



## **BENTONVILLE CITY COUNCIL AGENDA**

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

**Tuesday, July 10, 2018 6:00 p.m.  
305 SW "A" Street**

**Public Comments on Tonight's Agenda Items (Limited Public Forum)  
Questions, Comments and Discussion from City Council Members on Tonight's  
Agenda  
Call to Order  
Pledge of Allegiance  
Moment of Silence – For our Military Forces  
Roll Call  
Approval of Minutes: June 26, 2018**

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### **AGENDA**

1. Approval of an ordinance accepting the annexation of certain territory to the City of Bentonville, Arkansas and making same a part of the City of Bentonville, and assigning same to wards. (Brandon Bowen, James D. Cooper, d/b/a Homes of Distinction Inc./Nash Investment LLC. and David G. Smith)

**(Pages 4-10)**

2. Planning:

- 2a. **Property Line Adjustment: Lot 10 of Heritage Heights II, Rick and Maureen Mangrum, 1209 NE 10<sup>th</sup> Street, R-1, Single Family Residential (Pages 14-16)**

**The Planning Commission voted 6-0, recommending approval.**

Property Line Adjustment removing the common lot line between lots 9 and 7 of Heritage Heights II, creating new lot 10 (+/- 1.29 acres). The plat dedicates a 10' utility easement along NE 10th Street. Adequate right-of-way exists along NE 10th Street.

- 2b. **Property Line Adjustment: Lots 86 and 87 of Woods Creek South Subdivision Phase II, Ryan Norton and Brie Donelan, 202 NE Lakeview Terrace, R-1, Single Family Residential (Pages 17-19)**

**The Planning Commission voted 6-0, recommending approval.**

Property Line Adjustment adjusting the common lot line between Lots 15 and 79 of Woods Creek South Subdivision Phase II, creating new lots 86 and 87 (+/- 6.3

acres). The plat dedicates multiple utility easements of varying widths. Adequate right-of-way exists along Marina Drive, Blue Spruce Avenue, and Lakeview Terrace.

- 2c. **Rezoning: Shelley Parson, 2001 SE J Street, From R-O, Residential Office to C-1, Neighborhood Commercial** (Pages 20-23)

**The Planning Commission voted 6-0, recommending approval.**

The Future Land Use Plan depicts this property as Low Density Residential (LDR). The C-1, Neighborhood Commercial zoning is not a recommended zoning district for this designation. However, existing adjacent uses such as the school to the north and commercial development to the west, and the site's location near the intersection of an arterial and a collector, may support a higher intensity of land use. In addition, any future commercial development at this site must provide a Type A screen along the eastern property line.

- 2d. **Rezoning: Duncan Real Estate, 202 SE 6<sup>th</sup> Street, From R-1, Single Family Residential to DN-4, Downtown Mixed-Use Residential** (Pages 24-26)

**The Planning Commission voted 6-0, recommending approval.**

The Future Land Use Plan depicts this property as Downtown Mixed Use Residential (DMUR). The DN-4, Downtown Mixed-Use Residential zoning is a recommended zoning district for this designation.

- 2e. **Planned Residential Development: Roddey Residential Properties, LLC, Northeast J Street, From PRD, Planned Residential Development to PRD, Planned Residential Development** (Pages 27-39)

**The Planning Commission voted 6-0, recommending approval.**

The Future Land Use Plan depicts this property as Medium Density Residential (MDR). The PRD, Planned Development zoning is an appropriate zoning district for this designation.

3. Staff requests the Mayor and Council approval for construction bid award #18-0021 for installation of sludge dewatering equipment, to Flintco LLC for the amount of \$488,900.00. Of six bids received on this project, Flintco LLC submitted the lowest bid. (Pages 40-78)
4. Request that City Council approve a resolution authorizing the Mayor and City Clerk to enter into a guaranteed maximum price amendment to the existing professional services agreement with Nabholz to provide construction management and general contractor services for the construction of the new Police/Fire/EMS Communications Center for an amount not to exceed \$8,191,226.00, with the cost for the total program being \$9,556,480.00. This agreement will require a budget adjustment recognizing funds from various accounts and to fund the construction of the new Police/Fire/EMS



Communications Center in the amount of \$9,556,480.00. See attached Memorandum, Budget Adjustment Request Form and Spreadsheet.

**(Pages 79-108)**

5. City council approval of a resolution allowing the Mayor to enter into an agreement with GTS, Inc. for geotechnical services and inspections for the Bentonville Police Department Call Center project. The cost of this agreement is not to exceed \$30,000.00, which will come from bond. **(Pages 109-131)**
6. Request that City Council approve the conversion of One (1) Police Officer position to one (1) Police Sergeant position within our current rank structure. This position would be staffed from our existing headcount and would not require any additional headcount, funding or budget adjustment. This request would be used to upgrade the position of Community and Media Relations Officer from the current Police Officer I/II/Police Corporal status to a status of Police Sergeant. This upgrade would better recognize the far reaching duties and responsibilities associated with our Community and Media Relations position and also better align it with similar positions within neighboring law enforcement agencies. Currently, our Community and Media Relations Officer has the job title of Police Officer II, but holds the number one position on the existing promotion list for Sergeant, allowing this upgrade to be accomplished in place and without any sort of internal reorganization. **(Page 132)**
7. Parks and Recreation is requesting City Council approval of a resolution authorizing the Mayor to apply for an Outdoor Recreation Grant from Arkansas Department for Parks and Tourism for assistance to develop Old Tiger Park. **(Pages 133-135)**
8. Staff recommends that City Council approve a budget adjustment to accept Surface Transportation Block Grant Program-Attributable (STBGP-A) Funding for the Hwy 71 B/NW 12th/Tiger Blvd. intersection improvement project. These funds will be used to reimburse the City 80% of the total cost of the project. **(Pages 136-142)**
9. Fire Department Staff recommends Council award bid #IFB-18-027 to Superior Chevrolet in the amount of \$41,779.00 to purchase a Chevrolet Silverado 2500 HD to replace a 2011 Ford Explorer. **(Pages 143-155)**



| CHECK ALL THAT APPLY                |                   |       |
|-------------------------------------|-------------------|-------|
| <input type="checkbox"/>            | Bid Award         | Bid # |
| <input type="checkbox"/>            | Budget Adjustment |       |
| <input type="checkbox"/>            | Change Order      |       |
| <input type="checkbox"/>            | Informational     |       |
| <input checked="" type="checkbox"/> | Ordinance         |       |
| <input type="checkbox"/>            | Resolution        |       |
| <input type="checkbox"/>            | Other             |       |

### AGENDA FORM

CITY COUNCIL MEETING OF:

July 10, 2018

Submitted by:

Jim Wheelless

Department

IT Department

Phone

271-5926

#### ACTION REQUIRED:

Approval of an Ordinance accepting the annexation of certain territory to the City of Bentonville, Arkansas and making same a part of the City of Bentonville, and assigning same to wards. (Brandon Bowen, James D. Cooper, d/b/a Homes of Distinction Inc./Nash Investment LLC. and David G. Smith)

#### COST TO CITY:

Cost of this Request: \$0

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



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE ACCEPTING THE ANNEXATION OF CERTAIN TERRITORY TO THE CITY OF BENTONVILLE, ARKANSAS, AND MAKING SAME A PART OF THE CITY OF BENTONVILLE, AND ASSIGNING SAME TO WARDS.**

**WHEREAS**, petition was filed with the County Clerk of Benton County, Arkansas by all of the owners of the hereinafter described territory, said owners being listed in Exhibit "A" to this ordinance, praying that said territory be annexed to, and made a part of the City of Bentonville, Arkansas, and

**WHEREAS**, on the 26 day of June, **2018**, the County Court of Benton County, Arkansas, entered an order authorizing annexation pursuant to § 14-40-609 of the Arkansas Code, finding that the petition met the requirements for annexation under that provision and directed the Clerk to forward the order to the Mayor of the City of Bentonville; and

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

**Section 1.** That the land described on the attached Exhibit "B," which includes the territory sought to be annexed by the petitioners, is territory contiguous to and adjoining the City of Bentonville, Arkansas, and the petition to annex that property is hereby granted and the property described in Exhibit "B" is hereby accepted as part of and annexed to and made a part of the City of Bentonville.

**Section 2.** That the above described territory shall be annexed to and made a part of Ward   2   of the City of Bentonville, and the same shall henceforth be a part of said ward as fully as existing parts of said ward.

**Section 3.** That the above described territory shall be zoned   A-1  , to be used in accordance with City zoning laws and the laws of the State of Arkansas.

**Section 4:** That this ordinance shall become effective 30 days from its passage and approval.

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF JULY, 2018.**

**APPROVED: \_\_\_\_\_**  
**HON. BOB McCASLIN, Mayor**

**ATTEST: \_\_\_\_\_**  
**HON. LINDA SPENCE, City Clerk**

**Bowen/Cooper ANNEXATION**  
**EXHIBIT "A"**

|                                            |                     |
|--------------------------------------------|---------------------|
| <u>Brandon Bowen &amp; James D. Cooper</u> | <u>18-10087-000</u> |
| <u>Homes of Distinction, Inc.</u>          | <u>18-10087-006</u> |
|                                            | <u>18-10087-004</u> |

|                       |                    |
|-----------------------|--------------------|
| <u>David G. Smith</u> | <u>18-0990-003</u> |
|-----------------------|--------------------|

**Bowen/Cooper Annexation  
Exhibit "B"**

**Parcel 18-10087-000**

Part of the NE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 34, Township 20N, Range 31W, Benton County, Arkansas, and more particularly described as follows.

Commencing 488.87' West and 718.60' South of the NE Corner of said NE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$ .  
Thence South 150';  
Thence N 87° 48' 38"W, 340.25';  
Thence North 137';  
Thence East 340' to the point of beginning.

**Parcel 18-10087-006**

Part of the NE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 34, Township 20N, Range 31W, Benton County, Arkansas, and more particularly described as follows.

Commencing at the NW Corner of said NE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$ .  
Thence S 87° 43' 52"E, 500.61';  
Thence S 01 58' 56" W, 564.03' to the point of beginning.

Thence S 88° 01' 43" E, 503.65';  
Thence S 36° 27' 30" E, 336.75';  
Thence along a curve to the right having a radius of 392.41', a chord of S 77° 50' 14" W, 217.13',  
and an arc distance of 220';  
Thence N 86° 6' 8" W, 162.11';  
Thence N 1° 52' 00" E, 150';  
Thence N 88° 16' 25" W, 340.14';  
Thence N 1° 58' 56" E, 162.83' to the point of beginning.

**Parcel 18-10087-004**

Part of the NE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 34, Township 20N, Range 31W, Benton County, Arkansas, and more particularly described as follows.

Commencing at the NW Corner of said NE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$ .  
Thence S  $87^{\circ} 43' 52''$  E, 500.61' to the point of beginning.

Thence S  $87^{\circ} 43' 52''$  E, 353.06';  
Thence S  $01^{\circ} 36' 54''$  E, 405.26';  
Thence S  $36^{\circ} 27' 30''$  E, 201.34';  
Thence N  $88^{\circ} 01' 43''$  W, 503.65';  
Thence N  $01^{\circ} 58' 56''$  E, 564.03' to the point of beginning.

**Parcel 18-09900-003**

Part of the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 27, Township 20N, Range 31W, Benton County, Arkansas, and more particularly described as follows.

