE	\$ 9.93

*Please note, the groundwire repair item listed on the price schedule will be made from the groundline to a distance as high as Osmose can reasonably reach from the ground.

**Osmose Utilities Services, Inc. EXHIBIT A
IN-SERVICE WOOD POLE INSPECTION (FULL EXCAVATION) AND
REMEDIAL TREATMENT SPECIFICATIONS**

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**TABLE 1 MINIMUM GROUNDLINE
EFFECTIVE CIRCUMFERENCE**

**Osmose Utilities Services, Inc. EXHIBIT A
IN-SERVICE WOOD POLE INSPECTION (FULL EXCAVATION) AND
REMEDIAL TREATMENT SPECIFICATIONS**

1.0 General:

1.1 Scope: This specification is intended as a basis for the inspection and supplemental treatment of wood poles. Poles less than 10 years old will only be visually inspected and reported if the visual inspection warrants no further action. All other poles are to be inspected both above and below the groundline area.

1.2 Contract Definitions:

1. OWNER: City of Bentonville Electric Utility Department
2. CONTRACTOR: Osmose Utilities Services, Inc.

1.3 CONTRACTOR Requirements: CONTRACTOR shall furnish all supervision, labor, tools, equipment, report forms, field adaptable handheld data collection devices, transportation, and material necessary for the inspection and treatment of OWNER's poles as identified. OWNER will furnish copies of this specification and necessary maps showing locations of poles which are the subjects for inspection and/or treatment. OWNER shall provide CONTRACTOR the legal right to access the work site.

CONTRACTOR is required to have a minimum of 10 years in the in-service pole inspection and treatment business. CONTRACTOR must have documented programs/policies conforming to the Environmental Protection Agency ("EPA"), the Occupational Safety and Health Administration ("OSHA"), the Department of Transportation ("DOT"), along with all federal and state pesticide regulations. These policies must include a safety manual, pesticide training manual and test, standards for safe storage of preservatives on vehicles, operating policies for CONTRACTOR's personnel to handle preservatives and procedures for disposing of empty containers used for pole treatment in compliance with label requirements, and OSHA regulations involving Personal Protective Equipment ("PPE").

CONTRACTOR shall maintain throughout the term of the applicable agreement, in full force and effect, in amounts reasonably satisfactory to OWNER and otherwise in compliance with applicable law, the following insurance coverages: Workers' Compensation, Commercial General Liability (including Public Liability, Personal Injury, Property Damage, and Contractual Liability) and Automobile Liability. Prior to the commencement of the work, CONTRACTOR shall furnish OWNER with a certificate evidencing said coverages.

1.4 Personnel Qualifications:

1.4.1 Foremen Qualifications: Each Foreman shall have:

- A minimum of eight weeks formal training in the art of inspecting and treating poles and/or
- A minimum of six months experience as a pole inspector
- Passed a written or demonstration test to the satisfaction of CONTRACTOR

**Osmose Utilities Services, Inc. EXHIBIT A
IN-SERVICE WOOD POLE INSPECTION (FULL EXCAVATION) AND
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- Passed a CONTRACTOR-approved pesticide training program, qualifying the Foreman having the expertise and training to handle wood preservatives
- Met the applicable state requirements for a commercial applicator

OWNER reserves the right to ask for evidence of previous experience and training in the form of letters of reference and test results. Personnel are subject to approval by OWNER.

1.4.2 Supervisor Qualifications: The Supervisor shall:

- Have a valid state pesticide applicator's license in the appropriate category for treatment of wood poles
- Hold the position of CONTRACTOR's Supervisor in the state in which the work is to be performed
- Have sufficient experience in the art of inspecting and treating poles

1.4.3 Manager Qualifications: The Manager shall:

- Have a valid state pesticide applicator's license in the appropriate category for treatment of wood poles
- Hold the position of CONTRACTOR's Manager in the state in which the work is to be performed
- Have sufficient experience in the art of inspecting and treating poles

1.5 Workmanship and Damages: All work shall be performed in a workmanlike manner and shall be in accordance with this specification and all applicable federal and state regulations. OWNER considers work not in accordance with this specification or work not in accordance with state and federal regulations, or unskilled or careless work, to be sufficient reason to order CONTRACTOR to stop work. Work will not be allowed to resume until deficiencies are corrected to the reasonable satisfaction of OWNER. Further, OWNER reserves the right to require CONTRACTOR to replace any worker before work is allowed to continue. If not satisfied, OWNER will consider this to be just cause for termination of the contract.

Any damages, real or personal, off the right-of-way arising solely from the negligent performance of the work specified herein, or any damages on the right-of-way arising solely as a result of negligent operations, shall be settled promptly by CONTRACTOR.

OWNER recognizes that linemen must inspect all poles to their satisfaction prior to climbing, whether or not such poles have been inspected by a third party contractor. An inspection and/or treatment tag on a pole is not a guarantee the pole is safe to climb. OWNER should inform linemen that the inspection tag only means the pole was inspected in the stated year in accordance with the contract specifications.

**Osmose Utilities Services, Inc. EXHIBIT A
IN-SERVICE WOOD POLE INSPECTION (FULL EXCAVATION) AND
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An inspection tag is neither an expressed nor implied warranty that the pole meets the National Electric Safety Code ("NESC"), the General Order No. 95 ("GO 95"), nor any other applicable standard. Linemen must also practice all other safety procedures when climbing poles and changing out or adding equipment or lines or cutting lines, all of which may create an unbalanced load. An unbalanced load may cause sound poles to fail.

1.6 Quality Control:

1.6.1 Quality Control Inspection: A Quality Control ("QC") inspection shall be performed for each Foreman's work at least once every four weeks on work completed since the previous QC inspection. The QC inspection will be conducted with CONTRACTOR's Supervisor or Manager, and at OWNER's option, with OWNER's representative when available. The QC inspection shall consist of the partial to complete re-inspection of those poles selected by the CONTRACTOR's Supervisor or Manager, or by the OWNER's representative, to compare the results shown in the pole inspection records with those existing in the field. The re-inspection shall include, but not be limited to, the re-excavation, re-treatment, and re-wrapping of those poles that were inspected below groundline. CONTRACTOR's cost of said re-treatments shall be borne by CONTRACTOR. At least three poles will be selected for each QC inspection. OWNER shall be issued a copy of the QC results within a reasonable amount of time upon request to CONTRACTOR.

1.6.2 Discrepancies and Corrective Action: Any serious errors will be brought to the attention of CONTRACTOR. Corrective action, reasonably satisfactory to OWNER, must be taken by CONTRACTOR to remedy the situation before the next QC check. The corrective action may include, but not be limited to, re-working each pole back to the previous QC check point at no cost to OWNER.

1.7 Definitions for Inspection and Treatment: Pole inspection and treatment categories are defined as follows:

1.7.1 Reported Pole (Visual Inspection): A reported pole is a pole less than 10 years old about which OWNER desires information, including poles the CONTRACTOR identifies as not present in the field, or any pole that is judged to be unserviceable prior to excavation (as specified in Section 3.2), or any pole which is determined by CONTRACTOR, in CONTRACTOR's reasonable opinion, to be inaccessible. Poles less than 10 years old may be subjected to further evaluation at CONTRACTOR's discretion. Copper naphthenate and Cellon treated poles shall be fully excavated according to Section 3.3 regardless of age.

This inspection method provides no indication of groundline wood strength except for the possible notation of pole class. If used alone, this inspection provides little information to help OWNER improve its pole plant. Poles with obvious above ground defects (as specified in Section 3.2) will be rejected. This inspection method will miss most priority and reject poles.

**Osmose Utilities Services, Inc. EXHIBIT A
IN-SERVICE WOOD POLE INSPECTION (FULL EXCAVATION) AND
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- 1.7.2 Sounding and Boring:** Poles shall be sounded with a hammer from either groundline or above groundline as applicable, to as high as an inspector can reach in order to locate exterior decay or interior pockets of decay. Inspector shall bore pole at least once to detect interior decay (a shell thickness indicator shall be used to detect the existence and extent of interior decay). If decay is present, the pole shall be bored a sufficient number of times to determine the location and extent of decay discernable with this method. Bored holes shall be plugged with tight-fitting treated wood dowels or plastic plugs.

This inspection method can miss poles without sufficient strength to meet NESC, GO 95, or other mandated overload capacity requirements, and there is the possibility of missing those poles with insufficient strength to support the current loading. This is particularly true when the decayed area is below ground level or if the inspector's tools do not contact hidden, damaged areas. Used in conjunction with visual inspection, historical data shows approximately 50% to 60% of reject and priority poles will be found.

- 1.7.3 Fully Excavated Pole:** Any pole passing the above ground visual inspection (other than poles defined in Section 1.7.1) which has been excavated around the entire circumference as specified in Section 3.3.

This inspection procedure constitutes the most thorough method known in the industry. Nevertheless obstructions such as rock, adjacent buildings, sidewalks, keys, roots, risers, deep decay, underground cables, and other obstacles prevent "full" excavation and/or treatment with respect to depth, circumference, or both. Typically, once the excavation is made to improve inspection accuracy, the procedure also includes treatments. Used in conjunction with visual inspection, historical data shows approximately 98% of reject and priority poles will be found.

- 1.7.3.1 Externally Treated Pole:** A groundline treated pole is any fully excavated pole designated by OWNER which, upon inspection, is found to be a candidate for external preservative treatment. Treatment is specified in Section 5.2.

- 1.7.3.2 Fully Excavated Rejected Pole:** A fully excavated rejected pole is any fully excavated pole that meets the criteria specified in Sections 3.2 and/or 4.2.

- 1.7.3.3 Externally Treated Reject Pole:** An externally treated reject pole is a fully excavated rejected pole that, after inspection, meets criteria for pole restoration. A pole found to be restorable will be groundline treated provided enough sound wood remains. The inspector will make a notation in the data as to whether a pole can or cannot be restored.

- 1.7.4 Rejected Pole:** A rejected pole is any pole that meets the criteria specified in Sections 3.2 and/or 4.1.

**Osmose Utilities Services, Inc. EXHIBIT A
IN-SERVICE WOOD POLE INSPECTION (FULL EXCAVATION) AND
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- 1.7.5 **Priority Pole:** A priority pole is any pole that is in need of immediate attention (restoration or replacement); usually has less than one-half of its original circumference and/or 13% or less remaining original strength (if OWNER opts to specify alternative criteria, it must be specified in writing to CONTRACTOR). The location of priority poles will be reported to OWNER's representative as specified by OWNER in writing.
- 1.7.6 **Percent Remaining Strength or Remaining Section Modulus:** The percent remaining strength is the estimated percentage of bending strength remaining in a pole compared to its original strength when reductions are made for decay or mechanical defects noted by the Foreman. OWNER acknowledges that the percent of remaining strength is an estimate based on the information outlined herein.
- 1.7.7 **Internal Treatment:** CONTRACTOR's EPA-registered insecticide and preservative (as specified in Section 5.4) solution is applied internally under 40 PSI minimum pressure through a set of multiple borings to any insect cavities/voids and/or internal decay voids that constitute a size of 1/2" or larger.
- 1.7.8 **Fumigant Treatment:** CONTRACTOR's EPA-registered fumigant treatment. CONTRACTOR shall apply a fumigant treatment(s) to OWNER's poles as specified in Section 5.3.
- 1.7.9 **Through-Bored Poles:** Poles with a series of small diameter holes drilled through the groundline area of the pole during the manufacturing process to enhance the original treatment.