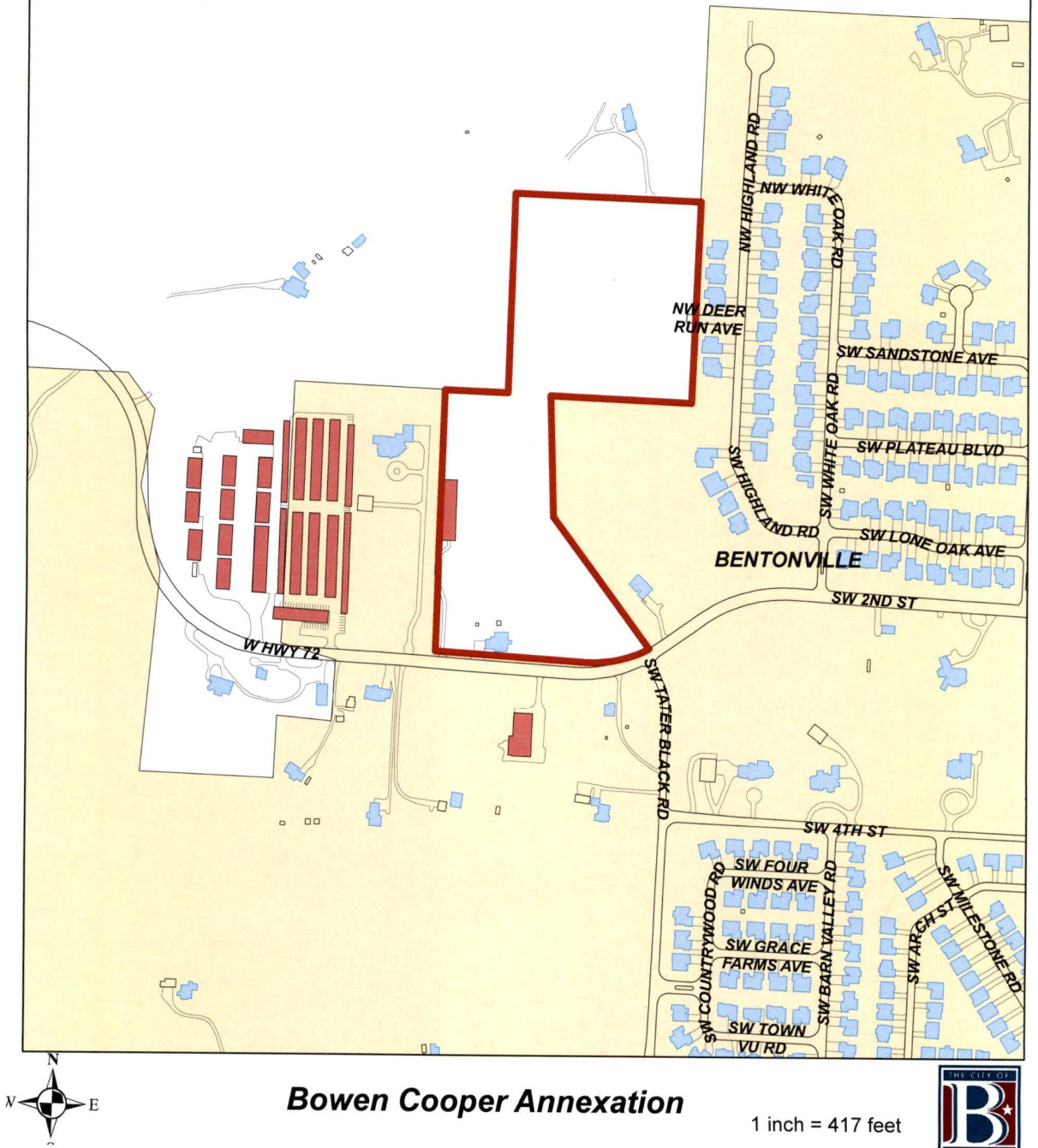
Beginning at the SE Corner of said SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ .

Thence N  $02^{\circ} 24' 32''$  E, 668.28';  
Thence N  $87^{\circ} 41' 25''$  W, 618.65';  
Thence S  $01^{\circ} 51' 22''$  W, 663.56';  
Thence S  $87^{\circ} 14' 48''$  E, 612.26' to the point of beginning.

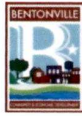


# Legend

 Proposed Annexation







**City Council Agenda Items**  
**For City Council Meeting of July 10, 2018**  
**From the July 3, 2018 Planning Commission Meeting**

**Property Line Adjustment: Lot 10 of Heritage Heights II, Rick and Maureen Mangrum, 1209 NE 10<sup>th</sup> Street, R-1, Single Family Residential.**

**The Planning Commission voted 6-0, recommending approval.**

Property Line Adjustment removing the common lot line between lots 9 and 7 of Heritage Heights II, creating new lot 10 (+/- 1.29 acres). The plat dedicates a 10' utility easement along NE 10th Street. Adequate right-of-way exists along NE 10th Street.

**Property Line Adjustment: Lots 86 and 87 of Woods Creek South Subdivision Phase II, Ryan Norton and Brie Donelan, 202 NE Lakeview Terrace, R-1, Single Family Residential.**

**The Planning Commission voted 6-0, recommending approval.**

Property Line Adjustment adjusting the common lot line between Lots 15 and 79 of Woods Creek South Subdivision Phase II, creating new lots 86 and 87 (+/- 6.3 acres). The plat dedicates multiple utility easements of varying widths. Adequate right-of-way exists along Marina Drive, Blue Spruce Avenue, and Lakeview Terrace.

**Rezoning: Shelley Parson, 2001 SE J Street, From R-O, Residential Office to C-1, Neighborhood Commercial.**

**The Planning Commission voted 6-0, recommending approval.**

The Future Land Use Plan depicts this property as Low Density Residential (LDR). The C-1, Neighborhood Commercial zoning is not a recommended zoning district for this designation. However, existing adjacent uses such as the school to the north and commercial development to the west, and the site's location near the intersection of an arterial and a collector, may support a higher intensity of land use. In addition, any future commercial development at this site must provide a Type A screen along the eastern property line.

**Rezoning: Duncan Real Estate, 202 SE 6<sup>th</sup> Street, From R-1, Single Family Residential to DN-4, Downtown Mixed-Use Residential.**

**The Planning Commission voted 6-0, recommending approval.**

The Future Land Use Plan depicts this property as Downtown Mixed Use Residential (DMUR). The DN-4, Downtown Mixed-Use Residential **Error! Reference source not found.** zoning is a recommended zoning district for this designation.

**Planned Residential Development: Roddey Residential Properties, LLC, Northeast J Street, From PRD, Planned Residential Development to PRD, Planned Residential Development.**

**The Planning Commission voted 6-0, recommending approval.**

The Future Land Use Plan depicts this property as Medium Density Residential (MDR). The PRD, Planned Residential Development zoning is an appropriate zoning district for this designation.



## Consent Agenda Items

For Planning Commission meeting of July 3, 2018

Reviewer: Tyler Overstreet, Planner

- ❖ At the Technical Review meeting held on June 26, 2018 the Planning Commission requested these items be placed on the Consent agenda. The descriptions below shall serve as the staff report for each of the consent agenda items.

**Property Line Adjustment: Lot 10 Heritage Heights II, Rick and Maureen Mangrum, 1209 NE 10<sup>th</sup> Street, R-1, Single-Family Residential (PLA18-0019)**

Property Line Adjustment removing the common lot line between Lots 9 and 7 of Heritage Heights II, creating new Lot 10 (+/- 1.29 acres). The plat dedicates a 10' utility easement along NE 10th Street. Adequate right-of-way exists along NE 10th Street.

*(Please click on this link to access the vicinity map for this item: <http://geo.bentonvillear.com/mgweb/PZpending/>)*

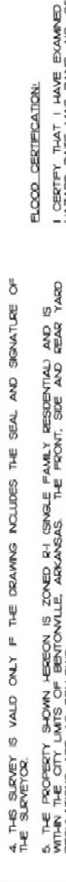
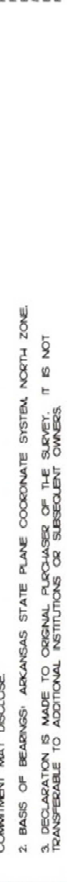
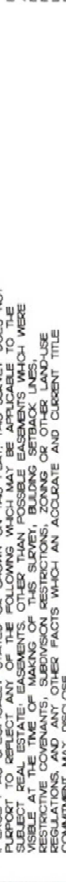
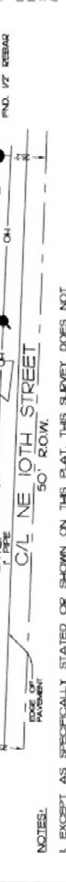
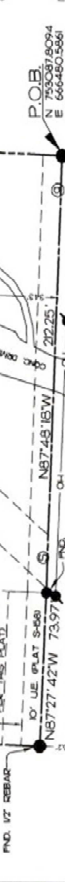
**Property Line Adjustment: Lots 86 and 87 Woods Creek South Subdivision Phase II, Ryan Norton and Brie Donelan, 202 NE Lakeview Terrace, R-1, Single-Family Residential (PLA18-0018)**

Property Line Adjustment adjusting the common lot line between Lots 15 and 79 of Woods Creek South Subdivision Phase II, creating new lots 86 and 87 (+/- 6.3 acres). The plat dedicates multiple utility easements of varying widths. Adequate right-of-way exists along Marina Drive, Blue Spruce Avenue, and Lakeview Terrace.

*(Please click on this link to access the vicinity map for this item: <http://geo.bentonvillear.com/mgweb/PZpending/>)*







ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ACCEPTING A PROPERTY LINE ADJUSTMENT OF LOT 10  
OF HERITAGE HEIGHTS II TO THE CITY OF BENTONVILLE, ARKANSAS  
(PROJECT NUMBER: PLA18-0019).**

**WHEREAS**, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the property line adjustment of Lot 10 of Heritage Heights II of the City of Bentonville, Benton County, Arkansas was submitted to the Bentonville Planning Commission on July 3, 2018; 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 of Lot 10 of Heritage Heights II 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.

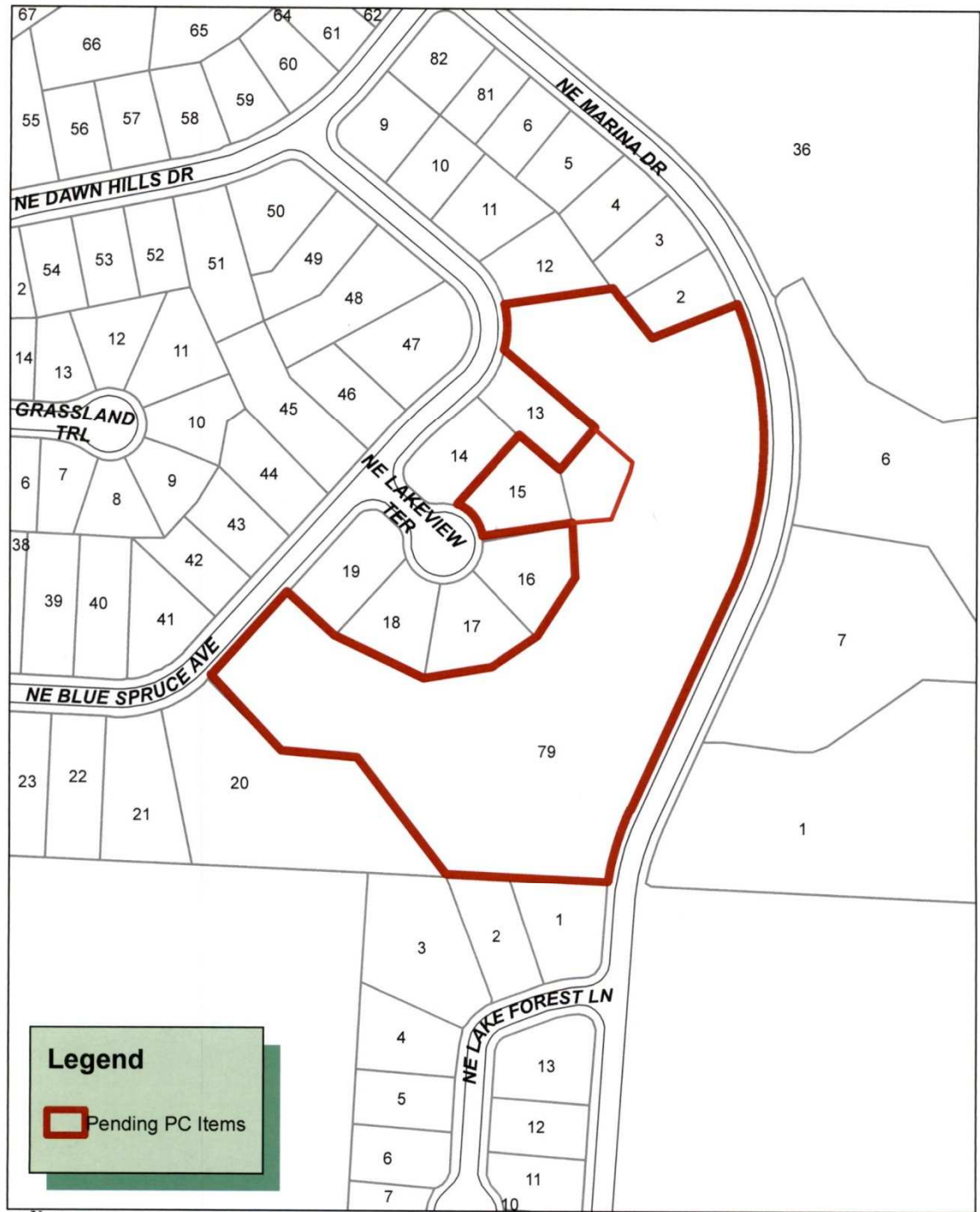
**PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.**

**APPROVED:**

\_\_\_\_\_  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**





[illegible]

7

THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPEARANCES ONLY. THE SURVEYOR WAS NOT PROVIDED WITH UNDERGROUND PLANS OR SURFACE GROUND MARKINGS TO DETERMINE THE LOCATION OF ANY SUBTERRANEAN USES.

BEFORE DIGGING IN THIS AREA, CALL "ONE CALL" 811 FOR FIELD LOCATIONS (REQUEST FOR GROUND MARKINGS) OF UNDERGROUND UTILITY LINES.



|                                   |                   |                        |
|-----------------------------------|-------------------|------------------------|
| Certificate of Authority No. 1534 |                   |                        |
| ISSUED BY STATE:                  | JH-4-2018         | RECEIVED BY: HM        |
| APPLICANT'S ADDRESS:              | BENTON COUNTY, AR | DATE RECEIVED: 18-1079 |

USE TAXES  
 000 & 202 LAKEVIEW TERRACE, BENTONVILLE, AR  
 RYAN & DONELAN BRIE NOLTON  
 DO NOT USE FOR BUSINESS PURPOSES

PAGE 2 OF 2

CITY OF BENTONVILLE  
PROJECT NO.: PL118-0018

AS SHOWN IN PLAT BOOK 2006 AT PAGE 705.

| CURVE | ARC LENGTH | RADIUS | DELTA ANGLE | CHORD BEARING | CHORD LENGTH |
|-------|------------|--------|-------------|---------------|--------------|
| 1     | 58.12      | 55.00  | 60.32°      | S 33°30'11" E | 55.40        |
| 2     | 125.00     | 125.00 | 72.44°      | S 00°17'07" W | 62.00        |
| 3     | 409.50     | 500.00 | 46°55'51"   | N 01°12'04" E | 268.19       |
| 4     | 104.60     | 376.00 | 15°56'59"   | S 16°48'34" W | 104.32       |

| LINE | BEARING         | DISTANCE |
|------|-----------------|----------|
| L1   | N 54° 47' 06" E | 3.33     |
| L2   | N 65° 14' 59" W | 1.00     |
| L3   | S 23° 31' 09" W | 3.49     |
| L4   | S 36° 30' 13" E | 14.21    |
| L5   | S 33° 58' 45" E | 4.90     |

**SURVEYOR'S NOTE:**  
ALL ADJACENT PROPERTIES

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ACCEPTING A PROPERTY LINE ADJUSTMENT OF LOTS  
86 AND 87 OF WOODS CREEK SOUTH SUBDIVISION PHASE II TO THE  
CITY OF BENTONVILLE, ARKANSAS (PROJECT NUMBER: PLA18-0018).**

**WHEREAS**, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the property line adjustment of Lots 86 and 87 of Woods Creek South Subdivision Phase II of the City of Bentonville, Benton County, Arkansas was submitted to the Bentonville Planning Commission on July 3, 2018; 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 of Lots 86 and 87 of Woods Creek South Subdivision Phase II 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 \_\_\_\_\_, 2018.**

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
**CITY CLERK**

## REZONING STAFF REPORT



### Parson

2001 SE J Street

PC Date: 5/1/2018

Reviewer: Jon Stanley, Planner

|                                        |                                                                           |
|----------------------------------------|---------------------------------------------------------------------------|
| <b>Project Number</b>                  | RZ18-0021                                                                 |
| <b>Applicant / Current Owner</b>       | Shelly Parson<br>2106 SE 14 <sup>th</sup> Street<br>Bentonville, AR 72712 |
| <b>Site Area</b>                       | +/- 0.67 acres                                                            |
| <b>Current Zoning</b>                  | R-O, Residential Office                                                   |
| <b>Requested Zoning</b>                | C-1, Neighborhood Commercial                                              |
| <b>Future Land Use Map Designation</b> | Low Density Residential (LDR)                                             |

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

### Location Map



### Property Description

This 0.67 acre tract of land is located at the northeast corner of Southeast J Street and Southeast 21<sup>st</sup> Street. Adjacent zonings are A-1 to the north, C-2 to the west, R-O to the south, and R-3 to the east.

### Projected Traffic Impact

The proposed zoning designation does have the potential to adversely impact traffic in the area. However, the existing and planned street network should be able to accommodate any increase in traffic to the area. The Master Street Plan identifies SE 21<sup>st</sup> Street as a collector street and SE J Street as an arterial street.

### Relationship to the General Plan

The Future Land Use Plan depicts this property as Low Density Residential (LDR). The C-1, Neighborhood Commercial zoning is not a recommended zoning district for this designation.

### Conclusion

The General Plan does not recommend the C-1, Neighborhood Commercial as an appropriate zoning district for the Low Density Residential (LDR) land use designation. However, existing adjacent uses such as the school to the north and commercial development to the west, and the site's location near the intersection of an arterial and a collector, may support a higher intensity of land use. Also, any future commercial development at this site would provide a Type A screen along the eastern property line.



**CEI Engineering Associates, Inc.**

ENGINEERS ■ SURVEYORS ■ LANDSCAPE ARCHITECTS ■ PLANNERS

3108 SW Regency Parkway, Suite 2  
Bentonville, AR 72712  
(479) 273-9472 Fax (479) 273-0844  
www.ceieng.com

May 25, 2018

City of Bentonville  
Planning Dept.  
305 SW A St.  
Bentonville, AR 72712

**RE: Shelley Parson rezoning application**

Dear Planning Commission:

Please accept this narrative letter to accompany a formal application by Shelley Parson, owner of real property located in the City of Bentonville, for consideration of a rezoning request for Benton County parcel #01-08194-001 from R-O residential office to C-1 neighborhood commercial zoning district. This property is approximately 0.67 acres and is currently vacant of any structure or development. Owner requests the zoning change to allow additional flexibility with the uses of a proposed development plan for the property. Surrounding properties are zoned R-3 to the east, C-2 to the west, A-1 to the north, and R-O to the south. Existing uses are single family rental to the east, commercial office to the west, Bentonville High School to the north, and office to the south. Any development of the subject property will adhere to the required screening and buffering required by city code.

Due to the small size of the property, development opportunities are limited and would not create additional traffic compared to the existing residential office zone. Signage for the property would be subject to approval of a sign permit. Freestanding signage requirements are the same for R-O and C-1 zoning, but additional building signage is allowed with the C-1 zone allowing additional tenant flexibility for the development. The appearance of the proposed development will be subject to the same commercial design standards under either zoning district and will be consistent with the character of the adjacent properties. Maximum heights under either district are the same. Utility services exist adjacent to the property sufficient to provide services for the intended use and proposal development without significant extensions or upgrades to existing infrastructure.

Thank you for your time and consideration of this matter.

Respectfully submitted,

A black rectangular box redacting the signature of Nate Bachelor.

Nate Bachelor, PE  
Project Manager  
CEI Engineering Associates, Inc.

*Providing Consolidated Land Development Services*

CALIFORNIA ■ TEXAS ■ ARKANSAS ■ MINNESOTA ■ PENNSYLVANIA



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE CHANGING REAL ESTATE IN THE CITY OF BENTONVILLE, ARKANSAS, FROM ITS PRESENT ZONING CLASSIFICATION OF R-O, RESIDENTIAL OFFICE TO C-1, NEIGHBORHOOD COMMERCIAL (PROJECT NUMBER: RZ18-0021).**

**WHEREAS**, Shelley Parson duly filed a petition with the Planning Commission requesting that the hereinafter described property situated in Benton County, Arkansas, be changed from its present zoning classification of R-O, Residential Office to C-1, Neighborhood Commercial to be used in accordance with city zoning laws and state laws, which property is described as follows:

LOT 1, BLOCK 7, WALNUT VALLEY SUBDIVISION, BENTONVILLE, BENTON COUNTY, ARKANSAS, AS SHOWN IN PLAT RECORD P003 AT PAGE 546. LESS AND EXCEPT: PART OF LOT 1, BLOCK 7, WALNUT VALLEY SUBDIVISION TO THE CITY OF BENTONVILLE, BEING A PART OF THE NW1/4 OF THE SE1/4 OF SECTION 5, TOWNSHIP 19 NORTH, RANGE 30 WEST, BENTON COUNTY ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: STARTING AT A RAILROAD SPIKE BEING USED AS THE CENTER QUARTER CORNER OF SECTION 5; THENCE SOUTH 87° 31'57" EAST ALONG THE NORTH LINE OF THE NW1/4 OF THE SE1/4 OF SECTION 5 A DISTANCE OF 39.41 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF ARKANSAS HIGHWAY 112 AS ESTABLISHED BY THE PLAT OF WALNUT VALLEY SUBDIVISION FOR THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 87°31'57" EAST ALONG THE NORTH LINE OF THE NW1/4 OF THE SE1/4 OF SECTION 5 A DISTANCE OF 7.58 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF ARKANSAS HIGHWAY 112 AS ESTABLISHED BY AHTD JOB 009834; THENCE SOUTH 02°41'40" WEST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 104.56 FEET TO A POINT; THENCE SOUTH 41°10'09" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 21.50 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF SOUTHEAST 21ST STREET AS ESTABLISHED BY THE PLAT OF WALNUT VALLEY SUBDIVISION; THENCE NORTH 87°32'28" WEST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 21.98 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE TO ARKANSAS HIGHWAY 112 AS ESTABLISHED BY THE PLAT OF WALNUT

VALLEY SUBDIVISION; THENCE NORTH 02°27'28" EAST ALONG SAID RIGHT  
OF WAY LINE A DISTANCE OF 120.13 FEET 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 July 3, 2018 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 R-O, Residential Office to  
C-1, Neighborhood 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 zoning  
classification of R-O, Residential Office to C-1, Neighborhood Commercial to be used in accordance with  
the city zoning laws and state laws.

**PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.**

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
**CITY CLERK**



## REZONING STAFF REPORT



### Duncan Real Estate

202 SE 6<sup>th</sup> Street

PC Date: 7/3/2018

Reviewer: Jon Stanley, Planner

|                                        |                                                                               |
|----------------------------------------|-------------------------------------------------------------------------------|
| <b>Project Number</b>                  | RZ18-0022                                                                     |
| <b>Applicant / Current Owner</b>       | Duncan Real Estate<br>1109 NE 3 <sup>rd</sup> Street<br>Bentonville, AR 72712 |
| <b>Site Area</b>                       | 0.31+/- acres                                                                 |
| <b>Current Zoning</b>                  | R-1, Single Family Residential                                                |
| <b>Requested Zoning</b>                | DN-4, Downtown Mixed-Use Residential                                          |
| <b>Future Land Use Map Designation</b> | Downtown Mixed Use Residential (DMUR)                                         |

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

Location Map



### Property Description

This property is the location of a single-family lot in a Downtown Mixed Use Residential neighborhood where infill and redevelopment is beginning to occur.

### Projected Traffic Impact

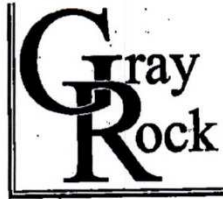
The proposed zoning designation will not adversely impact traffic in the area. The property is located within the downtown area where the existing street grid network will provide adequate options for ingress and egress.

### Relationship to the General Plan

The Future Land Use Plan depicts this property as Downtown Mixed Use Residential (DMUR). The DN-4, Downtown Mixed-Use Residential zoning is a recommended zoning district for this designation.

### Conclusion

The General Plan recommends the DN-4, Downtown Mixed-Use Residential as an appropriate zoning district for the Downtown Mixed Use Residential (DMUR) land use designation.



May 29, 2018

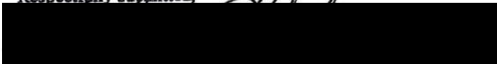
Jon Stanley  
Planning Department  
City of Bentonville

**RE: Celebration Plaza Rezone Narrative**

Jon,

Bobby Duncan, with Duncan Real Estate, LLC, is requesting to rezone the property at 202 SE 6<sup>th</sup> Street in Bentonville from A-1 to DN-4. The owner is wanting to rezone the property in, order to develop the site to a residential friendly commercial property. The rezone will allow for the proposed Celebration Plaza, which improves the streets and surrounding utilities. The project will not negatively affect traffic or the appearance of the area. In contrast, the development will be a welcome addition to the neighborhood.

Respectfully submitted,

  
M. Dirk Thibodaux, ASLA, PLA  
Gray Rock, LLC

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE CHANGING REAL ESTATE IN THE CITY OF BENTONVILLE, ARKANSAS, FROM ITS PRESENT ZONING CLASSIFICATION OF R-1, SINGLE FAMILY RESIDENTIAL TO DN-4, DOWNTOWN MIXED-USE RESIDENTIAL (PROJECT NUMBER: RZ18-0022).**

**WHEREAS**, Duncan Real Estate duly filed a petition with the Planning Commission requesting that the hereinafter described property situated in Benton County, Arkansas, be changed from its present zoning classification of R-1, Single Family Residential to DN-4, Downtown Mixed-Use Residential to be used in accordance with city zoning laws and state laws, which property is described as follows:

THE NORTH 134 FEET OF LOT 1 OF POLSON'S SUBDIVISION, CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT BOOK 5, PAGE 21 OF THE BENTON COUNTY RECORDS; and,

**WHEREAS**, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held July 3, 2018 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 R-1, Single Family Residential to DN-4, Downtown Mixed-Use Residential.

**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 zoning classification of R-1, Single Family Residential to DN-4, Downtown Mixed-Use Residential to be used in accordance with the city zoning laws and state laws.

**PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.**

**APPROVED:**

\_\_\_\_\_  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

## REZONING STAFF REPORT



## Bentonville North Village

NE J Street

PC Date: 7/3/2018

**Reviewer:** Tyler Overstreet, Planner

|                                        |                                                                                |
|----------------------------------------|--------------------------------------------------------------------------------|
| <b>Project Number</b>                  | PRD18-0003                                                                     |
| <b>Applicant / Current Owner</b>       | Roddey Residential Properties, LLC<br>408 SW B Street<br>Bentonville, AR 72712 |
| <b>Site Area</b>                       | +/- 13.5 acres                                                                 |
| <b>Current Zoning</b>                  | PRD, Planned Residential Development                                           |
| <b>Requested Zoning</b>                | PRD, Planned Residential Development                                           |
| <b>Future Land Use Map Designation</b> | Medium Density Residential (MDR)                                               |

### Project Description

This property is located on NE J Street, east of NE Chapel Hill Drive. The applicant proposes a replacement Planned Residential Development Plan for the approximately 13.5 acre site.

The Planned Residential Development shall be designed primarily with active seniors in mind, with on-site amenities such as a park, open space, and an internal trail system. Approximately 21.3% of the project area is notated as open space.

The Planned Residential Development proposes the following housing types: attached townhouse clusters, detached residential units, and a detached single-family housing cluster. The applicant also proposes an office/clubhouse be constructed on site.

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

### Projected Traffic Impact

The proposed zoning designation has the potential to adversely impact traffic in the area. However, the site's proximity to an arterial road should provide adequate means of ingress/egress for the development. In addition, all necessary infrastructure and ingress/egress shall be provided as part of a Large Scale Development application and Final Plat.

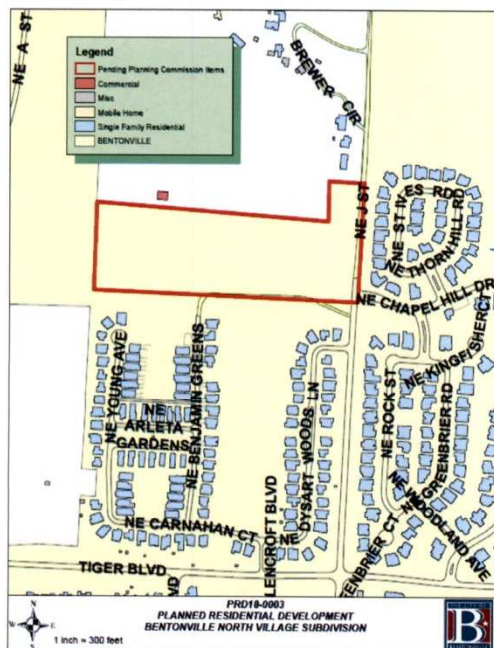
### Relationship to the General Plan

The Future Land Use Plan depicts this property as Medium Density Residential (MDR). The PRD, Planned Residential Development zoning is an appropriate zoning district for this designation.

## Conclusion

The PRD, Planned Residential Development is an appropriate zoning district for the Medium Density Residential (MDR) land use classification.

### Location Map





## PRD Development Checklist

### Section C. Written Description

#### 1. Justification of compliance with the intent of the PRD District.

Situated in Bentonville, Arkansas, North Village, a neighborhood designed and developed with the demands of active seniors in mind, will blend Southern heritage with thoughtful neighborhood planning. It recalls the historic values of beautiful architecture, scenic grace, and welcoming outdoor spaces. It will bring residential homes, on-site amenities, parks, and trails together naturally and elegantly with a commitment to energy efficient building principles. In short, it merges the best of yesterday and today, while ever mindful of tomorrow.

This vibrant community will welcome residents with a dynamic living experience set against the backdrop of the growing and vibrant city of Bentonville, Arkansas. This is the place for people who prize a sense of place, who treasure the concept of neighborhood.

#### 2. Description of proposed residential uses.

The project is composed of three different types of residential use.

Lots 101- 103 will consist of a single structure on each lot. Each structure will contain four (4) townhome rental units. Under each unit and loading from the rear will be a two (2) car garage. The units will face J Street. There will be a total of twelve (12) units in four (4) buildings. The area of this use is 1.1 acres or approximately 8% of the total project area.

Lots 201-208, 301-312, 401-410, 601-603, 801-810, 901-903 and 1001-1004 will consist of a one story, detached residence constructed on each lot. The residences will include two (2) car attached garages that will load from rear drives. The minimum side yard setback is three (3) feet, with a minimum building separation of six (6) feet. The total area of this use is 5.84 acres or approximately 43% of the total project area.



Lots 500 and 700 will consist of four (4) detached residences on a single lot. The residences will include two (2) car attached garages that will load from rear drives. The minimum side yard setback is three (3) feet, with a minimum building separation of six (6) feet. The total area of this use is 1.13 acres or approximately 8% of the total project area.

Lot 1005 will be used to construct a structure to be used as an office and clubhouse for the residents. The minimum side yard setback is three (3) feet, with a minimum building separation of six (6) feet. The total area of this use is 0.08 acres or approximately 0.6% of the total project area.

#### Open Spaces

A large 2 acre open space with various improvements will be provided as shown on the Master Site Plan. In addition to walking trails and paths, other amenities to be included are bocce courts, pickle-ball courts and a swimming pool. These facilities and the park will be available for use by the residents. This open space represents approximately 15% of the total project area.

A smaller, 0.44 acre open space will separate the residences on the west end of the project. This area is approximately 3.3% of the total project area. It will be extensively landscape with pedestrian walks, benches and other similar amenities.

North of the entry street and adjacent to J Street is a 0.39 acre open space. This space is approximately 3% of the total project area. This area will be landscaped with trees and shrubs to help buffer J Street from the residence and park like space.

### 3. Description of Structural Design

The top priority of the layout of the proposed neighborhood is to arrange the structures to create a walkable neighborhood. The layouts of the homes are arranged to place the living areas and front porches on the street side of the home. The porches provided a quaint human scale and provide a place to relax outside and enjoy the outdoors. Locating the porches on the street has

been proven to create socialization amongst residents and added safety to the neighborhood. The main entry's are located on the porches facing the street. The development included two gathering spaces which provide a quiet contemplative space on the west end which consist of carefully landscaped areas to create an outdoor space. On the South eastern edge of the neighborhood an active social space is intended inclusive of bocce' courts, and space for outdoor social activities. The arrangement of the homes are done in a way to define these outdoor spaces and create a distinctive sense of place when residents and visitors arrive. All of the proposed plans included multiple options for the street side elevation in order to provided a variety of building heights and articulation patterns. The materials proposed consist of mostly brick and painted cementitious board lap siding. All garages are back loaded off of the alley further enhancing the street and the pedestrian experience.

#### 4. Description of PRD Development Compliance

Over 24% of the total project area will be common open space and landscaped buffers. In addition to the common open space approximately 0.8 acres of front lawn area is provided between the residences and the walk. The total area of open space adjacent to the streets and spread through out the development is approximately 30% of the overall development area.

To assure maintenance and preservation of the open spaces and amenities all maintenance will be preformed by the owner of the entire development or the POA. The residents will not be responsible for any exterior maintenance of the yards or common areas.

Each residence will be provided with a two (2) car garage. Parallel parking on the street will be provided for guests, on one side of the street only, as shown on the Master Site Plan. Off street parking will also be provided near the pool and club house area.

A seven (7) foot wide landscaped buffer is provided around the entire perimeter of the project. Set backs from the front of the residences to the street right-of-way are a minimum of 20 feet. The adjacent property to the

north is vacant and undeveloped. The City of Bentonville is the owner of the property to the west and south of this project. As shown on the Master Site Plan, portions of the City property to the south of this project in the power line easement will be used for grading, the extension of Benjamin Greens Drive and access to the existing sewer lift station.

There are at total of 58 detached residences on 12 acres of lots, ROW and open space for a gross density of 4.8 units per acre. There are 12 attached units on 1.49 acres of lot and open space for a gross density of 8 units per acre.

#### 5. Phasing

All detached residential units will be constructed as one continuous project. Each residence will be leased as the individual occupancy permits are obtained. Construction of amenities and landscaping of the open spaces will begin when one quarter of the units have been leased. Construction of amenities and landscaping of the open spaces will be completed prior to the last detached residential unit being leased. The attached units along J Street will be constructed as one phase, most likely after all the detached units are completed and occupied.





|                 |          |
|-----------------|----------|
| PROJECT NUMBER: | 10-10    |
| DRAWN BY:       | SA       |
| CHECKED BY:     | SA       |
| DATE:           | 10/10/10 |

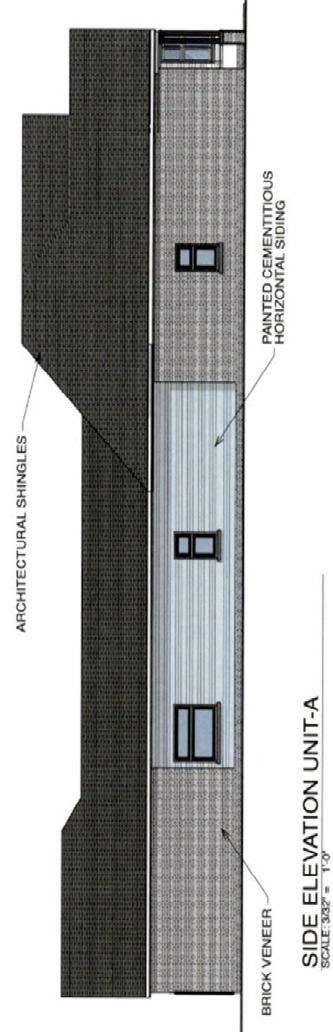
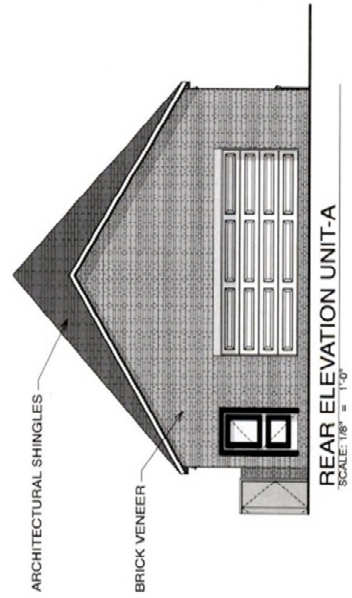
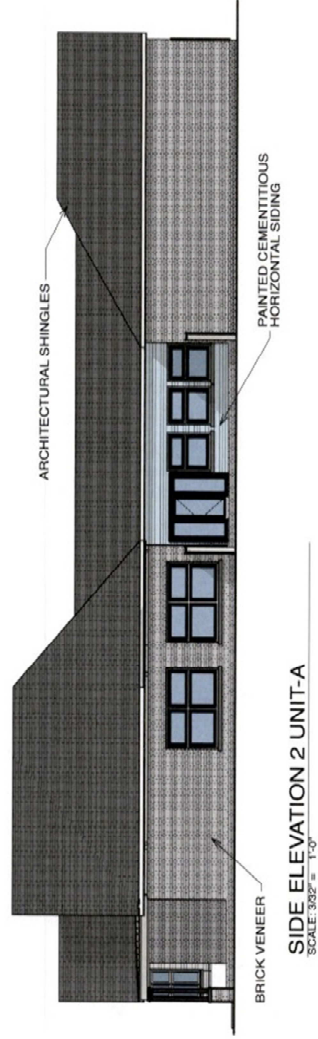
**EXTERIOR ELEVATIONS**

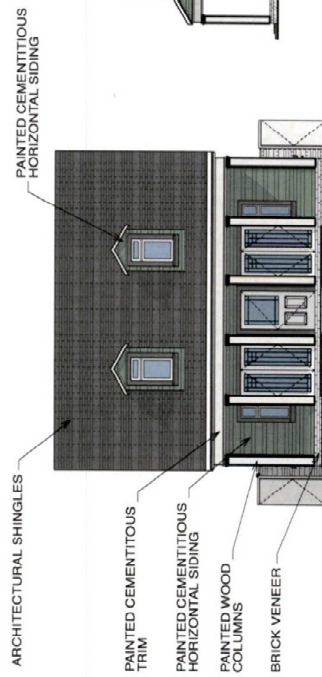
**A201**



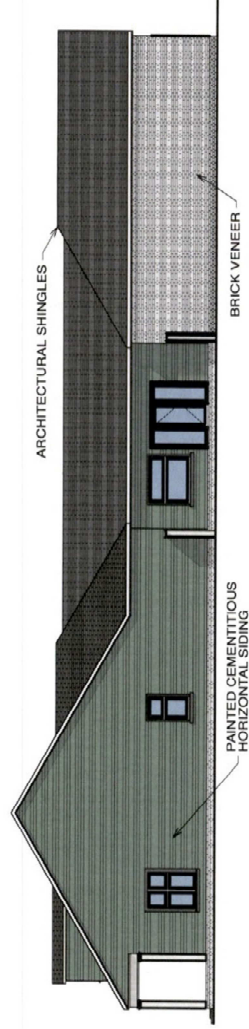




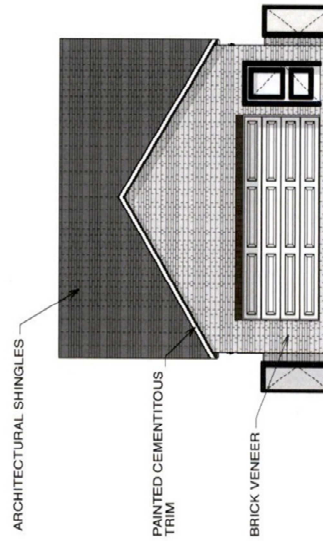




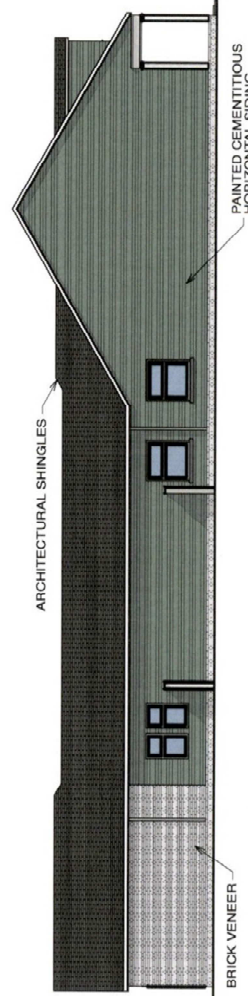
FRONT ELEVATION UNIT-C  
SCALE: 1/8" = 1'-0"