- 1.8 **Copper Naphthenate and Cellon Treated Poles:** Due to inconsistencies with the original treatment process, poles manufactured with copper naphthenate or Cellon (pentachlorophenol in lp gas) treatment can be prone to inconsistent decay patterns and there is a probability of decay being present at heights far above groundline. Due to these inconsistent decay patterns, an accurate assessment of copper naphthenate and Cellon treated poles cannot be performed using traditional inspection procedures of sound and bore and/or full excavate at groundline. OWNER should assume that any inspection information provided by CONTRACTOR is incomplete and does not represent an accurate opinion on the serviceability of the pole. CONTRACTOR does not warrant or offer any type of indemnification on any inspections performed on copper naphthenate or Cellon treated poles.

Furthermore, it is recommended that OWNER inspect copper naphthenate and Cellon treated poles above the groundline to the tip or the maximum height allowed. CONTRACTOR does not perform this service.

2.0 General Precautions and Requirements for Preservative Applications:

- 2.1 **General Restrictions and Requirements:** All preservatives shall be handled and applied in accordance with the product label, and in a manner to prevent damage to vegetation and property. Only preservatives registered by the EPA and the appropriate State Department of Agriculture for the intended use of remedial pole treatments will be considered for approval by OWNER. Preservatives not labeled for use as remedial pole treatments shall not be used.

**Osmose Utilities Services, Inc. EXHIBIT A
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No preservatives shall be applied by CONTRACTOR where a pole is readily identifiable as: (i) located on any school property (Day care(s) and Grades K-12); (ii) in a vegetable garden; (iii) in organic farm fields; (iv) within 10' of a stream or standing water body; or (v) within 50' of a private well. OWNER acknowledges that all vegetable gardens, organic farm fields and wells may not be identifiable by CONTRACTOR

Any container in which a preservative is stored shall be stored in a securely locked container, tool box, or bolted to vehicles on the right-of-way and kept locked when left unattended. Empty preservative containers shall be removed from the right-of-way and kept in a locked compartment until disposal. Disposal of preservatives and their containers shall be in accordance with the product label as well as the rules and regulations of all appropriate federal and state agencies.

- 2.2 Pesticide Licensing and Reporting Requirements:** CONTRACTOR shall be a certified commercial pesticide applicator for the preservative applications specified in this specification, and each crew shall be supervised by a full time Supervisor who is licensed and certified by the state where the work is to be performed. CONTRACTOR shall be responsible for the accurate recording and submittal of all pesticide usage forms required at the time of application by the various pesticide regulatory agencies and for meeting all applicable federal and state rules and regulations.

CONTRACTOR is required to have in its possession copies of the preservative labels and Safety Data Sheets ("SDS") for all pesticides being used. Upon request, the SDS and labels will be shown to anyone desiring this information. Properly completed shipping papers will also be carried on each vehicle which is transporting pesticides.

- 2.3 Material Handling:** Accidental releases of preservative shall be immediately cleaned-up in a manner consistent with label requirements and federal and state regulations.

CONTRACTOR shall provide each crew with a recovery kit containing sufficient materials for cleaning-up and neutralizing accidental releases of both paste and liquid preservatives. The recovery kit shall consist of, but not be limited to, the following materials: absorption material (such as sawdust or oil dry), baking soda or laundry detergent, ammonia (undiluted), and trash bags for storage of waste.

- 2.4 Proper Equipment:** CONTRACTOR shall provide each crew with all required PPE as specified by the label, such as goggles, sleeves, non-permeable gloves, and aprons. In addition, hard hats and a change of clothing will be provided. All field employees are required to wear work boots and hard hats.

CONTRACTOR shall provide a truck that has covers and locks adequate to satisfy applicable federal and state DOT regulations in which to store and transport the preservatives.

- 2.5 Pesticide Training:** Each pole inspector and/or Foreman shall be required to pass a pesticide training program which addresses the biology of wood destroying insects and fungi, the proper and safe handling, storage, disposal, and transport of pesticides, product labels, SDS, and emergency procedures for accidental releases. CONTRACTOR's pesticide training program is to be in addition to state requirements for applicator licensing.

**Osmose Utilities Services, Inc. EXHIBIT A
IN-SERVICE WOOD POLE INSPECTION (FULL EXCAVATION) AND
REMEDIAL TREATMENT SPECIFICATIONS**

- 2.5.1 Hazard Communication and Safety Program:** CONTRACTOR shall provide to its employees with a hazard communication program which addresses the purpose of using pesticides, SDS and product labels, protective safety equipment, and clothing and product information. A safety manual and program will be utilized by CONTRACTOR and its employees.

3.0 Inspection:

- 3.1 Preparation:** When work is to be done in close proximity to a home, if possible, the property owner should be notified that a pole inspection is being performed by OWNER
- 3.2** Light brush will be removed from around the pole to allow for proper excavation, inspection, and/or treatment unless permission for removal is denied by property owner (excessive brush removal may require an additional charge). Property owner's denial will be indicated in the remarks column on the pole report. If permission for excavation is denied, the pole will be sounded and bored and fumigant treated, providing the pole is serviceable. CONTRACTOR will not inspect or perform work on poles inaccessible by Acts of God or by any causes beyond the control of CONTRACTOR. Reason for the lack of inspection will be noted in the remarks column of the pole report.
- 3.3 Above-Ground Inspection:**
- 3.3.1 Wood Poles:** A visual inspection of all wood poles shall be made from groundline to the top of the pole. The following defects visible from the ground with a naked eye will be noted: woodpecker holes, split tops, decayed tops, broken insulators, rotten/broken crossarms, broken ground wires, and slack/broken guy wires. If the pole is obviously not suited for continued service due to readily identifiable serious defects, it shall either: (i) not be tested further and simply be reported and marked on the inspection form as a reported reject; or (ii) the pole may be sounded and bored to determine whether or not it is a priority pole and be reported on the inspection form as a sound and bore reject.
- 3.3.2 Concrete Poles:** A visual inspection only, shall be made from groundline to the top of the pole of all concrete poles. The following defects visible from the ground with a naked eye will be noted: Cracks, rust, spalling, exposed metal such as spiral wire or rebar, broken or burned ground wires, broken insulators, rotten/broken crossarms, and slack/broken guy wires.
- 3.3.3 Composite or Fiberglass Poles:** A visual inspection only, shall be made from groundline to the top of the pole of all composite or fiberglass poles. The following defects visible from the ground with a naked eye will be noted: Cracks, broken or otherwise damaged areas, burned sections, deterioration of the poles protective coating including separation of layers or fibers protruding through the protective coating, broken insulators, rotten/broken crossarms, and slack/broken guy wires.
- 3.3.4 Metal Poles / Laced Towers:** A visual inspection only, shall be made from groundline to the top of the pole/structure of all metal poles and laced towers. The following defects visible from the ground with a naked eye will be noted: Cracks, rust that is either completely through or nearly completely through metal, loose or missing bolts, bent or missing members, cracks in concrete foundation, broken insulators, broken ground wires and slack/broken guy wires.

**Osmose Utilities Services, Inc. EXHIBIT A
IN-SERVICE WOOD POLE INSPECTION (FULL EXCAVATION) AND
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- 3.4 **Excavation:** All poles that pass the above ground visual inspection (other than poles defined in Section 1.7.1) shall be excavated around the entire circumference to a depth of 18" below groundline (exceptions include poles in pavement, poles with underground power risers, poles in vegetable gardens, poles in organic farm fields, or poles that are otherwise inaccessible; if accessible, these poles will be sound and bore inspected. Poles in vegetable gardens and poles in organic farm fields may be excavated at OWNERS option, however these poles shall not be treated with remedial treatments). Poles which cannot be excavated to the proper depth around the entire circumference for legitimate reasons, such as large rocks, large roots, or other obstructions, will have the obstruction and the extent of excavation noted in either the remarks or notes section. The excavation will be approximately 10" from the pole at ground level and 4" from the pole at the 18" depth. For excavation in lawns, sod grass areas, or flower gardens, care will be taken to keep surrounding area as clean as possible. The sod around pole shall be carefully cut and neatly stacked. Poles installed on slopes shall be excavated to a minimum depth of 18" on the down slope side and 18" on the high side. Tarpaulins or ground cloths shall be used whenever possible to minimize the possibility of any property damage and to aide in the tracking of excavated holes (exceptions should be rare, and would include situations where the slope is too steep or the ground surface too uneven to allow for effective use).
- 3.5 **Sounding:** Poles shall be sounded from as high as the inspector can reach to the exposed groundline area in order to locate interior pockets of decay. Hammer marks should be visible to indicate that the area was sounded.
- 3.6 **Boring:** Inspector shall bore the pole with a 3/8" bit. Bore hole(s) shall be located at groundline and should be drilled at a 45° angle to a depth of the center line of the pole. A shell thickness indicator shall be used to detect the existence and estimated extent of any interior decay.

If enclosed decay pockets are evident in a pole, a minimum of four borings will be taken to determine the size and extent of decay. Bored holes shall be plugged with tight-fitting treated wood dowels or plastic plugs.

Chipping: All poles that will be externally treated will have all loose and decayed wood removed from 18" below groundline to 6" above groundline. A quality chipping tool will be used for this procedure to obtain a smooth, clean removal of wood. External decay pockets will be shaved or chipped to remove decayed wood from the pole. Removed wood shall be removed from the hole and surrounding ground and disposed of properly. Care should be taken not to remove good wood as this will reduce the strength of the pole. The pole will be scraped using a check scraper or wire brush to remove dirt from treatment zone.

4.0 **Evaluation:**

- 4.1 **Determining Remaining Groundline Strength or Minimum Groundline Effective Circumference:** Measurements of the following decay and damage conditions shall be collected and input into a strength calculating program which will calculate the remaining strength of the pole: shell rot, exposed pockets, enclosed pockets, and mechanical damage.

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Decay measurements are entered with consideration for the orientation to the line of lead and the program models the resulting cross section. Multiple types of damage are combined within the calculations and the center of gravity of the pole cross section is adjusted accordingly.

The output is shown as the estimated Percent Remaining Strength. The traditional Groundline Effective Circumference will be reported as well. This is the circumference of a smaller, sound pole that approximates the bending capacity equivalent to the decayed pole's remaining strength. The strength calculating program will only display percentages of remaining strength for excavated poles (minimum requirements are two, 8" deep by 8" wide excavations). An estimated Groundline Effective Circumference is the only reported value for poles which are not excavated to minimum requirements.

A "Reject Pole" is:

- Any excavated pole with a remaining strength of 67% or less.
- Non-excavated poles will be rejected based on the reject criteria in Table 1 or other criteria approved in writing by OWNER. Groundline Effective Circumferences for non-excavated poles are estimates of true pole condition based on the limitations of the inspection method.

A "Priority Pole" is:

- A pole with an effective circumference of less than 50% of its original circumference and/or 13% or less remaining original strength and shall be reported to OWNER's representative as specified by OWNER in writing (**if OWNER opts to specify alternative criteria, it must be specified in writing to CONTRACTOR as specified in Section 1.7.5**)

4.2 Previously Restored Poles: Poles previously restored with Osmo-C-Truss(es) or Osmo-C2-Truss(es) shall be evaluated just above the second lowest band and at the top of the truss as outlined in Section 4.3.

- Poles that do not meet the minimum shell requirements will be classified as rejects.
- Poles that meet the minimum shell requirements will be classified as serviceable poles and internally treated above ground according to Section 5.4.
- Loose, missing or severely corroded bands and seals will be noted.
- Bands and seals showing signs of minor rust or corrosion will be repainted with a cold zinc galvanizing compound.

4.3 Determining Reinforceable Candidates: When the initial inspection results in the rejection of a pole, the pole shall be marked for replacement or reinforcement. The following inspections shall be performed to determine if the pole is reinforceable.

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4.3.1 Inspection Point 1: Groundline Pole Condition

- Poles exhibiting **shell rot** at or below groundline shall have a minimum remaining sound wood circumference of 33% or greater than the original groundline circumference and/or 4% remaining strength.
- Hollow poles and poles with internal decay shall maintain one-half inch (1/2") of average sound shell at or below groundline for single or double truss applications.

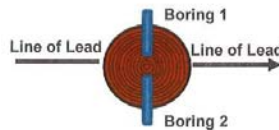
Note: All shell thickness requirements listed in Sections 4.3.2 and 4.3.3 are for poles up to and including 65' in length. For poles 70' and longer, all shell requirements shall be increased by 1" (3" at the lower band position for a single truss, or 2" for a double truss, and 5" at the top of the truss):

4.3.2 Inspection Point 2: Lower Band Pole Condition

- A **single truss** application requires two inches (2") or greater of average sound shell at fifteen inches (15") from groundline.
- A **double truss** application may have less than two inches (2") but requires greater than or equal to one inch (1") of average sound shell at fifteen inches (15") from groundline.

Procedure to determine lower band average sound shell:

- A. Drill two (2) 3/8" diameter holes at fifteen inches (15") above groundline perpendicular to the line of lead. Refer to Figure 3 for line of lead orientations for common line construction types.



- B. If the average sound shell from these 2 borings is two inches (2") or greater, proceed to **Inspection Point 3** below.
- C. If the average sound shell is less than two inches (2"), bore 2 additional holes in the line of lead. If the average of all 4 borings is two inches (2") or greater, proceed to **Inspection Point 3**.



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- D. If the average is still less than two inches (2") but greater than one inch (1"), the pole can be reinforced with double trusses, which combined, provide the desired strength. Proceed to **Inspection Point 3** below to determine double truss required height above groundline.
- E. If the average sound shell is less than one inch (1"), the pole may be deemed non-restorable or consult with Osmose engineering for alternative restoration methods.

4.3.3 Inspection Point 3: Top of Truss Pole Condition

- A **standard truss** requires an average sound shell of four inches (4") or greater at the installed height of the standard truss required, typically five feet (5').
- A **tall truss** requires four inches (4") or greater of average sound shell anywhere from six to eight feet (6'-8') above groundline.

Procedure to determine top of truss average sound shell:

- A. Drill two (2) 3/8" diameter holes at five feet (5') above groundline perpendicular to the line of lead.
- B. If the average sound shell from these two (2) borings is four inches (4") or greater, reinforce the pole with the appropriate truss or trusses as shown in Figure 4 or 5.
- C. If the average sound shell is less than four inches (4"), Drill two (2) 3/8" diameter holes at six or eight feet (6' or 8') above groundline perpendicular to the line of lead in order to find four inches (4") or greater of average sound shell
- D. If the average sound shell from these two (2) borings is four inches (4") or greater, reinforce the pole with a truss with an installed height above groundline at least as tall as where 4" or greater of average sound shell is found.

Note: *In the instance where a pole would require double trussing due to average sound shell thickness at 15", but obstructions on the pole or a customer request would limit a restoration to only 1 truss, the pole can be checked for 2" of average sound shell at 26" and a single tall truss can be installed with lower banding installed at 26".*

- 4.3.4** All inspection holes shall be plugged with tight-fitting treated wood dowels or plastic plugs.

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5.0 Treatment:

5.1 General: All fully excavated poles (as defined in Section 3.3) which are serviceable shall be treated as specified in Section 5.2. All non-excavated poles (except as defined in Section 1.7.1) and certain excavated poles shall be treated with a fumigant treatment as specified in Section 5.3 (note reinforceable candidates cannot be treated with a fumigant treatment until after the pole has been reinforced). If internal decay is indicated, an appropriate solution shall be selected and applied (as specified in Section 5.4).

5.2 External Groundline Treatment: All poles which are fully excavated and serviceable are to be groundline treated with a preservative paste which shall be applied to the pole (a minimum of 1/16" thick) from 18" below groundline to 3" above groundline. Reinforceable candidates will not be externally treated. The preservative paste shall be composed of the following ingredients:

MP500-EXT®	
Ingredients	Amount
Copper Carbonate (Metallic Copper Equivalent is 1%)	1.73%
Sodium Tetraborate Decahydrate	43.7%
Inert Ingredients	54.57%
Total	100.00%

Alternative materials will require prior approval from OWNER. Alternative materials will be applied at the maximum rate according to the product label. Long-term retention studies should be made available to assure results.

CONTRACTOR shall treat all exposed pockets and checks using a brush or trowel. Where obstructions occur (such as fences, curbs, and walls) the preservative shall be applied up to obstruction to insure complete coverage.

5.2.1 Wrapping of External Treatment: A polyethylene-backed kraft paper moisture barrier such as "OsmoShield™" is to be applied over the wood preservative. The moisture barrier shall cover preservative to a depth of 18" and extend 1" above the top of treatment zone, for a total of 22". It shall be of sufficient length to go around the pole with an overlap of approximately 4" and shall be stapled to the pole at the top and side seams of the barrier.

Pasture wrap shall also be used in areas of livestock; it will be stapled around the top edge of the moisture barrier to act as an additional protective barrier.

5.3 Fumigant Treatment: All serviceable poles (except as specified in Section 1.7.1 and Through-Bored Poles) will receive a fumigant treatment(s) based on the following criteria: all poles which cannot be excavated (i.e. poles in concrete, poles with risers, poles with phone drops, etc.), all poles which cannot be 75% excavated due to obstructions (i.e. curbs, pole keys, large roots, fences, etc.), and all poles where internal decay is present or suspected and/or poles where voids of less than ½" are present. CONTRACTOR shall apply the fumigant treatment(s) to poles using the following treatment(s)/application method(s):

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MITC-FUME® (Contains 97% Methylisothiocyanate)	
Pole Circumference (Inches)	Number of Holes Drilled
28 or less	Two holes spaced 120° apart and 6" to 8" higher than the previously bored hole.
29 to 35	Three holes spaced 120° apart and 6" to 8" higher than the previously bored hole.
36 to 49	Four holes spaced 90° apart and 6" to 8" higher than the previously bored hole.
50 to 59	Five holes spaced 70° apart and 6" to 8" higher than the previously bored hole.
60 to 69	Six holes spaced 60° apart and 4" to 6" higher than the previously bored hole.
70 to 79	Seven holes, the first two at groundline 180° apart, and the remaining five spaced 60° apart and 4" to 6" higher than the previously bored hole).
80 to 90	Eight holes, the first two at groundline 180° apart, and the remaining six spaced 50° apart and 4" to 6" higher than the previously bored hole.
Greater than 90	Nine holes, the first two at groundline 180° apart, and the remaining seven spaced 45° apart and 4" to 6" higher than the previously bored hole.

CONTRACTOR's inspector shall bore 7/8" slanting holes to a minimum of 12" depth, using impermeable gloves to insert one tube into each hole. Holes shall be plugged using tight-fitting treated wooden dowels or plastic plugs. For non-excavated poles, the first hole(s) are generally bored at groundline. For excavated poles, the first hole(s) may be bored below groundline.

5.4 Internal Treatment:

5.4.1 Internal Treatment: Internal treatment will be with the following solutions:

Hollow Heart® CB Dilute Solution	
Ingredients	Amount
Copper Ethanolamine Complex (Equivalent to 2% Copper Metal)	5.84%
Disodium Octaborate Tetrahydrate	5.0%

Poles containing decay pockets of 1/2" or larger shall be treated by pumping the preservative into the cavity through a series of 3/8" diameter holes. If wood destroying insects are encountered in the pole, the pole will be sounded to locate the top of the insect gallery and enough holes drilled to thoroughly treat the wood and flood the galleries. The solution will be applied at a minimum pressure of 40 PSI. Beginning with the lowest hole, the preservative will be pumped into the cavity until the material flows out of the next highest hole. This hole will then be plugged and additional preservative pumped into the cavity until the cavity is filled or a maximum of one gallon is used. Sufficient holes will be bored and preservative used to assure coverage of the decayed area. All holes will be plugged with tight-fitting treated wood dowels or plastic plugs.

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5.4.2 Internal Treatment for Wood Destroying Insects: At OWNER'S option, poles containing signs of wood destroying insects shall be treated with the following solution:

Hollow Heart® CB Plus Dilute Solution	
Ingredients	Amount
Copper Ethanolamine Complex (Equivalent to 2% Copper Metal)	5.84%
Disodium Octaborate Tetrahydrate	5.0%
Cypermethrin (Field Mixed with the Copper Ethanolamine Complex and Disodium Octaborate Tetrahydrate)	0.25%

Poles containing signs of wood destroying insects shall be treated by pumping the preservative(s) into the cavity through a series of 3/8" diameter holes. The solution will be applied at a minimum pressure of 40 PSI. Beginning with the lowest hole, the preservative will be pumped into the cavity until the material flows out of the next highest hole. This hole will then be plugged and additional preservative pumped into the cavity until the cavity is filled or a maximum of one gallon is used. Sufficient holes will be bored and preservative used to assure coverage of the decayed area. All holes will be plugged with tight-fitting treated wood dowels or plastic plugs. The pole will be sounded to locate the top of the insect gallery and enough holes drilled to thoroughly treat the wood and flood the galleries.