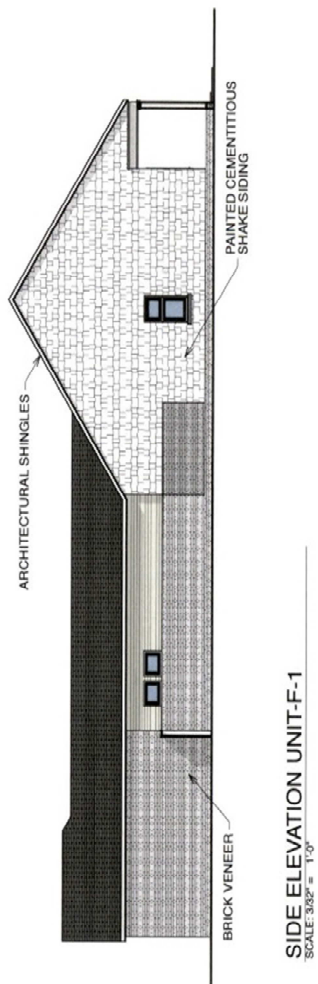
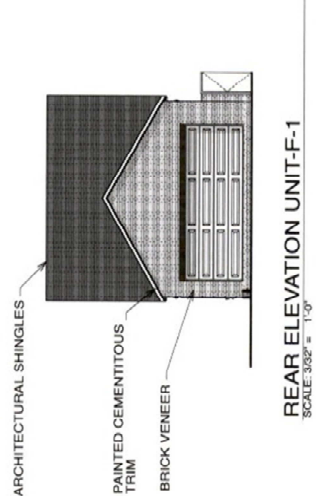
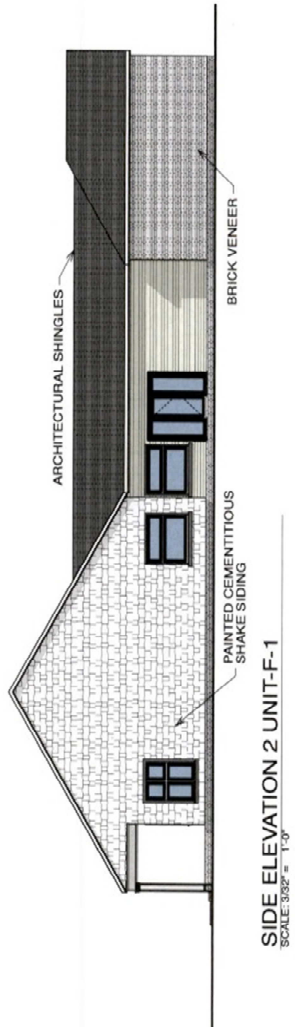
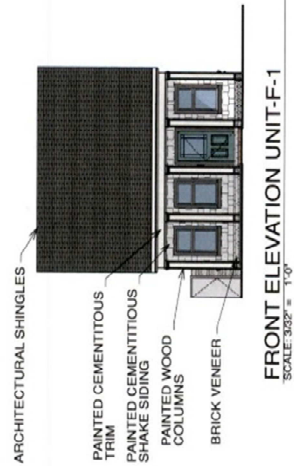
SIDE ELEVATION 2 UNIT-C  
SCALE: 3/32" = 1'-0"



REAR ELEVATION UNIT-C  
SCALE: 1/8" = 1'-0"



SIDE ELEVATION UNIT-C  
SCALE: 3/32" = 1'-0"





ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE CHANGING REAL ESTATE IN THE CITY OF BENTONVILLE, ARKANSAS, FROM ITS PRESENT ZONING CLASSIFICATION OF PRD, PLANNED RESIDENTIAL DEVELOPMENT TO PRD, PLANNED RESIDENTIAL DEVELOPMENT (PROJECT NUMBER: PRD18-0003).**

**WHEREAS**, Roddey Residential Properties, LLC duly filed a petition with the Planning Commission requesting that the hereinafter described property situated in Benton County, Arkansas, be changed from its present zoning classification of PRD, Planned Residential Development to PRD, Planned Residential Development to be used in accordance with city zoning laws and state laws, which property is described as follows:

A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 20 NORTH, RANGE 30 WEST, BENTON COUNTY, ARKANSAS, AS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT THAT IS LOCATED N03°06'08"E 100.00', AND N87°27'30"W 660.59' FROM THE SOUTHEAST CORNER OF THE SAID 40 ACRE TRACT, SAID POINT BEING A SET IRON PIN, AND RUNNING THENCE N87°26'11"W 663.10' TO A SET IRON PIN, THENCE N01°57'11"E 439.50' TO A FOUND 5/8" REBAR THENCE S85°27'28"E 1163.09' TO A FOUND 1/2" CAPPED REBAR PLS #985, THENCE S86°34'38"E 177.34' TO A FOUND 1/2" CAPPED REBAR PLS #985, THENCE S86°34'38"E 177.34' TO A FOUND 1/2" CAPPED REBAR PLS #985, THENCE S03°06'08"W 596.37' TO A SET IRON PIN THENCE N87°27'29"W 660.59' TO THE POINT OF BEGINNING, CONTAINING IN ALL 12.96 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS OF WAY RECORD.; and,

**WHEREAS**, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held July 3, 2018 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 PRD, Planned Residential Development to PRD, Planned Residential Development.

**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 zoning classification of PRD, Planned Residential Development to PRD, Planned Residential Development to be used in accordance with the city zoning laws and state laws.

**PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.**

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
**CITY CLERK**



| CHECK ALL THAT APPLY                |                   |       |         |
|-------------------------------------|-------------------|-------|---------|
| <input checked="" type="checkbox"/> | Bid Award         | Bid # | 18-0021 |
| <input type="checkbox"/>            | Budget Adjustment |       |         |
| <input type="checkbox"/>            | Change Order      |       |         |
| <input type="checkbox"/>            | Informational     |       |         |
| <input type="checkbox"/>            | Ordinance         |       |         |
| <input type="checkbox"/>            | Resolution        |       |         |
| <input type="checkbox"/>            | Other             |       |         |

## AGENDA FORM

CITY COUNCIL MEETING OF:

July 10, 2018

Submitted by:

Nancy Busen

Department

Wastewater

Phone

271-3161

### ACTION REQUIRED:

Staff requests the Mayor and Council approval for construction bid award #18-0021 for installation of sludge dewatering equipment, to Flintco LLC for the amount of \$488,900.00. Of six bids received on this project, Flintco LLC submitted the lowest bid.

### COST TO CITY:

Cost of this Request: \$488,900

Additional Budget Amount

☒ One time amount

☐ Continuing O and M

|                            |    |           |
|----------------------------|----|-----------|
| Previously Budgeted        | \$ | 2,440,845 |
| Funds Expended to Date     |    | 488,900   |
| Remaining Budget           |    | 1,951,945 |
| Budget Adjustment          |    | -         |
| Remaining After Adjustment | \$ | 1,951,945 |

*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: Nancy Busen, Wastewater Utilities  
CC: Mike Bender  
Date: 7/10/2018  
RE: Bid Award #18-0021

---

Staff requests Mayor and City Council approval for Construction bid award #18-0021 to Flintco LLC, to install Wastewater Sludge Dewatering Equipment for the amount of, \$488,900. Of six bids received on the project, Flintco, LLC submitted the lowest bid.

Thank you for consideration of this request.



www.GarverUSA.com

June 18, 2018

City of Bentonville  
Mike Bender, Public Works Director  
117 West Central Avenue  
Bentonville, AR 72712

Re: City of Bentonville Bid 18-021  
Wastewater Treatment Plant Solids Improvements  
Recommendation of Award

Dear Mr. Bender:

Bids were received for the referenced project at the Purchasing Office at 11:00 a.m. on June 7, 2018. The bids have been checked for accuracy and for compliance with the contract documents. A tabulation of the bids received is enclosed with this letter.

A total of six bids were received on the project. Flintco, LLC submitted the low bid for the project in the amount of \$488,900. The Engineer's Opinion of Probable Cost (OPCC) was \$1,120,000, and the OPCC includes equipment prepurchased by the City of Bentonville in the amount of \$549,100. The low bid and prepurchased equipment total for the project is \$1,038,000.

We believe that the bid submitted by Flintco, LLC represents a good value for the City of Bentonville. We recommend that the construction contract for the Wastewater Treatment Plant Solids Improvements be awarded to Flintco, LLC.

Please call me if you have any questions.

Sincerely,

GARVER, LLC



Chris Buntin, P.E.  
Senior Project Manager

Attachments: Bid Tabulation  
Flintco Bid Documents

Cc: Nancy Busen and Chris Earl (City of Bentonville Wastewater Department)

L:\2017\17048130 - Bentonville WWTP Solids Improvements\Bidding\Recommendation of Award\Bender 2018-06-15 Solids  
Imp. Recommendation of Award.docm



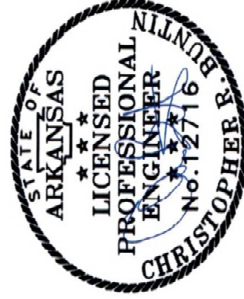
Bid 18-021, Bentonville WWTP Solids Improvements  
City of Bentonville

Bentonville, Arkansas  
Bids Opened on Thursday, June 7, 2018 – 11:00 A.M.

## OFFICIAL BID RESULTS SHEET

| Contractor                                     | Bid Item 1   | Bid Item 2 | Total Base Bid Price |
|------------------------------------------------|--------------|------------|----------------------|
| FLINTCO (SPRINGDALE, AR)                       | \$413,900.00 | \$75,000   | \$488,900.00         |
| CROSSLAND HEAVY CONTRACTORS<br>(COLUMBUS, KS)  | \$469,590.00 | \$75,000   | \$544,590.00*        |
| BRB CONTRACTORS (TOPEKA, KS)                   | \$514,000.00 | \$75,000   | \$589,000.00         |
| VEI (RUSSELLVILLE, AR)                         | \$566,947.00 | \$75,000   | \$641,947.00         |
| CDI CONTRACTORS (LITTLE ROCK, AR)              | \$596,000.00 | \$75,000   | \$671,000.00         |
| SEVEN VALLEYS CONCRETE, LLC<br>(CASSVILLE, MO) | \$615,400.00 | \$75,000   | \$690,400.00         |

\*Corrected Total Base Bid (Sum of Bid Item 1 and Bid Item 2)





### **BIDDER'S CHECKLIST OF REQUIRED ITEMS**

This Bidder's Checklist is provided to ensure all required forms are completed and returned as part of the bid submission. All forms must be included as indicated for a bid to be considered a complete, responsive bid. Appropriate signatures and date are required on each document. If an item is missing, the bid may be declared unresponsive and therefore rejected. **This sheet will serve as the cover sheet for the bid submission.**

**Completed\* Spec. Section**

|                                                                             |                                     |          |
|-----------------------------------------------------------------------------|-------------------------------------|----------|
| Acknowledgement of All Addenda                                              | <input checked="" type="checkbox"/> |          |
| Bid contains the following forms:                                           | <input type="checkbox"/>            |          |
| 1. Bid Form                                                                 | <input checked="" type="checkbox"/> | 00 41 13 |
| 2. List of Proposed Subcontractors                                          | <input checked="" type="checkbox"/> | 00 41 19 |
| 3. Bid Bond                                                                 | <input checked="" type="checkbox"/> | 00 43 13 |
| 4. Qualifications Statement with supporting data                            | <input checked="" type="checkbox"/> | 00 45 13 |
| 5. Restriction of Boycott of Israel Certification                           | <input checked="" type="checkbox"/> | 00 45 19 |
| *Check when filled out, signed, and included with submission of bid packet. |                                     |          |

#### **Within three (3) days after Bid Opening:**

Bidder acknowledges to provide within three (3) days after Bid Opening (Low Bidder and Second Low Bidder Only):

1. Bid breakdown shall be provided to form the basis for making progress partial payments
2. Bidder's Qualifications of Subcontractor (if requested)

#### **Within fifteen (15) days after Notice of Award:**

Bidder acknowledges that within fifteen (15) days after Notice of Award, Successful Contractor is required to complete the following before execution and award of the contract:

1. Section 00 52 00, Agreement (all pages and supporting documents)
2. Section 00 61 13, Performance Bond
3. Section 00 61 16, Payment Bond
4. Section 00 61 19, Maintenance Bond
5. Completed Certificates of Insurance
6. Copy of Arkansas Contractors License
7. Copy of Tax Form W-9

#### **Prior to Construction:**

Awarded Contractor required to submit Construction Schedule **before** construction begins.