6.0 Restoration of Work Site:

6.1 Back-Filling: After excavation and/or treatment, all poles will be solidly back-filled. The first half of the excavation will be back-filled and tamped completely around the pole by walking on the replaced excavation; the second half will be back-filled and tamped completely around the pole. The excess earth should be banked up to a maximum of 3" above normal ground level to allow for settlement. In grass areas, the sod shall be carefully placed around the pole. Rocks or stones should not be laid against the pole except where they serve to key the pole or where no other fill is available. Extreme care should be taken not to tear the moisture barrier while back-filling.

6.2 Clean-Up: No debris, loose dirt, etc. is to be left in the pole area. Private property turf, including that between the curb and the sidewalk, bushes, plants, and shrubbery are to be replaced with care. If any preservative is released on the ground, it shall be immediately cleaned-up. All containers shall be disposed of in accordance with the product label.

7.0 Pole Marking (Tagging): The work performed shall be marked with a weather proof tag containing CONTRACTOR's name and the year of inspection in a fashion similar to the designations shown in the following drawings. The tagging scheme used by CONTRACTOR must be shown to OWNER's representative and approved before it is used.

Tags shall be supplied by CONTRACTOR and placed 5' to 6' above groundline on the road side of the pole, below the utility pole identification marker. If inspecting or treating a pole that has previously been inspected or treated, the tag will be attached directly below the existing tag(s).

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The following are illustrations of the various types of "tags" used and an explanation as to when they are used. It is important that the proper tag be used on every pole that is inspected.



This round tag represents an inspection via a full 18" excavation and treatment with an approved paste. The tag shows CONTRACTOR's name and the actual year the work is performed.



This oval tag is to be used whenever a sound and bore inspection takes place. The tag shows CONTRACTOR's name and the actual year the work is performed.

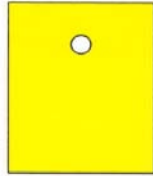


This tag is used whenever internal treatment is injected into a pole. This tag will be used in conjunction with one or more of the above tags depending on the type of inspection performed.

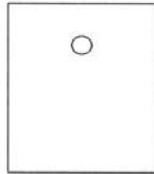


This tag is an example of a fumigant treatment tag. This tag shall be used whenever MITC-FUME® is applied to a pole. This tag will be used in conjunction with one of the above tags depending on the type of inspection performed.

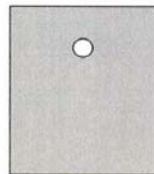
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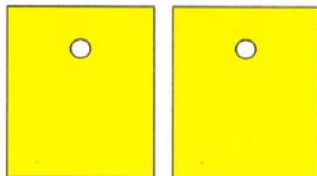
One yellow reject tag is used to denote that the pole is a reinforceable reject.



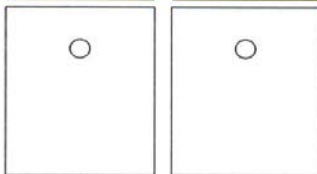
One white tag may be used to denote that the pole is a non-reinforceable reject.



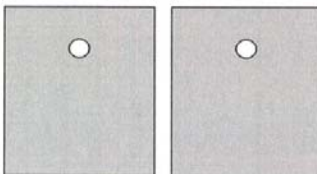
One silver tag may also be used to denote that the pole is a non-reinforceable reject.



Two yellow tags are used to denote a danger or priority pole that is reinforceable.



Two white tags may be used to denote a priority pole that is non-reinforceable.



Two silver tags may also be used to denote a priority pole that is non-reinforceable.

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8.0 Data Collection and Deliverable:

- 8.1 Data Requirements:** OWNER desires to conduct a comprehensive pole inspection and maintenance program. OWNER must advise CONTRACTOR in writing of the type of data OWNER wants collected by CONTRACTOR. The data will be delivered within a geospatial software environment for viewing, searching, and reporting.

OWNER desires to improve the overall quality and completeness of pole inspection data as a secondary objective of the project. The combination of a data viewing tool together with improved data quality will help improve OWNER's ability to manage pole life cycle costs. The importance of the data-collection effort requires that it be performed professionally by experienced field personnel using technology that ensures delivery of high-quality data.

CONTRACTOR will provide appropriate hardware, software, and project management to ensure that OWNER receives data that meets its requirements for accuracy and completeness. At OWNER's request, CONTRACTOR can provide a demonstration of CONTRACTOR's data collection tools, processes, and a sample deliverable.

- 8.2 Data Specifications:** A CONTRACTOR-supplied or OWNER-supplied landbase that is acceptable to CONTRACTOR will be deployed by CONTRACTOR electronically to the field. A unique identifier will be created for each pole. Each pole will be placed on the digital landbase using GPS and/or relative positioning.

- 8.3 Data Delivery:** Data collected will be delivered online in a geospatial enabled web-based application that includes both map and attribute views of the data. The online application shall provide access to reports and data queries with support of user generated search functions. Poles must be able to be searched and sorted into groups based on their condition, their attributes, their attachments (when applicable), and highlighted in a map view.

The online application shall provide a landbase backdrop that includes aerial imagery capable of being viewed at various zoom levels. CONTRACTOR's geospatial online application will be compatible with industry standard web browsers such as Windows Internet Explorer 7.0 or 8.0, or Firefox 2.0 or later. All incremental data deliveries will be updated on the geospatial online application. CONTRACTOR shall host the data in the online application, but OWNER shall retain ownership of data (see Section 8.4 for information regarding data archiving).

The geospatial online application shall provide the capability to view and download reports in Adobe PDF format. Reports shall consist of pole detail, weekly, and year-to-date summaries. CONTRACTOR's web-based application must support the ability to view all invoices, in Adobe PDF format, with the ability to relate each individual pole record with the corresponding invoice.

Data export functionality shall include the ability to export to an ESRI Personal geodatabase, Microsoft Access, or a comma delimited (Excel Spreadsheet) file format. The geospatial online application shall support the printing of map views and, if applicable, viewing of digital images.

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CONTRACTOR shall demonstrate how its online application provides OWNER with a calculated Percent Remaining Strength for poles with decay (where applicable).

- 8.4 **Data Archiving:** CONTRACTOR will host the geospatial online application for the duration of the pole inspection project and for a maximum of 90 days after the end of the calendar year in which the project was completed. Options for additional archiving shall be made available at an additional cost. OWNER shall retain ownership of all data. Use of the geospatial online application will be governed by CONTRACTOR's online hosting agreement.

9.0 **CONTRACTOR Information:**

- 9.1 **CONTRACTOR's Policies:** Documentation of CONTRACTOR's policies for conforming to EPA, OSHA, and DOT regulations can be provided upon request. Examples may include:

- Summary of CONTRACTOR's safety manual
- Summary of CONTRACTOR's pesticide training manual and test
- Summary of CONTRACTOR's standards for safe storage of preservatives on vehicles
- Labels and SDS for all preservatives to be used
- Operating policies for CONTRACTOR's personnel to handle preservatives and disposing of empty containers used for pole treatment
- Summary of OSHA regulations regarding PPE

- 9.2 **Work Schedule:** CONTRACTOR can also supply, upon request, a schedule outlining the number of crews proposed to complete work along with start dates and completion dates.

- 10.0 **Invoicing:** CONTRACTOR shall furnish OWNER with invoicing on a weekly basis. This invoicing practice is based on work performed weekly and will include the actual data and invoices with itemized billable items. Invoices shall be paid in accordance with the contract executed by the parties. In the event payment is not referenced in the contract, OWNER shall pay CONTRACTOR upon Net 30 day terms from the date of the invoice. A service charge of 1½% per month will be added to all invoices not paid within 30 days of the invoice date.

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**TABLE 1
MINIMUM GROUNDLINE EFFECTIVE CIRCUMFERENCE
(MEASURED AT POINT OF MAXIMUM DECAY)**

Original Circumference of Pole (Inches)	Minimum Effective Circumference Allowed (Inches)
24	21
25	21.75
26	22.75
27	23.50
28	24.50
29	25.25
30	26.25
31	27
32	28
33	28.75
34	29.75
35	30.50
36	31.50
37	32.25
38	33.25
39	34
40	35
41	35.75
42	36.75
43	37.50
44	38.50
45	39.25
46	40
47	41
48	41.75
49	42.75
50	43.50
51	44.50
52	45.25
53	46.25
54	47
55	48
56	48.75
57	49.75
58	50.50
59	51.50
60	52.25



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/10/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh USA Inc. 1560 Sawgrass Corporate Pkwy, Suite 300 Sunrise, FL 33323 101742660-GAWU-16-17	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL: ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A : Zurich American Insurance Company 16535 INSURER B : National Union Fire Ins Co. of Pittsburgh PA 19445 INSURER C : INSURER D : INSURER E : INSURER F :
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COVERAGES	CERTIFICATE NUMBER: ATL-004171517-01	REVISION NUMBER: 2
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.		

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC OTHER:		GL00381439-01	07/01/2016	07/01/2017	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/PO/ AGG \$ 2,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS		BAP 0381440-01	07/01/2016	07/01/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$		BE44196661	07/01/2016	07/01/2017	EACH OCCURRENCE \$ 25,000,000 AGGREGATE \$ 25,000,000 \$
A	☒ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	WC 0381438-01	07/01/2016	07/01/2017	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDERCity of Bentonville Electric Utility
Department
608 Southeast Third Street
Bentonville, AR 72712**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
of Marsh USA Inc.

Sandi Lee

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ACORD 25 (2014/01)

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RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE MAYOR AND
CLERK TO ENTER INTO AN AGREEMENT WITH
OSMOSE FOR POLE TESTING AND ENGINEERING FOR
THE BENTONVILLE ELECTRIC DEPARTMENT.**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE
CITY OF BENTONVILLE, ARKANSAS.**

Section 1: That the Mayor and Clerk be and are hereby authorized to enter into an agreement with Osmose to provide pole testing and engineering services for the City of Electric Department in the amount of \$26,600.00, as per the proposal attached hereto as Exhibit "A".

Section 2: This resolution shall be in full force and effect from and after the date of its passage.

PASSED and APPROVED this ____ day of _____, 2017.

APPROVED:

MAYOR

ATTEST:

CITY CLERK



CHECK ALL THAT APPLY			
	Bid Award	Bid #	
	Budget Adjustment		
	Change Order		
	Informational		
	Ordinance		
X	Resolution		
	Other		

AGENDA FORM

CITY COUNCIL MEETING OF:

June 13, 2017

Submitted by:

Travis Matlock

Department

Electric

Phone

271-5941

ACTION REQUIRED:

A resolution authorizing the Mayor and City Council to enter into an agreement with Fisher & Arnold for the design and bid documents of the new Substation "J" in the amount of \$422,300.00.

COST TO CITY:

Cost of this Request: \$422,300

Additional Budget Amount

☒ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	-
Remaining After Adjustment	\$ -

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE



M E M O R A N D U M

DATE: June 13, 2017

TO: **City Council, Mayor McCaslin**

FROM: Travis Matlock, Engineer Director

RE: **Substation "J" design contract**

Staff recommends entering into an agreement with Fisher & Arnold for the design and bid documents for Substation "J" for \$422,300.00.