Seal (If Incorporated)

Bidder Name: Flintco, LLC

Address: 184 E. Fantinel Blvd

City, State, Zip Code: Springdale, AR 72762

Contractor Number:

Contact Name: Brent J. Farmer

Title: Vice President/Area Manager

Contact Number: (479) 879-7313

Contact Email: bfarmer@flintco.com

Signature of Authorized Agent for Bidder:

Date: June 7, 2018

**BID FORM**

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#### ARTICLE 1 – BID RECIPIENT

- 1.01 This Bid is submitted to:

**CITY OF BENTONVILLE  
PURCHASING OFFICE  
117 W. CENTRAL AVENUE  
BENTONVILLE, AR 72712**

- 1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

#### ARTICLE 2 – BIDDER'S ACKNOWLEDGEMENTS

- 2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 90 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.
- 2.02 In submitting this Bid, Bidder acknowledges and accepts Contractor's representations as more fully set forth in the Agreement Form.
- 2.03 In submitting this Bid, Bidder certifies Bidder is qualified to do business in the State of Arkansas as required by laws, rules and regulations or, if allowed by statute, covenants to obtain such qualification prior to contract award.

#### ARTICLE 3 – BIDDER'S REPRESENTATIONS

- 3.01 In submitting this Bid, Bidder represents that:

- A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following Addenda:

| <u>Addendum No.</u> | <u>Addendum, Date</u>             |
|---------------------|-----------------------------------|
| <u>1</u>            | <u>May 31, 2018</u>               |
| <u>          </u>   | <u>                          </u> |
| <u>          </u>   | <u>                          </u> |

- B. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs.
- E. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data

are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.

- F. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- G. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- H. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
- I. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.
- J. The submission of the Bid constitutes that applicable sales taxes are included in the stated Bid prices for the work, unless provision is made herein for the bidder to separately itemize the estimated amount of sales tax.

#### **ARTICLE 4 – BIDDER'S CERTIFICATION**

##### **4.01 Bidder certifies that:**

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
  - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
  - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
  - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

#### **ARTICLE 5 – BASIS OF BID**

- 5.01 Contingency Allowances: Bidder agrees that the following contingency efforts, products (materials and equipment) as further described in Sections 01 29 00, PAYMENT PROCEDURES, will be furnished and paid for on a cash allowance basis and that the amount shown is an estimated amount to be included in the Total Base Bid. Bidder further acknowledges that final payment will be based on actual costs as determined in conformance with the Bidding Documents and as authorized by Change Order. Bidder agrees that the following contingency allowances are for the sole use of the Owner to cover unanticipated costs (including new or additional work) and have been computed in accordance with Paragraph 13.02 of the General Conditions.



- 5.02 Bidder acknowledges that (1) each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and (2) estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.
- 5.03 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

| Item No. | Bid Qty and Unit | Description (Bidder to write Bid Price in words)                                                                                                                                                                                                                              | Unit Price | Bid Price                |
|----------|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|--------------------------|
| 1        | 1 LS             | All Work (mobilization, temporary facilities, demobilization, safety, testing, and all other items) as defined in the Contract Documents except those items listed separately below, for the lump sum of:<br><br><u>FOUR HUNDRED THIRTEEN THOUSAND NINE HUNDRED</u>           | N/A        | \$<br><br><u>413,900</u> |
| 2        |                  | Contingency Allowance 1 for Work Change Directives (miscellaneous work on a change authorization basis) required during completion of the Project to be used solely at the discretion of the OWNER and ENGINEER, for the lump sum of:<br><b>Seventy-Five Thousand Dollars</b> | N/A        | \$75,000                 |

|                                                                          |    |                |
|--------------------------------------------------------------------------|----|----------------|
| <b>Total Base Bid Price (Bidder to write price in figures and words)</b> | \$ | <u>488,900</u> |
| <u>FOUR HUNDRED EIGHTY-EIGHT THOUSAND NINE HUNDRED</u>                   |    |                |

#### ARTICLE 6 – TIME OF COMPLETION

- 6.01 Bidder agrees that the Work will be substantially complete within **120 calendar days** after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within **150 calendar days** after the date when the Contract Times commence to run. **The Bidder also agrees that the maximum time, without temporary dewatering facilities, between decommissioning the existing dewatering equipment and commissioning of new dewatering equipment is 30 calendar days. Specifically, the ability to dewater sludge shall not exceed 30 calendar days without the Bidder providing temporary dewatering facilities.**
- 6.02 Bidder agrees that the Work's Early Completion Package will be completed within **90 calendar days** after the date when the Contract Times commence to run, per the requirements detailed in Section 01 14 00 Work Restrictions.
- 6.03 Bidder accepts the provisions of the Agreement as to liquidated damages.

#### **ARTICLE 7 – ATTACHMENTS TO THIS BID**

- 7.01 The following documents are submitted with and made a condition of this Bid:
- A. Required Bid security in the form of a certified or bank check, or a Bid Bond, issued by a surety meeting the requirements of the General Conditions.
  - B. List of Project References.
  - C. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license within the time for acceptance of Bids.
  - D. Contractor's License No.: 1976870519 or Evidence of Bidder's ability to obtain a State Contractor's License and a covenant by Bidder to obtain said license within the time for acceptance of Bids.
  - E. Required Bidder Qualifications Statement (Section 00 45 13) with supporting data.

#### **ARTICLE 8 – DEFINED TERMS**

- 8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

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License No. 1976870519

AMENDED

ID #2335

*State of Arkansas*  
**Commercial Contractors Licensing Board**

FLINTCO, LLC  
8800 PAGE AVE  
ST LOUIS, MO 63114

**This is to Certify That**

FLINTCO, LLC

is duly licensed under the provisions of Ark. Code Ann. § 17-25-101 et. seq. as amended and is entitled to practice Contracting in the State of Arkansas within the following classifications/specialties:

BUILDING  
- (COMMERCIAL & RESIDENTIAL)  
MUNICIPAL & UTILITY  
CONSTRUCTION

This contractor has an unlimited suggested bid limit.

amended May 25, 2018 until May 31, 2019 when this Certificate expires.

Witness our hands of the Board, dated at North Little Rock, Arkansas:



CHAIRMAN



SECRETARY

May 25, 2018 - da

**ARTICLE 9 – BID SUBMITTAL**

BIDDER: *[Indicate correct name of bidding entity]*

Flintco, LLC

By:

*[Signature]*

*[Printed name]*

Brent J. Farmer

*(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)*

Attest:

*[Signature]*

*[Printed name]*

Brandi Humphries

Title:

Office Manager

Submittal Date:

June 7, 2017

Address for giving notices:

184 E. Fantinel Blvd, Springdale, AR 72762

Telephone Number:

(479) 879-7313

Fax Number:

(479) 750-4690

Contact Name and e-mail address:

Brent J. Farmer

bfarmer@flintco.com

Bidder's License No.:

AR Lic# 1976870519  
*(where applicable)*

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**CONSENT OF MANAGERS  
OF  
FLINTCO, LLC**

The undersigned, being all of the Managers of Flintco, LLC, an Oklahoma limited liability company (the "Company"), pursuant to the authority granted as Managers pursuant to the Operating Agreement of the Company, do hereby consent to and adopt the following as actions on behalf of the Company:

1. That the Managers approve, adopt, ratify and confirm that Peter M. Kozicz, David A. Kollmann, Kevin W. Moyes, Craig C. Saur, Richard N. Jagers, Trent A. Gudgel and Trevor L. Ladner are hereby authorized to sign all documents on behalf of Flintco, LLC.

2. That the Managers approve, adopt and ratify that James M. Blose, Brent J. Farmer, Kirk A. Mammen, Timothy W. Weatherford, Joseph D. Strobbe, Kirk D. Benken and William R. Peevy are hereby authorized to sign all bid proposals and bid documents on behalf of Flintco, LLC within their limits of authority.

3. That the following named persons are elected and confirmed to the offices set opposite their respective names, each to serve at the pleasure of the Managers until the next annual meeting of the Managers and thereafter until their respective successors shall have been elected and qualified:

| <u>NAME</u>            | <u>OFFICE</u>                                                                             |
|------------------------|-------------------------------------------------------------------------------------------|
| John S. Alberici       | Chairman                                                                                  |
| Peter M. Kozicz        | President & CEO                                                                           |
| Craig C. Saur          | Executive Vice President, Chief Administrative Officer,<br>Treasurer, Assistant Secretary |
| Trevor L. Ladner       | Secretary                                                                                 |
| David A. Kollmann      | Executive Vice President and President, Central Region                                    |
| Kevin W. Moyes         | Executive Vice President and President, South Central Region                              |
| Rex A. Woods           | Vice President - Business Acquisition                                                     |
| James M. Blose         | Senior Vice President - Area Manager                                                      |
| Larry W. Cheatham      | Vice President - Employee Services                                                        |
| Brent J. Farmer        | Vice President - Area Manager                                                             |
| Don J. Hutcherson      | Vice President - Management Operations                                                    |
| Michael J. Hutter      | Vice President - Preconstruction                                                          |
| Kirk A. Mammen         | Vice President - Area Manager                                                             |
| Timothy W. Weatherford | Vice President - Area Manager                                                             |

Flintco, LLC

pg. 1 of 2



Trent A. Gudgel

Vice President - General Counsel

Kirk D. Benken

Vice President - Area Manager

William R. Peevy

Vice President - Area Manager

DATED this 5<sup>th</sup> day of January 2018.

All of the Managers of  
Flintco, LLC



Craig C. Saur



John S. Alberici



Peter M. Kozicz

Flintco, LLC

pg. 2 of 2

# LIST OF PROPOSED SUBCONTRACTORS

I, the undersigned General Contractor, hereby certify that proposals from the following Subcontractors were used in the preparation of my bid. I agree that if I am the successful Bidder and if the following subcontracts are approved, I will not enter into contracts with others for these divisions of the work without prior written approval from the Engineer and the Owner.

**Type of Work:** ..Overhead Doors.....

Subcontractor's Name: ROYAL OVERHEAD DOOR

License No.: 0039480718

Address: SPRINGDALE, AR

**Type of Work:** Painting

Subcontractor's Name: .....

License No.: .....

Address: .....

**Type of Work:** ..Electrical.....

Subcontractor's Name: AXIS ELECTRICAL

License No.: 0219360519

Address: 1020 SOUTH SCHOOL AVE. FAYETTEVILLE 72701

**Type of Work:** .....

Subcontractor's Name: .....

License No.: .....

Address: .....

**Type of Work:** .....

Subcontractor's Name: .....

License No.: .....

Address: .....

**Bidder (General Contractor):** ..Elinco, LLC.....

License No.: 1976870519

By: Brant Farmer 

Title: Vice President/Area Manager

\*Signature must be the same as on the Bid Form.

**BID BOND**

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

**BIDDER** (Name and Address): Flintco, LLC  
184 E. Fantinel Blvd.  
Springdale, AR 72762

**SURETY** (Name, and Address of Principal Place of Business): Travelers Casualty and Surety Company of America  
One Tower Square  
Hartford, CT 06183

**OWNER** (Name and Address): City of Bentonville  
117 W. Central Ave.  
Bentonville, AR 72712

**BID**  
Bid Due Date: June 7, 2018  
Description: **BENTONVILLE WWTP SOLIDS IMPROVEMENTS**

**BOND**  
Bond Number: N/a  
Date: June 7, 2018  
Penal sum Five percent of bid amount ----- \$ 5% of bid amount  
(Words) (Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

|                                  |                                                                |
|----------------------------------|----------------------------------------------------------------|
| <b>BIDDER</b> Flintco, LLC       | <b>SURETY</b> Travelers Casualty and Surety Company of America |
| (Seal)                           | (Seal)                                                         |
| Bidder's Name and Corporate Seal | Surety's Name and Corporate Seal                               |
| By: [Redacted]                   | By: [Redacted]                                                 |
| Signature                        | Signature (Attach Power of Attorney)                           |
| Trevor Ladner                    | Cheryl L. McAleenan                                            |
| Print Name                       | Print Name                                                     |
| Authorized Representative        | Attorney-in-Fact                                               |
| Title                            | Title                                                          |
| Attest: [Redacted]               | Attest: [Redacted]                                             |
| Signature AMANDA POWELL          | Signature Blake Messer                                         |
| Title CORPORATE COUNSEL          | Title Account Executive Officer                                |

Note: Addresses are to be used for giving any required notice.  
Provide execution by any additional parties, such as joint venturers, if necessary.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
  - 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
  - 3.2 All Bids are rejected by Owner, or
  - 3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

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Travelers Casualty and Surety Company of America  
Travelers Casualty and Surety Company  
St. Paul Fire and Marine Insurance Company

POWER OF ATTORNEY

**KNOW ALL MEN BY THESE PRESENTS:** That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Cheryl L. McAleenan, of St. Louis, Missouri**, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

**IN WITNESS WHEREOF**, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 3rd day of February, 2017.



State of Connecticut

City of Hartford ss.