Substation "J" will be constructed on Phyllis St. and will be a partnering project with Wal-Mart. The development agreement with Wal-Mart was approved by City Council on March 28th and detailed the 50/50 cost share for the design/construction of the substation.



June 7, 2017

Mayor Bob McCaslin
C/O Bentonville Electric Utility Department
608 S.E. 3rd Street
Bentonville, AR 72712

**RE: UPDATE - ENGINEERING SERVICES TO PROVIDE THE DESIGN OF THE
PROPOSED 161/12.47kV SUBSTATION "J" FOR THE CITY OF BENTONVILLE
ELECTRIC UTILITY DEPARTMENT (BEUD)**

Dear Mayor McCaslin:

Fisher & Arnold (F&A) is pleased to submit this proposal to provide for the develop of plans, specifications and bid documents necessary for the construction of the proposed Substation "J" as described in the BEUD supplied scope of work document, meeting held on November 17, 2014 at BEUD headquarters, sequent emails and conference calls redefining scope of work. We believe the revised work scope to be as follows:

1. Substation equipment:
 - a. Review power transformer, 161kV SF6 circuit breaker, and 15kV vacuum breakers specifications and make recommendations for improvement or changes as necessary.
 - b. Facilitate sending out bid documents.
 - c. Answer requests for information from bidding parties.
 - d. Review bids, prepare bid tabulations, and make a recommendation for purchase.
2. Preliminary Design:
 - a. Develop overall site plan, grading plan, erosion control plan, and post construction runoff control plan drawings.
 - b. Develop the general arrangement (Equipment) plan, elevation plan, section plan, and oil containment plan and detail drawings. Plans will follow as closely as possible the BEUD designs.
3. Final design – Provide the following drawings:
 - a. Footing plan and details.
 - b. Fence plan and details.
 - c. Conduit plan and details.
 - d. Substation lighting plan and details.

9180 Crestwyn Hills Drive
Memphis, TN 38125

901.748.1811
Fax: 901.748.3115
Toll Free: 1.888.583.9724

www.fisherarnold.com

- c. Grounding plan and details.
 - f. Lightning protection plan.
 - g. Steel structure details and any drawings necessary for the use of steel packager to provide all substation steel and associated equipment other than that supplied by the Owner for the construction of the above ground structures, switches, conductors and insulators.
- 4. Bidding Services:
 - a. Assembly of all plans and specifications necessary for solicitation of bids for construction of the substation.
 - b. Facilitate sending out bid documents.
 - c. Attend pre-bid meeting.
 - d. Answer requests for information from bidding parties.
 - e. Review bids, prepare bid tabulations, and make a recommendation for contract award.
 - f. Attend pre-construction meeting.
- 5. Project Management:
 - a. Answering questions and requests for information during construction.
 - b. Submittal review. (Includes packager structural calculations for substation steel)
 - c. Review of pay requests from the contractor.
 - d. Included in this proposal are four site visits. One initial planning visit, 30% design review visit, 60% design review visit and 100% design visit.
 - e. Any significant customer requested design changes (greater than 10% of accumulated cost) after the agreed upon 30% design review, will be accounted for and billed separately at our standard hourly rates.
- 6. Construction Observation:
 - a. Monitoring of on-site construction practices once every two weeks during above ground construction (assumed to be three months in duration). If additional monitoring is required, we will provide it at our standard hourly rates.
 - b. Assure conformance to specifications and adherence to the construction plans. This is to be provided for the substation and the interface to the transmission provider.
- 7. Panel Layouts/Elementary Drawings – Provide the following protection and control drawings:
 - a. Relaying one-line.
 - b. AC and DC schematics for panel construction.
 - c. Panel wiring diagrams (point to point drawings).
 - d. Panel Cable connections.
 - e. Equipment AC and DC schematics (included in panel elementaries after drawings are received from the manufacturer).
 - f. Equipment cable connections (after drawings are received from the manufacturer).
 - g. Conduit and cable schedule (preliminary for bidding and final after e, f, and g above).



8. Testing and Commissioning Services:
 - a. Test all equipment and relays except the power transformer to NETA acceptance testing standards.
 - b. Function testing of protection and control schemes
 - c. Installation of owner-supplied or F&A supplied relay settings into relays.
9. Relay Settings Assistance
 - a. If BEUD standard protection design is used these will be provided by BEUD (no charge)
 - b. If the protection design is new (using bank breakers), F&A will provide the settings and relay programming in RDB files. Note: BEUD will provide standard feeder settings and programming for F&A's use in coordinating upstream devices. (\$13,300.00)
10. Analyze existing and proposed distribution cabling system for adequate operation during normal and contingency conditions.
11. EDC Backup Duct Bank Design
 - a. Design and specify the installation of two (2) underground 12.47kV distribution circuits from Substation "J" to Automatic Transfer Switches (ATS) located near the Wal-Mart East Data Center (EDC). The intent of the two (2) distribution circuits from Substation "J" to the EDC is to provide emergency sources of power to the EDC in the event of the loss of Substation "H" or as deemed necessary during periods of power equipment maintenance or repair.
 - b. The design will include pull boxes and conduit duct banks to install the emergency distribution circuits in the right-of-way (R-O-W) west of the existing FedEx building on Phyllis Street. From this R-O-W, the conduits/cables will continue to cross SE Technology Circle, the existing railroad track, adjacent sidewalk, and SE David Glass Drive to the ATS's identified as ATS-10 and ATS-11 on BEUD's East Data Center Expansion One Line Diagram.
 - c. Conduit duct banks between Substation "J" and the Wal-Mart EDC shall include conduit(s) for fiber cables installed for data and controls.
 - d. Each backup circuit shall individually have a minimum capacity of 12 MVA.
 - e. It is assumed that installation may be accomplished by digging/trenching and includes cutting existing streets and curbs, sidewalks and railroad tracks (railroad tracks are assumed to be abandoned).

Items to be provided by BEUD:

1. Site boundary and Topographic survey (one foot contours), to include EDC duct bank path.
2. Site geotechnical study and report including soil resistivity (F&A will provide the specification for this study).
3. Transformer, 161kV SF6 circuit breaker, and 15kV vacuum circuit breaker specifications.



Mayor Bob McCaslin
June 7, 2017
Page 4

4. Substation I construction plans in AutoCAD 2013 DWG format.
5. Relay settings for this project if standard protection schemes are used.
6. Standard feeder settings and programming if F&A provides the bank and bus protection relay settings.
7. Any requirements from the power supplier regarding relay coordination or equipment installations, such as line traps.
8. BEUD standard phasing for the substation.
9. Below ground inspection services to include underground utilities locating for the substation site and EDC duct bank path.
10. Any local bid advertisements required.

Optional services not addressed above:

Surveying.
Transformer Test Witness.
SPCC Plan Update.

For the above engineering services we propose a cost plus fee with the following estimated amounts. These estimates contain no contingencies or engineering services for construction planning/sequencing/temporary facilitates or changes in scope of work. If we expect to exceed any of the amounts shown below we will call to discuss why we see these issues and seek guidance on how to proceed.

Substation Equipment and Steel Pole Procurement	\$19,700
Preliminary Design	\$25,000
Final Design	\$48,700
Bidding Services	\$29,500
Project Management	\$41,500
Construction Observation	\$26,700
Panel Layouts/Elementary	\$69,500
Testing and Commissioning Services	\$67,500
Relay Settings Assistance	\$13,300
Substation Steel Installation Inspection	\$11,000
EDC Backup Duct Bank Design	<u>\$69,900</u>
Total Expected Cost	<u>\$422,300</u>

F&A agrees that BEUD reserves the right to select all offered engineering services or exclude any line item at their discretion.

■
■
■

Mayor Bob McCaslin
June 7, 2017
Page 5

We will bill you monthly until completion of the project. Expenses such as travel, meals, and lodging are not included in the above estimates and will be billed at actual cost plus 15%. Payment is due within 30 days of receipt of invoice. Interest in the amount of 1.5% per month on the outstanding balances (18% per annum) will be assessed the contracting party after the payment due date. Fees for engineering services may be subject to a 3% increase after June 1, 2018.

The obligation to provide further services under the Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of termination, Fisher & Arnold, Inc. will be paid for all services rendered to the date of termination.

The fees shown in this proposal are based on the Owner agreeing to limit the Design Professional's liability for all planning, engineering and surveying services to the Owner, all construction contractors, and subcontractors on the project, due to the Design Professional's negligent acts, errors or omissions, such that the total aggregate liability of the Design Professional to all those named shall not exceed the Design Professional's total fee for services rendered on the project.

This proposal represents the entire understanding between you and us in respect to the "Project" and may only be modified in writing signed by both of us. If this satisfactorily sets forth your understanding of the arrangement between us, please sign the enclosed copy of the Letter Agreement in the space provided and return it to us.

We are looking forward to working with you on this project. If you have any questions regarding this proposal, please do not hesitate to call. We will be waiting for your approval to proceed.

Sincerely,

FISHER & ARNOLD, INC.

Stanley Moore, P.E.
Vice President

Aubrey Clemens, P. E.
Electric Department Head
(Reviewed by)

SM/amm

O:\MARKETING\PROPOSAL\Electric\McCaslin 6-7-17.docx



Mayor Bob McCaslin
June 7, 2017
Page 6

Your signature on this copy will authorize us upon its receipt to commence work. Please sign, date and return one copy for our files.

BY: _____
Mayor Bob McCaslin
City of Bentonville

Date: _____



RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE MAYOR AND
CLERK TO ENTER INTO AN AGREEMENT WITH
FISHER AND ARNOLD FOR ENGINEERING SERVICES
RELATED TO THE NEW ELECTRIC SUBSTATION "J".**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE
CITY OF BENTONVILLE, ARKANSAS.**

Section 1: That the Mayor and Clerk be and are hereby authorized to enter into an agreement with Fisher & Arnold for the design and bid documents of the new Substation "J" in the amount of \$422,300.00, as per the proposal attached hereto as Exhibit "A".

Section 2: This resolution shall be in full force and effect from and after the date of its passage.

PASSED and APPROVED this _____ day of _____, 2017.

APPROVED:

MAYOR

ATTEST:

CITY CLERK



CHECK ALL THAT APPLY			
	Bid Award	Bid #	
x	Budget Adjustment		
	Change Order		
	Informational		
	Ordinance		
	Resolution		
	Other		

AGENDA FORM

CITY COUNCIL MEETING OF:

June 13, 2017

Submitted by:

David Wright

Department

Parks and Rec

Phone

271-6813

ACTION REQUIRED:

City Council approval of a budget adjustment, in the amount of \$20,637.00, to allow for the purchase of spectator bleachers for the Memorial Park ballfields.

COST TO CITY:

Cost of this Request:	\$18,146
Additional Budget Amount	\$18,846

☒ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	18,846
Remaining After Adjustment	\$ 18,846

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE



Memo



To: City Council, Mayor McCaslin
From: David Wright, Parks and Recreation Director
Date: June 5, 2017
Re: City Council approval of a budget adjustment allowing for the purchase of new bleachers for Memorial Park.

Parks and Recreation Staff is requesting City Council's approval of a budget adjustment, in the amount of \$20,637, to allow for the purchase of new bleachers for Memorial Park ballfields. This budget adjustment will increase expenses by the full amount, but will also increase revenue by the same total. The Advertising and Promotions Commission will reimburse the City for the full amount of the purchase.

For several years, Parks and Recreation has been in the process of replacing spectator bleachers in our public parks. The replacements were necessary because of the condition of the bleachers and new safety regulations concerning the heights of bleachers. During this multiple year process, payments for new bleachers have come from a combination of the Parks and Recreation annual operating budget and the Advertising and Promotions Commission.

This year's purchase, barring unforeseen circumstances, should be our final major purchase for several years. Parks and Recreation staff determines specifications and purchases bleachers. The full payment will be reimbursed from the Advertising and Promotions Commission. This budget adjustment will recognize the expense / revenue for the full purchase.

If you have any questions regarding this item, please call me at 479.464.7275 or email dwright@bentonvillear.com.



CHECK ALL THAT APPLY		
	Bid Award	Bid #
	Budget Adjustment	
x	Change Order	
	Informational	
	Ordinance	
	Resolution	
	Other	

AGENDA FORM

CITY COUNCIL MEETING OF:

June 13, 2017

Submitted by:

Bryan Wick

Department

Engineering

Phone

696-0227

ACTION REQUIRED:

Staff recommends that the Mayor and City Council approve the reconciliation change order for the Traffic Signals S Walton (US-71B) & SW 18th Street project. The final project cost is \$1,000.00 less than the currently contracted amount of \$73,539.00. The final contract amount is \$72,539.00. In addition to the change in contract price, staff recommends to add 11 calendar days to the contract due to unforeseen circumstances.

COST TO CITY:

Cost of this Request: (\$1,000.00)

Additional Budget Amount

☒ One time amount

☐ Continuing O and M

Previously Budgeted	\$	73,539.00
Funds Expended to Date		44,123.00
Remaining Budget		29,416.00
Budget Adjustment		(1,000.00)
Remaining After Adjustment	\$	28,416.00

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

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PLEASE RECYCLE



Memorandum



To: Mayor and City Council

From: Bryan Wick, Project Manager

Date: Monday, June 05, 2017

Re: Reconciliation Change Order for Traffic Signals S Walton (US-71B) & SW 18th Street

The Traffic Signals S Walton (US-71B) & SW 18th Street project is now complete. A reconciliation change order (RCO) is needed to adjust the final contract price and the final contract days associated with this project.

Original Contract Amount -	\$73,539.00
Reconciliation Change Order -	<u>\$(1,000.00)</u>
New Contract Amount -	\$72,539.00

The reason for the RCO adjusting the contract price is due to a different Traffic Cabinet that was used in lieu of the one that was called out in the specifications. The price difference between the manufacturer and the contractor came to \$(1,000.00).

Original Contract Days -	130
Reconciliation Change Order -	<u>11</u>
New Contract Days-	141

The reason for the RCO adjusting the contract days is due to back ordering from the manufacturer and programming from the engineer.

Staff recommends that the Mayor and City Council approve of the reconciliation change order to finalize the Traffic Signals S Walton (US-71B) & SW 18th Street.

Please contact me with any questions or concerns regarding the proposed contract or the project as a whole. My telephone number is (479) 696-0227 or I can be reached via email at bwick@bentonvillear.com

ALL SERVICE ELECTRIC, INC.
182 WHITED FARM LANE
HOT SPRINGS, AR 91913
(501) 767-8424 OFFICE (501) 767-8404 FAX

4/6/17

Mr. Bryan Wick
City of Bentonville
305 S.W. "A" Street
Bentonville, AR 72712

RE: Traffic Signal – S Walton Blvd. (US-71B) & SW 18th St. (Project No. – WALT18)

Dear Mr. Wick,

Please accept this change order request for an "Extension of Contract Time" per section 109.08 (e) in the contract.

The contract time currently expires on 4/12/17 but we will be unable to meet this date due to unexpected delays. We are currently awaiting the delivery of some job-specific traffic signal items (polycarbonate backplates) that should arrive by 4/7/17. Also, the traffic signal controller for this project must be programmed by city engineers to insure correct timing and proper operation of the signal. The person responsible for programming will not be available until the week of 4/10/17 to complete this work.

It has been agreed that the traffic signal "Swap over" to the new equipment should take place on a Sunday morning to cause as little inconvenience to the travelling public as possible and to increase safety. The next available Sunday for completion of the work after programming the controller (except Easter Sunday) will be on April 23, 2017.

Therefore, we are requesting a time extension from 4/12/17 to 4/23/17 for substantial completion with final completion by 4/30/17.

Sincerely,


Shawn Brown, VP

ALL SERVICE ELECTRIC, INC.
182 WHITED FARM LANE
HOT SPRINGS, AR 71913
OFFICE: (501) 767-8424 FAX: (501) 767-8404

5/22/17

Mr. Brad Conley
City of Bentonville
305 S.W. "A" Street
Bentonville, AR 72712

RE: Traffic Signal – S Walton Blvd. (US-71B) & SW 18th St. (Project No. WALT18)

Dear Mr. Conley,

On Sunday April 23rd, All Service Electric, Inc. installed a traffic signal controller cabinet on the above job that did not include a rear access door as required in the plans.

We sincerely regret this oversight and would like to offer the city a rebate or reduction of \$1000.00 from the original contract price of \$73,539.00 to compensate the city for this omission. (The vendor has offered to deduct \$500.00 which is roughly the cost of the rear door and ASE will match it for the \$1000.00 total.)

Again, I apologize for this mistake and appreciate any efforts on your behalf that may help resolve this issue.

Sincerely,

A black rectangular redaction box covering the signature of Shawn Brown.

Shawn Brown

TRAFFIC SIGNALS S. WALTON BLVD (US-71B) & SW 18TH STREET

FINAL PAYMENT APPLICATION AND CHANGE ORDER RECONCILIATION

CITY OF BENTONVILLE

BID NO. 16-21

THE CONTRACTOR CERTIFIES THAT (1) TITLE TO ALL WORK, MATERIALS, AND EQUIPMENT INCORPORATED IN THE WORK, OR OTHERWISE LISTED IN OR COVERED BY THIS AND ALL PREVIOUS PAY ESTIMATES WILL PASS TO THE OWNER AT TIME OF PAYMENT FREE AND CLEAR OF ALL LIENS, CLAIMS, SECURITY INTERESTS AND ENCUMBRANCES (EXCEPT SUCH AS ARE COVERED BY BOND ACCEPTABLE TO OWNER INDEMNIFYING OWNER AGAINST ANY SUCH LIEN, CLAIM, SECURITY INTEREST OR ENCUMBRANCE), AND (2) ALL WORK COVERED BY THIS PAY ESTIMATE IS IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AND IS NOT DEFECTIVE.

SUBMITTED BY:

ALL SERVICE ELECTRIC, INC.
182 WHITED FARM LANE
HOT SPRINGS, AR 71913

CONTRACTOR: ALL SERVICE ELECTRIC, INC.

 *5/25/17*
SIGNATURE AND DATE

APPROVED BY: CITY OF BENTONVILLE

SIGNATURE AND DATE (OWNER)

PAY ESTIMATE NUMBER:	2
DATE OF ESTIMATE:	6/13/2017
NOTICE TO PROCEED ISSUED:	12/5/2016
CONTRACT DAYS:	141
% CONTRACT TIME USED:	100.00%
% WORK COMPLETED:	100.00%
FINAL ACCEPTANCE DATE:	4/25/2017
DAYS UNDER/OVER CONTRACT:	0

ORIGINAL CONTRACT AMOUNT:	\$ 73,539.00
APPROVED CHANGE ORDER:	
RECONCILIATION CHANGE ORDER:	\$ (1,000.00)
FINAL CONTRACT AMOUNT:	\$ 72,539.00

TOTAL WORK TO DATE:	\$ 72,539.00
---------------------	--------------

MATERIALS ON HAND:	
LESS MATERIALS USED:	
SUBTOTAL:	\$ -

LESS RETAINAGE (0%):	\$ -
----------------------	------

INCENTIVE PER DAY:		\$ -
DISINCENTIVE PER DAY:	\$ 300.00	\$ -

AMOUNT DUE:	\$ 72,539.00
LESS PREVIOUS PAYMENTS:	\$ 44,123.00

DUE AND PAYABLE THIS PERIOD:	\$ 28,416.00
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CHECK ALL THAT APPLY		
	Bid Award	Bid #
	Budget Adjustment	
	Change Order	
	Informational	
	Ordinance	
X	Resolution	
	Other	

AGENDA FORM

CITY COUNCIL MEETING OF:

October 25, 2016

Submitted by:

Bryan Wick

Department

Engineering

Phone

696-0227

ACTION REQUIRED:

City Council approval of a resolution to enter into an amended Memorandum of Understanding (MOU) with Watershed Conservation Resource Center (WCRC) for data collection, design services and project management for the Demonstration of Stream and Wetland Restoration at Little Sugar Creek in Bentonville, Arkansas. The amended MOU will add \$35,000.00 to WCRC contract for Task 3, #6, "Performing Floodplain analysis" which was originally a City of Bentonville task. This will not be an additional cost to the City. This increase will bring the total contract value to a not to exceed value of \$407,150.00.

COST TO CITY:

Cost of this Request:

Additional Budget Amount

☒ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	-
Remaining After Adjustment	\$ -

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE



Memorandum



To: Mayor and City Council

From: Bryan Wick, Project Manager

Date: Monday, June 05, 2017

Re: City Council approval of a Resolution to enter into a Memorandum of Understanding (MOU) with Watershed Conservation Resource Center (WCRC).

The City of Bentonville has contracted with WCRC to provide data collection, design services and project management for the demonstration of stream and wetland restoration at Little Sugar project. The original agreement spelled out specific tasks that defined the City of Bentonville and WCRC's obligations. Presented is an amendment to the MOU requesting that WCRC manage Task 3 #6 – performing floodplain analysis. This addition service will add \$35,000.00 to WCRC's contract bringing the total to a not to exceed value of \$407,150.00. This will not be an additional cost to the City of Bentonville as the price of this request has already been accounted for in the original proposal.

Staff is seeking a Resolution allowing the Mayor to enter into an amended Memorandum of Understanding with WCRC for services described in the MOU, EPA Grant, and proposal.

Staff recommends the amended MOU as written.

Please contact me with any questions or concerns regarding this project. My telephone number is (479) 696-0227 or I can be reached via email at bwick@bentonvillear.com

Amendment #1

MEMORANDUM OF UNDERSTANDING

Between

Watershed Conservation Resource Center

And

City of Bentonville

This amendment to the original Memorandum of Understanding (MOU) approved October 25, 2016 by the City of Bentonville (CITY OF BENTONVILLE) is entered into and executed on the date indicated below the signature block, by and between the Watershed Conservation Resource Center hereinafter referred to as WCRC and the CITY OF BENTONVILLE.