By:

Robert L. Raney, Senior Vice President

On this the 3rd day of February, 2017, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

**In Witness Whereof**, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2021



Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 7th day of June, 2018



Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.  
Please refer to the above-named Attorney-in-Fact and the details of the bond to which the power is attached.



STATE OF MISSOURI  
COUNTY OF ST. LOUIS

On this 7<sup>th</sup> day of June, 2018, before me personally appeared  
Cheryl L. McAleenan, with whom I am personally acquainted, who,  
being by me duly sworn, said: That he/she is Attorney-in-Fact of Travelers Casualty and Surety  
Company of America, the corporation described in and which executed the foregoing instrument; that  
he/she knows the corporate seal of said Company; that said seal affixed to said instrument is such  
corporate seal; that it was so affixed by authority of the Board of Directors thereof and of his/her office  
under the Standing Resolutions of said Company; and that he/she signed his/her name thereto as  
Attorney-in-Fact by like authority.



NOTARY STAMP

Notary Public, Tonya A. Meinhardt

My commission expires: August 15, 2020  
Commission #12618776

### QUALIFICATIONS STATEMENT

THE INFORMATION SUPPLIED IN THIS DOCUMENT IS CONFIDENTIAL TO THE EXTENT PERMITTED BY LAWS AND REGULATIONS

**1. SUBMITTED BY:**

Official Name of Firm: Flintco, LLC

Address: 184 E. Fantinel Blvd

Springdale, AR 72762

**2. SUBMITTED TO:**

City of Bentonville - Purchasing Office

**3. SUBMITTED FOR:**

Bentonville Bid No. 18-021

Owner: City of Bentonville

Project Name: WWTP Solids Improvements

Garver Project# 17048130

**TYPE OF WORK:**

Renovation of a water/sewer project in Bentonville, Arkansas

**4. CONTRACTOR'S CONTACT INFORMATION**

Contact Person: Brent J. Farmer

Title: Vice President/Area Manager

Phone: (479) 879-7313

Email: bfarmer@flintco.com

**5. AFFILIATED COMPANIES:**

Name: Not Applicable

Address: \_\_\_\_\_

**6. TYPE OF ORGANIZATION:**

☐ SOLE PROPRIETORSHIP

Name of Owner: \_\_\_\_\_

Doing Business as: \_\_\_\_\_

Date of Organization: \_\_\_\_\_

☐ PARTNERSHIP

Date of Organization: \_\_\_\_\_

Type of Partnership: \_\_\_\_\_

Name of General Partner(s): \_\_\_\_\_

☐ CORPORATION

State of Organization: \_\_\_\_\_

Date of Organization: \_\_\_\_\_

Executive Officers:

- President: \_\_\_\_\_

- Vice President(s): \_\_\_\_\_

- Treasurer: \_\_\_\_\_

- Secretary: \_\_\_\_\_

☒ LIMITED LIABILITY COMPANY

State of Organization: \_\_\_\_\_

Oklahoma

Date of Organization: \_\_\_\_\_

Certificate of Conversion October 19, 2010

Members:

Peter M. Kozicz, President & CEO

Craig Saur, Executive Vice President, Chief Admin Officer, Treasurer

David A. Kollmann, Executive Vice President & President, Central Region

Brent J. Farmer, Vice President/Area Manager

☐ JOINT VENTURE

State of Organization:

Date of Organization:

Form of Organization:

Joint Venture Managing Partner

- Name:

- Address:

Joint Venture Managing Partner

- Name:

- Address:

Joint Venture Managing Partner

- Name:

- Address:

**7. LICENSING**

Jurisdiction:

State of Arkansas

Type of License:

State Commercial Contractors License

License Number:

1976870519

Jurisdiction:

Type of License:

License Number:

Has firm listed in Section 1 ever been fined or suspended by a Contractor's licensing board?

☐ YES ☒ NO

If YES, attach as an Attachment details including where and why.



## CERTIFICATE OF CONVERSION

WHEREAS,

FLINTCO, LLC

*a domestic limited liability company organized under the laws of the State of OKLAHOMA has filed in the office of the Secretary of State duly authenticated evidence of a conversion, as provided by the laws of the State of Oklahoma.*

*NOW THEREFORE, I, the undersigned Secretary of State of Oklahoma, by virtue of the powers vested in me by law, do hereby issue this Certificate evidencing such conversion.*

*IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the Great Seal of the State of Oklahoma.*



*Filed in the city of Oklahoma City this  
19th day of October, 2010.*

*Secretary of State*



October 18, 2010  
Page 2

Thank you for your assistance herein. Of course, if you have any questions concerning this matter, please contact the undersigned direct at (918) 591-5207.

Very truly yours, *A*

  
Lawrence T. Chambers of  
DOERNER, SAUNDERS, DANIEL & ANDERSON, L.L.P.

LTC/pr  
Enclosures  
cc: John R. Bates

1905384v1



SOS



15586400004

### CERTIFICATE AND PLAN OF CONVERSION

Flintco, Inc., an Oklahoma corporation, pursuant to 18 Okla. Stat. §§ 1090.5 and 2054.1,

DOES HEREBY CERTIFY:

FIRST. That the name of the corporation is Flintco, Inc.

SECOND. The date of filing of the corporation's certificate of incorporation with the Secretary of State of the State of Oklahoma was March 6, 1908.

THIRD. The name of the limited liability company into which the corporation shall be converted is Flintco, LLC.

FOURTH. The conversion has been approved by the directors and shareholder of the corporation in accordance with the provisions of 18 Okla. Stat. § 1090.5.

FIFTH. The Articles of Organization of the limited liability company into which the corporation shall be converted are attached hereto as Exhibit A and incorporated herein by this reference.

SIXTH. The conversion of the corporation into the limited liability company shall become effective at midnight on October 31, 2010 (the "Effective Time").

SEVENTH. At the Effective Time, each one (1) share of capital stock of the corporation issued and outstanding immediately prior to the Effective Time then held by the sole shareholder of the Corporation shall, by virtue of the conversion and without any action on the part of the shareholder, be changed and converted into one (1) Unit of limited liability company membership interest in Flintco, LLC.

IN WITNESS WHEREOF, the corporation has caused this Certificate to be signed by its President and attested by its Secretary this 1st day of October, 2010.

FLINTCO, INC.

By: \_\_\_\_\_

Tom E. Maxwell, President

ATTEST:

Charles W. Strauser, Secretary

RECEIVED  
OCT 19 2010  
OKLAHOMA SECRETARY  
OF STATE

**8. CERTIFICATIONS**

CERTIFIED BY: \_\_\_\_\_

Disadvantage Business Enterprise: \_\_\_\_\_

Minority Business Enterprise: \_\_\_\_\_

Woman Owned Enterprise: \_\_\_\_\_

Small Business Enterprise: \_\_\_\_\_

Other ( \_\_\_\_\_ ): \_\_\_\_\_

**9. BONDING INFORMATION**Bonding Company: Travelers Casualty and Surety Company of AmericaAddress: One Tower SquareHartford, CT 06183Bonding Agent: Richard W. DuPontAddress: 940 West Port PlazaSt. Louis, MO 63146Contact Name: Richard W. DuPont, Managing Director, Construction ServicesPhone: (314) 579-8315Aggregate Bonding Capacity: \$2,200,000,000Available Bonding Capacity as of date of this submittal: \$250,000,000**10. FINANCIAL INFORMATION**Financial Institution: JP Morgan ChaseAddress: 10 South Dearborn, Floor 37Chicago, IL 60603Account Manager: Michelle JohnsonPhone: (312) 732-1335Credit available: \$ 93,787,858

## 11. CONSTRUCTION EXPERIENCE:

### Current Experience:

List on **Schedule A** all uncompleted projects currently under contract (If Joint Venture list each participant's projects separately).

### Previous Experience:

List on **Schedule B** all projects completed within the last 5 Years (If Joint Venture list each participant's projects separately).

Has firm listed in Section 1 ever failed to complete a construction contract awarded to it?

☐ YES ☒ NO

If YES, attach as an Attachment details including Project Owner's contact information.

Has any Corporate Officer, Partner, Joint Venture participant or Proprietor ever failed to complete a construction contract awarded to them in their name or when acting as a principal of another entity?

☐ YES ☒ NO

If YES, attach as an Attachment details including Project Owner's contact information.

Are there any judgments, claims, disputes or litigation pending or outstanding involving the firm listed in Section 1 or any of its officers (or any of its partners if a partnership or any of the individual entities if a joint venture)?

☐ YES ☒ NO

If YES, attach as an Attachment details including Project Owner's contact information.

## 12. SAFETY PROGRAM:

Name of Contractor's Safety Officer: Steve Jordan, Regional HSE Director

Include the following as attachments:

Provide as an Attachment Contractor's (and Contractor's proposed Subcontractors and Suppliers furnishing or performing Work having a value in excess of 10 percent of the total amount of the Bid) OSHA No. 500- Log & Summary of Occupational Injuries & Illnesses for the past 5 years.

Provide as an Attachment Contractor's (and Contractor's proposed Subcontractors and Suppliers furnishing or performing Work having a value in excess of 10 percent of the total amount of the Bid) list of all OSHA Citations & Notifications of Penalty (monetary or other) received within the last 5 years (indicate disposition as applicable) - IF NONE SO STATE **NONE**

Provide as an Attachment Contractor's (and Contractor's proposed Subcontractors and Suppliers furnishing or performing Work having a value in excess of 10 percent of the total amount of the Bid) list of all safety citations or violations under any state all received within the last 5 years (indicate disposition as applicable) - IF NONE SO STATE **NONE**

Provide the following for the firm listed in Section V (and for each proposed Subcontractor furnishing or performing Work having a value in excess of 10 percent of the total amount of the Bid) the following (attach additional sheets as necessary):

*Subcontractor records to be provided post bid.*

Workers' compensation Experience Modification Rate (EMR) for the last 5 years:

|      |             |     |             |
|------|-------------|-----|-------------|
| YEAR | <u>2014</u> | EMR | <u>0.60</u> |
| YEAR | <u>2015</u> | EMR | <u>0.53</u> |
| YEAR | <u>2016</u> | EMR | <u>0.43</u> |
| YEAR | <u>2017</u> | EMR | <u>0.43</u> |
| YEAR | <u>2018</u> | EMR | <u>0.50</u> |

Total Recordable Frequency Rate (TRFR) for the last 5 years:

|      |             |      |             |
|------|-------------|------|-------------|
| YEAR | <u>2013</u> | TRFR | <u>1.25</u> |
| YEAR | <u>2014</u> | TRFR | <u>3.06</u> |
| YEAR | <u>2015</u> | TRFR | <u>1.71</u> |
| YEAR | <u>2016</u> | TRFR | <u>1.41</u> |
| YEAR | <u>2017</u> | TRFR | <u>0.29</u> |

Total number of man-hours worked for the last 5 Years:

|      |             |                           |                  |
|------|-------------|---------------------------|------------------|
| YEAR | <u>2013</u> | TOTAL NUMBER OF MAN-HOURS | <u>1,283,497</u> |
| YEAR | <u>2014</u> | TOTAL NUMBER OF MAN-HOURS | <u>1,043,247</u> |
| YEAR | <u>2015</u> | TOTAL NUMBER OF MAN-HOURS | <u>1,634,320</u> |
| YEAR | <u>2016</u> | TOTAL NUMBER OF MAN-HOURS | <u>1,555,380</u> |
| YEAR | <u>2017</u> | TOTAL NUMBER OF MAN-HOURS | <u>1,383,677</u> |

Provide Contractor's (and Contractor's proposed Subcontractors and Suppliers furnishing or performing Work having a value in excess of 10 percent of the total amount of the Bid) Days Away From Work, Days of Restricted Work Activity or Job Transfer (DART) incidence rate for the particular industry or type of Work to be performed by Contractor and each of Contractor's proposed Subcontractors and Suppliers) for the last 5 years:

|      |                 |      |                 |
|------|-----------------|------|-----------------|
| YEAR | <u>        </u> | DART | <u>        </u> |
| YEAR | <u>        </u> | DART | <u>        </u> |
| YEAR | <u>        </u> | DART | <u>        </u> |
| YEAR | <u>        </u> | DART | <u>        </u> |
| YEAR | <u>        </u> | DART | <u>        </u> |

**13. EQUIPMENT:**

MAJOR EQUIPMENT:

List on **Schedule C** all pieces of major equipment available for use on Owner's Project.