A. PURPOSE

This amendment was developed to increase the budget in the agreement by \$35,000 and allow the WCRC to administer procurement of contract services that were previously the responsibility of the CITY OF BENTONVILLE as defined in the workplan. The change in the budget does not result in an increase in the overall project budget as funds that have already been approved are being reallocated.

The purpose of this MOU is to establish a general framework for cooperation between the WCRC and the CITY OF BENTONVILLE, who applied together and have received an EPA Regional Wetlands Program Development Grant to conduct the project entitled, "Demonstration of Stream and Wetland Restoration at Little Sugar Creek in Bentonville, Arkansas." The CITY OF BENTONVILLE, the award recipient, and the WCRC, sub-grant recipient, will work to achieve the common goal of restoring an unstable section of Little Sugar Creek to a morphologically stable form utilizing a natural channel design approach that includes the restoration of a wetland area.

The CITY OF BENTONVILLE in partnership with the Watershed Conservation Resource Center (WCRC) proposes to implement an urban stream restoration demonstration project on Little Sugar Creek using a natural channel design approach in Bentonville, AR. The project includes restoring a large saturated area on the flood plain, currently being mowed, to a herbaceous wetland that will provide biological habitat and filter urban pollutants. Little Sugar Creek flows through a natural area and park owned by the CITY OF BENTONVILLE and frequented by the community because of the extensive walking trail. Little Sugar Creek is a headwater stream within the Elk River watershed, which crosses into Missouri, just north of the project site. Such cooperation will serve the parties' mutual interest. The project description, schedule of activities, budget, and roles and responsibilities of the WCRC and the CITY OF BENTONVILLE can be found in the attached work plan.

B. STATEMENT OF MUTUAL INTERESTS AND BENEFITS

Traditional methods of managing stormwater in our cities result in environmental degradation of our streams and watersheds. Over the past 30 years, Northwest Arkansas' population more than tripled exceeding 500,000 people. Both forested and agricultural lands have been converted to urban areas, increasing the amount of impervious surfaces. The increase in runoff from impervious surfaces has intensified the magnitude and frequency of high flow events in urban streams, which in turn, increases erosion of stream channels. These conditions have resulted in Little Sugar Creek undergoing channel enlargement along with accelerated streambank erosion. At the project site there are vertical cut-banks eroding park land and threatening the newly developed trail system. In addition, accelerated streambank erosion contributes sediment and nutrients to the stream. The WCRC will use a natural channel design approach, which is an innovative technique to design and construct a stream restoration that will reduce instability, reduce sediment and nutrient loads, and enhance the aquatic habitat for approximately 1,500-foot section of Little Sugar Creek. The design will include constructing small floodplains, rock structures that deflect flow away from banks, toe-wood structures, and/or the development of defined riffles and pools. Restoration of a wetland area will also reduce lawn maintenance at the site. A re-vegetation plan will be developed that encourages the growth of native species and plant selection will be based on recommendations from local plant and ecosystem experts. The stream corridor will be re-vegetated with native grasses, shrubs, and trees to enhance the native vegetation, reduce soil erosion, and to improve the removal of pollutants from stormwater runoff.

The WCRC strives to protect, conserve, and restore natural resources by utilizing the watershed approach, environmental outreach, and providing planning and technical assistance to landowners, communities, and government. Implementing a natural channel design demonstration project on a section of stream within the CITY OF BENTONVILLE limits helps the CITY OF BENTONVILLE to meet multiple local and regional objectives relating to stream channel instability, water quality, and ecological services. This is of benefit to the CITY OF BENTONVILLE because the effort will lead to both aquatic and terrestrial habitat restoration, improved water quality, reduced streambank erosion, and improve aesthetics of the stream within the limits of the CITY OF BENTONVILLE. This effort will also help to promote the use of alternatives to traditional channel modifications in urbanizing areas.

The project will help to demonstrate a stream restoration that will enhance the local ecosystem within an urban environment. Benefits of the project include:

- The restoration design will help to dissipate energy from stormwater runoff; thereby, reducing streambank erosion. The water quality of Little Sugar Creek will be improved by reducing sediment and nutrient annual loads from the project site by over 80%.
- The riparian buffer improvements and the restoration of a wetland area will enhance the infiltration of rain water, help to remove pollutants, and reduce stormwater runoff.
- The stream restoration will result in improved riffle-pool bed features, which will help to increase water retention and aeration resulting in better assimilation of nutrients.
- The channel will be restored to a natural hydrology and channel enlargement will be reduced resulting in enhanced aquatic and terrestrial habitat.

- The aesthetics of the park will be improved.
- The site will provide education opportunities for alternative design methods to address urban stream erosion with a focus on ecological restoration, enhancement, and sustainability.

In consideration of the above premises, the parties agree as follows:

C. THE WCRC:

1. Shall provide project management, engineering, revegetation/maintenance, materials procurement, construction oversight, and other activities the attached project workplan.
2. Shall coordinate and carry-out activities associated with the project as outlined in the attached work plan as Tasks 1-5. The WCRC will identify and procure the services of capable contractors to carry out the tasks delegated to and assist the CITY OF BENTONVILLE in their workplan designated sections as shown in Tasks 2-6.
3. Shall provide method and summary to document environmental outputs and outcomes.
4. Shall provide a method for the CITY OF BENTONVILLE to document their activities and show matching funds.
5. Shall submit payment requests no more frequently than on a monthly basis.
6. Shall provide documentation of \$10,000 in-kind match from outreach activities.

D. THE CITY OF BENTONVILLE:

1. Shall coordinate all activities within the CITY OF BENTONVILLE Divisions and Departments and between the CITY OF BENTONVILLE and the WCRC
2. Shall coordinate and carry-out activities as outlined in the attached work plan as Task 6 and designated sections of Tasks 2-5.
3. Shall administer grant and oversee the budget & procurement of construction contractor.
4. Shall pay to the sub-grant recipient, the WCRC, a sum not to exceed \$407,150 as outlined in the budget section of the attached work plan. This amount is included in the overall project budget of \$560,000.
5. Shall provide review and input into the final restoration design.
6. Shall oversee activities at the park and coordinate staff as needed for implementation.
7. Shall provide documentation of all project activities and associated matching funds.
8. Recognizes that their participation is an integral component in carrying out a successful project that will result in improved water quality and habitat restoration. Non-performance of any of the CITY OF BENTONVILLE's activities would be detrimental to the success of this project. This agreement indicates the CITY OF BENTONVILLE's good faith intent to fulfill their agreed upon roles as outlined in the attached workplan to the successful completion of the project.

E. IT IS MUTUALLY AGREED AND UNDERSTOOD BY ALL PARTIES THAT:

1. FREEDOM OF INFORMATION ACT (FOIA). CITY OF BENTONVILLE contract and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the CITY OF BENTONVILLE, the WCRC will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-

101 et. seq.) Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance. Any information furnished to the WCRC under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).

2. MODIFICATION. Modifications within the scope of the instrument shall be made by mutual consent of the parties. Changes, modifications, or amendments in scope, price or fees to this agreement shall not be allowed without a prior formal contract amendment approved by the Mayor and/or the City Council in advance of the change in scope, cost or fees.

3. PARTICIPATION IN SIMILAR ACTIVITIES. This instrument in no way restricts the WCRC or the CITY OF BENTONVILLE from participating in similar activities with other public or private agencies, organizations, and individuals.

4. INDEMNIFICATION. The WCRC agrees to indemnify and save harmless the CITY OF BENTONVILLE from and against any loss, claim, damage, cost or expense (including reasonable attorney's fees) suffered or incurred by CITY OF BENTONVILLE (a) by reason of any injury to person or damage to property on or about the Property to the extent caused by the WCRC, its employees, agents, or contractors, entering or conducting Project activities upon CITY OF BENTONVILLE property included in this Project; (b) resulting from acts by the WCRC in connection with the maintenance of the project on CITY OF BENTONVILLE Property; and (c) and for any acts or negligent omissions by the WCRC on the Project Property; except for any loss, claim, damage, cost or expense suffered or incurred as a result of negligence or the intentional misconduct of the CITY OF BENTONVILLE or CITY OF BENTONVILLE's employees, agents or invitees.

5. COMMENCEMENT/EXPIRATION DATE. The instrument is executed as of the date of the last signature and is effective for the life of the project.

6. PRINCIPAL CONTACT. The principal contacts for this instrument are:

SSandi Formica, Executive Director
Watershed Conservation Resource Center

380 West Rock Street
Fayetteville, AR 72701
Office Phone: 479-444-1916
Cell Phone: 501-352-5252

E-mail:
wrcr@watershedconservation.org

Ben Peters, P.E., CFM, City
Engineer City of Bentonville
Representative Mike Bender, PE
Public Works Director
City of Bentonville
305 S.W. "A" Street
Bentonville, Ar. 72712

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Phone: (479) 271-59933168
E-mail: mbender@bentonvillear.com
~~bpeters@bentonvillear.com~~

Bryan Wick, CPESC, CFM,

-Engineering Project Manager
City of Bentonville
Phone: 479-271-3168
E-mail: bwick@bentonvillear.com

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7. NONDISCRIMINATION. During the performance of this agreement, all parties will abide by the terms of Executive Order 11246 on nondiscrimination and will not discriminate against any person because of age, race, color, religion, sex, national origin, or disability.

Sandi J. Formica, Executive Director
Watershed Conservation Resource Center

_____, 20167
Date

Bob McCaslin, Mayor
City of Bentonville

_____, 20167
Date

Amendment #1
MEMORANDUM OF UNDERSTANDING
Between
Watershed Conservation Resource Center
And
City of Bentonville

This amendment to the original Memorandum of Understanding (MOU) approved October 25, 2016 by the City of Bentonville (CITY OF BENTONVILLE) is entered into and executed on the date indicated below the signature block, by and between the Watershed Conservation Resource Center hereinafter referred to as WCRC and the CITY OF BENTONVILLE.

A. PURPOSE

This amendment was developed to increase the budget in the agreement by \$35,000 and allow the WCRC to administer procurement of contract services that were previously the responsibility of the CITY OF BENTONVILLE as defined in the workplan. The change in the budget does not result in an increase in the overall project budget as funds that have already been approved are being reallocated.

The purpose of this MOU is to establish a general framework for cooperation between the WCRC and the CITY OF BENTONVILLE, who applied together and have received an EPA Regional Wetlands Program Development Grant to conduct the project entitled, "Demonstration of Stream and Wetland Restoration at Little Sugar Creek in Bentonville, Arkansas." The CITY OF BENTONVILLE, the award recipient, and the WCRC, sub-grant recipient, will work to achieve the common goal of restoring an unstable section of Little Sugar Creek to a morphologically stable form utilizing a natural channel design approach that includes the restoration of a wetland area.

The CITY OF BENTONVILLE in partnership with the Watershed Conservation Resource Center (WCRC) proposes to implement an urban stream restoration demonstration project on Little Sugar Creek using a natural channel design approach in Bentonville, AR. The project includes restoring a large saturated area on the flood plain, currently being mowed, to a herbaceous wetland that will provide biological habitat and filter urban pollutants. Little Sugar Creek flows through a natural area and park owned by the CITY OF BENTONVILLE and frequented by the community because of the extensive walking trail. Little Sugar Creek is a headwater stream within the Elk River watershed, which crosses into Missouri, just north of the project site. Such cooperation will serve the parties' mutual interest. The project description, schedule of activities, budget, and roles and responsibilities of the WCRC and the CITY OF BENTONVILLE can be found in the attached work plan.

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5. COMMENCEMENT/EXPIRATION DATE. The instrument is executed as of the date of the last signature and is effective for the life of the project.

6. PRINCIPAL CONTACT. The principal contacts for this instrument are:

Sandi Formica, Executive Director
Watershed Conservation Resource Center
380 West Rock Street
Fayetteville, AR 72701
Office Phone: 479-444-1916
Cell Phone: 501-352-5252
E-mail:
wcrc@watershedconservation.org

Mike Bender, PE
Public Works Director
City of Bentonville
Phone: (479) 271-3168
E-mail: mbender@bentonvillear.com

Bryan Wick, CPESC, CFM,
Engineering Project Manager
City of Bentonville
Phone: 479-271-3168
E-mail: bwick@bentonvillear.com

7. NONDISCRIMINATION. During the performance of this agreement, all parties will abide by the terms of Executive Order 11246 on nondiscrimination and will not discriminate against any person because of age, race, color, religion, sex, national origin, or disability.

_____, 2017
Date
Sandi J. Formica, Executive Director
Watershed Conservation Resource Center

_____, 2017
Date
Bob McCaslin, Mayor
City of Bentonville

RESOLUTION NO. _____

A RESOLUTION ALLOWING THE MAYOR AND CITY CLERK TO ENTER INTO AN AMENDED MEMORANDUM OF UNDERSTANDING WITH WATER CONSERVATION RESOURCE CENTER FOR PROFESSIONAL SERVICES RELATED TO STREAM AND WETLAND RESTORATION.

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

Section 1: That the Mayor and Clerk be and are hereby authorized to enter into an amended Memorandum of Understanding with the Watershed Conservation Resource Center for professional engineering services related to wetland restoration at Little Sugar Creek in Bentonville, Arkansas for a sum not to exceed \$407,150.00, as set forth in the agreement attached hereto as Exhibit "A".

Section 2: This resolution shall be in full force and effect from and after the date of its passage.

PASSED and APPROVED this ____ day of _____, 2017.

APPROVED:

MAYOR

ATTEST:

CITY CLERK



BENTONVILLE CITY COUNCIL AGENDA

**Committee of the Whole
Community Development
Planning Commission Meeting Room**

**Tuesday, June 13, 2017 6:00 p.m.
305 SW "A" Street**

**Regular City Council Meeting
Community Development
Planning Commission Meeting Room**

**Tuesday, June 13, 2017 6:00 p.m.
305 SW "A" Street**

**Public Comments on Tonight's Agenda Items (Limited Public Forum)
Questions, Comments and Discussion from Alderman on Tonight's Agenda
Call to Order
Pledge of Allegiance
Moment of Silence – For our Military Forces
Roll Call
Approval of Minutes: May 23, 2017**

AGENDA

1. Presentation of Final Draft for Parks and Recreation 10 Year Master Plan.
2. Planning:
 - 2a. **Lot Split: Lot 19, Block 3, Deming's Addition, Phillips Revocable Trust, John Alan (Trustee), Northwest 'A' Street, R-1, Single Family Residential.**

The Planning Commission voted 7-0, recommending approval.

The applicant has submitted a proposal for a lot split that will create one new lot from one existing parcel. The new lot will be known as Lot 19, (0.44 acres), Block 3 of Deming's Addition. Additional right-of-way will be dedicated along NW A Street per the current Master Street Plan. A 20'-wide utility easements will also be dedicated along NW A Street with the plat to serve the new lot. The newly created lot will have direct access to public utilities and a public street.

- 2b. **Property Line Adjustment: Lot 29, Block 5, Dunn & Davis Addition, Bike Rack Redevelopment, LLC, Southwest 6th Street & Southwest 'B' Street, D-E, Downtown Edge.**

The Planning Commission voted 7-0, recommending approval.

The applicant has submitted a property line adjustment that will remove the common lot lines of four existing lots and will create one new lot. The new lot will be known as Lot 29 (0.49 acres), Block 5 of Dunn & Davis Addition. Per the requirements of the current Master Street Plan, a small portion of right-of-way will be dedicated along SW B Street. The new lot will have access to public utilities and a public street. An existing 12' alley to the west will allow any development on the new lot to be rear loaded.

- 2c. **Property Line Adjustment: Lot 3 Food Hub Addition & Lot 3 Market Addition, Food Hub NWA, LLC, 801 Southwest 8th Street, C-2, General Commercial & I-2, Heavy Industrial.**

The Planning Commission voted 7-0, recommending approval.

The applicant has submitted a property line adjustment that will dedicate right-of-way for the future expansion of SE 'G' Street between existing Lot 1 of the Market Addition and existing Lot 2 of the Food Hub NWA Addition. The two new lots will be known as Lot 3 Food Hub Addition and Lot 3 Market Addition. A 20' wide utility easement adjacent to the newly dedicated right-of-way is being dedicated with the plat. Each new lot has access to public utilities and a public road.

- 2d. **General Plan Amendment: Sewell Family Trust, Southwest H Street, Agricultural to Low Density Residential.**

The Planning Commission voted 7-0, recommending approval.

This is a land use map amendment amending the boundary of the Map and adopting the Low Density residential designation. The General Plan suggests that the city should encourage the development of a mix of housing types to meet the needs of its residents throughout their lives. A proposed low density residential development will help to create additional density and reduce the impact on the city's infrastructure by utilizing existing public utilities and traffic networks.

- 2e. **General Plan Amendment: DEB Farms Adventures, Inc., Southwest Barron Road and Piercy Road, Agricultural to Low Density Residential.**

The Planning Commission voted 7-0, recommending approval.

Policy LU-23, Housing Types, within the General Plan suggest that the city should encourage the development of a mix of housing types to meet the needs of its residents throughout their lives. The proposed low density residential land use will help to create additional housing options for the city's residents and will utilize existing utility infrastructure.

- 2f. **General Plan Amendment: Real Assets, Inc., 2415 Southwest Regional Airport Boulevard, Low Density Residential to Office.**

The Planning Commission voted 7-0, recommending approval.

The Future Land Use Plan depicts this property as Low Density Residential (LDR) , the proposed designation of Office (O) is adjacent to property that is currently designated as Office (O) on the current Land Use Map. Policy LU-18 of the General Plan states that the City should provide greater flexibility in its development regulations to facilitate efficient and appropriate residential, office and commercial uses.

- 2g. **Rezoning: Carroll Electric Cooperative Corp., 707 Southeast Walton Boulevard, From A-1, Agricultural to C-2, General Commercial.**

The Planning Commission voted 7-0, recommending approval.

The Future Land Use Plan depicts this property as commercial. The C-2, General Commercial zoning designation is a recommended zoning for this classification.

- 2h. **Lot Split: Lots 11-15 Southside Addition, Hurricane WA LLC, Southeast 'A' Street & Southeast 7th Street, D-E, Downtown Edge.**

The Planning Commission voted 7-0, recommending approval.

The applicant has submitted a proposal for a lot split that will create five new lots from three existing lots. The new lots will be known as Lots 11, 12, 13, 14 & 15 of Southside Addition. Per the requirements of the current Master Street Plan, right-of-way is being dedicated along both SE A Street & SE 6th Street.

3. Staff recommends approval of Change Order No. 1 and Final Reconciliation for Fochtman Enterprises, Inc. for a decrease of \$14,122.68 for the Hwy 62/102 - Hwy 72 Water Line Relocations Associated with AHTD Project CA0902. This final change order reduces the contract amount from \$110,170.00 to \$96,047.32. The reduction is from final quantity measurements. This project qualifies for 97% reimbursement from AHTD.
4. Staff requests Council approval to increase the vehicle fleet in Public Works Maintenance fleet by one (1). This request will not increase the overall City fleet, but rather repositions vehicles within departments. This request would transfer a Durango (2013, Unit 3820-16) from Transportation to Police in exchange for an Impala (2009, Unit 2010-79) in need of replacement. Transportation would transfer the Impala to Public Works Maintenance which would trade the Impala for a pickup that would be positioned for surplus, ultimately removing the Impala from the City's current fleet through surplus. The addition of the truck will allow Public Works Maintenance to divide mowing crews to better cover mowing and lawn maintenance throughout the City.
5. A resolution setting a public hearing for June 27, 2017 for a Drainage Easement Vacation requested by Gain Robinson located at 2609 S. Walton. (Referenced in layout provided as Drainage Easement)
6. A resolution setting a public hearing for June 27, 2017 for a Shared Access Easement requested by Gain Robinson located at 2609 S. Walton. (Referenced in layout provided as Access Easement #1)

7. A resolution setting a public hearing for June 27, 2017 for an Ingress/Egress Easement requested by Gain Robinson located at 2609 S. Walton. (Referenced in layout provided as Access Easement #2)
8. City recommends council approval of a budget adjustment for surveying services to Sandcreek Engineering in the amount of \$14,120.00.
9. A resolution authorizing the Mayor and City Council to enter into a contract with Osmose to provide pole testing to the City of Bentonville Electric Department for an amount not to exceed \$26,600.00.
10. A resolution authorizing the Mayor and City Council to enter into an agreement with Fisher & Arnold for the design and bid documents of the new Substation "J" in the amount of \$422,300.00.
11. City Council approval of a budget adjustment, in the amount of \$20,637.00, to allow for the purchase of spectator bleachers for the Memorial Park ballfields.
12. Staff recommends that the Mayor and City Council approve the reconciliation change order for the Traffic Signals S Walton (US-71B) & SW 18th Street project. The final project cost is \$1,000.00 less than the currently contracted amount of \$73,539.00. The final contract amount is \$72,539.00. In addition to the change in contract price, staff recommends to add 11 calendar days to the contract due to unforeseen circumstances.
13. City Council approval of a resolution to enter into an amended Memorandum of Understanding (MOU) with Watershed Conservation Resource Center (WCRC) for data collection, design services and project management for the Demonstration of Stream and Wetland Restoration at Little Sugar Creek in Bentonville, Arkansas. The amended MOU will add \$35,000.00 to WCRC contract for Task 3, #6, "Performing Floodplain analysis" which was originally a City of Bentonville task. This will not be an additional cost to the City. This increase will bring the total contract value to a not to exceed value of \$407,150.00.