OSHA's Form 300 (Rev. 01/2004)

Log of Work-Related Injuries and Illnesses

You must report information about every work-related injury or illness that results in one of the following: death, loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment beyond first aid. You must also report information about every work-related injury or illness that results in a lost workday or job transfer. Do not include non-work-related injuries or illnesses, or injuries or illnesses that are not reported to your supervisor. Do not include injuries or illnesses that are not reported to your supervisor. Do not include injuries or illnesses that are not reported to your supervisor.

Attention: This form contains information relating to an OSHA recordable injury or illness. It is to be used only for OSHA recordkeeping purposes. It is not to be used for any other purpose. It is not to be used for any other purpose. It is not to be used for any other purpose.

Year 2017  
U.S. Department of Labor  
Occupational Safety and Health Administration  
Form approved OSHA no. 1715-0176

Establishment name  
Pintco, LLC  
City Tulsa  
State Oklahoma

| Identify the person |                     | Describe the case            |                                            | Classify the case               |                                                                       | Enter the number of days the injured or ill employee was lost |                                 | Check the "injury" column or choose one type of injury |                 |
|---------------------|---------------------|------------------------------|--------------------------------------------|---------------------------------|-----------------------------------------------------------------------|---------------------------------------------------------------|---------------------------------|--------------------------------------------------------|-----------------|
| (A) Case No.        | (B) Employee's Name | (C) Job Title (e.g., Welder) | (D) Date of Injury or Illness (month/year) | (E) Location (e.g., Shop floor) | (F) Description of injury or illness (e.g., Laceration of right hand) | (G) Days away from work                                       | (H) Job transfer or restriction | (I) Other recordable injury or illness                 | (J) Injury type |
| 18001               | XXXXXXXXXX          | Carpenter                    | 07/10/2017                                 | Northwest Commercial wall       | Laceration left forearm from metal object                             | 1                                                             |                                 |                                                        | X               |
| 18002               | XXXXXXXXXX          | Carpenter                    | 11/05/2017                                 | Not floor handling object       | Laceration right side of face from metal pipe                         | 1                                                             |                                 |                                                        | X               |

Be sure to transfer these totals to the Summary page (Form 300A) before you post it.

Page totals: a b c d e f g h i j k l m n o p q r s t u v w x y z

Page 1 of 1



# OSHA's Form 300 (Rev. 01/2004)

## Log of Work-Related Injuries and Illnesses

You must record information about every work-related injury or illness that involves loss of consciousness, restricted work activity or job transfer, days away from work, or medical treatment beyond first aid. You must also record injuries and illnesses that meet any of the specific recording criteria listed in 29 CFR 1904.8 through 1904.12. Feel free to use two lines for a single case if you need so. You must complete an injury and illness incident report (OSHA Form 301) or equivalent form for each injury or illness recorded on this form. If you're not sure whether a case is recordable, call your local OSHA office for help.



Year 2015

U.S. Department of Labor  
Occupational Safety and Health Administration

Form approved OMB no. 1218-0176

Establishment name

Flinto, LLC.

State Oklahoma

City Tulsa

### Identify the person

| (A)<br>Case No. | (B)<br>Employee's Name | (C)<br>Job Title (e.g., Welder) | (D)<br>Date of injury or onset of illness (mo./day) | (E)<br>Where the event occurred (e.g., Loading dock north end) | (F)<br>Describe injury or illness, parts of body affected, person ill (e.g., Second degree burns on right forearm from acetylene torch) |
|-----------------|------------------------|---------------------------------|-----------------------------------------------------|----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| 000001          | Luis James             | Carpenter                       | 1/16/15                                             | Light well south of the building                               | Contusion left forearm from struck by 2x4                                                                                               |
| 000002          | Pandisco Renalto       | Carpenter                       | 1/20/15                                             | East side of building                                          | Knee strain, from a slip on uneven ground                                                                                               |
| 000003          | Michael Hunter         | Operator                        | 2/2/15                                              | Office trailer                                                 | Detached retina, right eye from a trip while walking                                                                                    |
| 000004          | Jesus Marquez          | Carpenter                       | 2/2/15                                              | Parking garage west end                                        | Tenidia right elbow from a fall from a footing                                                                                          |
| 000005          | Gillis Nicholas        | Iron Worker                     | 4/7/15                                              | Stair 2, first floor                                           | Strain groin from lifting a piece of steel                                                                                              |
| 000006          | Pedro Landin           | Laborer                         | 6/1/15                                              | 1st floor lap of column #1                                     | Sprain right thumb reaching into rebar cage                                                                                             |
| 000007          | Wilson Sawyer          | Laborer                         | 6/1/15                                              | Corner of 4th and South street                                 | Contusion right hip from being struck by an auto                                                                                        |
| 000008          | Francisco Flores       | Laborer                         | 6/2/15                                              | Tellcom room                                                   | Laceration left leg from a grinder                                                                                                      |
| 000009          | Dewayne Holcomb        | Operator                        | 6/7/2015                                            | Jobette laydown area                                           | Laceration L hand caught between auto and tank                                                                                          |
| 000010          | Hector Felipe          | Superintendent                  | 6/13/15                                             | West end of 4th floor                                          | Laceration L middle finger from steel embed                                                                                             |
| 000011          | Donald Buckner         | Carpenter                       | 6/24/15                                             | East entry vestibule                                           | Laceration L thumb from a scaffold                                                                                                      |
| 000012          | David Davila           | Operator                        | 6/24/15                                             | Parking garage ramp                                            | Broken rib, fall from a scaffold                                                                                                        |
| 000013          | Jack Morrison          | Laborer                         | 9/8/15                                              | North side of project                                          | Contusion L shoulder from adjusting a auto mirror                                                                                       |
| 000014          | Jesse Sheppard         | Laborer                         | 12/2/15                                             | 5th floor tower 2                                              | Laceration finger from picking up trash                                                                                                 |

Page totals

Be sure to transfer these totals to the Summary page (Form 300A) before you post it.

Public reporting burden for this collection of information is estimated to average 14 minutes per response, including time to review the instruction, search existing data sources, gathering the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any aspect of this data collection, including suggestions for reducing the burden, to Washington, DC 20203, Department of Labor, OSHA Office of Statistics, Room N-3644, 200 Constitution Ave. NW, Washington, DC 20210. Do not send the completed forms to this office.

| Classify the case                                                                 |                     |                             |                        |                       |                                       |                                                          |                   |                           |               |                  |                         |
|-----------------------------------------------------------------------------------|---------------------|-----------------------------|------------------------|-----------------------|---------------------------------------|----------------------------------------------------------|-------------------|---------------------------|---------------|------------------|-------------------------|
| CHECK ONLY ONE box for each case based on the most serious outcome for that case: |                     |                             |                        |                       |                                       |                                                          |                   |                           |               |                  |                         |
| Enter the number of days the injured or ill worker was:                           |                     |                             |                        |                       |                                       | Check the "injury" column or choose one type of illness: |                   |                           |               |                  |                         |
| Death                                                                             | Days away from work | Remained at work            |                        | Away from Work (days) | On job transfer or restriction (days) | (M) Injury                                               | (2) Skin Disorder | (3) Respiratory Condition | (4) Poisoning | (5) Hearing Loss | (6) All other illnesses |
|                                                                                   |                     | Job transfer or restriction | Other recordable cases |                       |                                       |                                                          |                   |                           |               |                  |                         |
| (G)                                                                               | (H)                 | (I)                         | (J)                    | (K)                   | (L)                                   | (1)                                                      | (2)               | (3)                       | (4)           | (5)              | (6)                     |
| 0                                                                                 | 2                   | 3                           | 9                      | 18                    | 313                                   | 14                                                       | 0                 | 0                         | 0             | 0                | 0                       |





## Log of Work-Related Injuries and Illnesses

**Attention:** This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes.

Form approved OMB no. 1218-0176

**Classify the case**

Page totals

Be sure to transfer these totals to the Summary page (Form 300A) before you post it.

Public reporting burden for this collection of information is estimated to average 14 minutes per response, including time for reviewing the instruction, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any aspect of this collection of information, including suggestions for reducing the burden, to Washington Headquarters Service, Paperwork Project (0182-0001), Washington, DC 20503.

Page 1 of 1



I HEREBY CERTIFY THAT THE INFORMATION SUBMITTED HERewith, INCLUDING ANY ATTACHMENTS, IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

NAME OF ORGANIZATION: Flintco, LLC

BY: [REDACTED]

TITLE: Vice President/Area Manager

DATED: June 7, 2018

NOTARY ATTEST: PD

SUBSCRIBED AND SWORN TO BEFORE ME

THIS 7th DAY OF June, 2018

NOTARY PUBLIC - STATE OF Arkansas

MY COMMISSION EXPIRES: June 02, 2026



REQUIRED ATTACHMENTS

1. Schedule A (Current Experience).
2. Schedule B (Previous Experience).
3. Schedule C (Major Equipment).
4. Evidence of authority for individuals listed in Section 7 to bind organization to an agreement.
5. Resumes of officers and key individuals (including Safety Officer) of firm named in Section 1.
6. Required safety program submittals listed in Section 13.

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**SCHEDULE C - LIST OF MAJOR EQUIPMENT AVAILABLE**

[illegible]

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Project No. 17048130  
Bentonville WWTP Solids Improvements

4

Section 00 45 13  
Qualifications Statement



Midtown Center - Bentonville, Ark.



### **BRENT FARMER, VP/Area Manager**

Brent provides advisory support to the project team by monitoring construction activities, and resolving issues that arise, especially those pertaining to changes, deficiencies and/or subcontractor performance. He also assists in the preparation and review of the preliminary project schedule, reviews the project estimates and oversees the selection of subcontractors. Brent is responsible for direct supervision over all projects in the Northwest Arkansas construction division. He provides leadership and guidance to superintendents and project managers, assisting them in planning, implementing and coordinating work, and securing timely and economical completion of all projects with high quality consistent with the established project goals.

State University in Okmulgee with a degree in  
more than 26 years of construction experience, 20 of  
in Flintco.

#### **EDUCATION**

1994 A.S., Oklahoma State University  
Institution of Technology

#### **INDUSTRY EXPERIENCE**

26 years in Construction  
24 years with Flintco



- 21c Museum Hotel - Bentonville, AR
- 21C Parking Garage - Bentonville, AR
- Arvest Heritage Branch #350 - Prairie Grove, AR
- Ben Geren Aquatics Park - Fort Smith, AR
- Bentonville Elementary School #12 - Bentonville, AR
- Bentonville Midtown Center - Bentonville, AR
- Bentonville Public Works Maintenance Facility - Bentonville, AR
- Chancellor Residence - Fayetteville, AR
- Choctaw Casino Resort Hotel Durant, Okla. - Durant, OK
- Fulbright Junior High - Bentonville, AR
- Gentry Public Schools Intermediate School - Gentry, AR
- CBMAA: The Momentary - Bentonville, AR
- J3 Multifamily Apartments - Bentonville, AR
- Whole Foods Market - Fayetteville, Ark. - Fayetteville, AR
- The Gardens at Osage Terrace - Bentonville, AR
- University of Arkansas - Printing Services - Fayetteville, AR
- Janet Huckabee Arkansas River Valley Nature Center - Fort Smith, AR
- Northwest Arkansas Community College - Shewmaker Center for Global Business Development - Bentonville, AR
- University of Arkansas - Duncan Avenue Apartments - Fayetteville, AR
- Rogers Aquatic Center - Rogers, AR
- The New School - Fayetteville, AR
- Springdale Aquatic Center - Springdale, AR





### **JUSTIN SPAFFORD, *Project Manager***

Justin oversees the project team to assure quality workmanship is delivered timely and with fiscal accuracy. He prepares the preliminary schedule and assists the preconstruction manager with cost estimates, feasibility studies and value analysis. He is responsible for writing and reviewing subcontracts and purchase orders to ensure the scope of work for each trade is accurate and complete. Justin monitors all construction activities, quality control and the accounting process. He organizes and conducts progress meetings with the owner and architect and ensures timely resolution of all project issues.

Justin over 24 years of industry experience. He is a licensed master plumber whose expertise is an invaluable asset onsite to solve any challenges that may arise during construction. Justin is LEED Green Associate certified and has completed the OSHA 30-hour safety training.

#### **EDUCATION**

A.S., Northwest Arkansas Community College  
Coursework, Northwest Technical Institute

#### **INDUSTRY EXPERIENCE**

24 years in Construction  
13 years with Flintco



#### **PROJECT EXPERIENCE**

- Ben Geren Aquatics Park - Fort Smith, AR
- Benton County Juvenile Justice Center - Bentonville, AR
- Bentonville Ice Rink & Splash Pad (Lawrence Plaza) - Bentonville, AR
- Bentonville Parks and Recreation - Bentonville, AR
- Butterfield Trail Healthcare Facility Renovation - Fayetteville, AR
- Garrett Road Elementary School - Rogers, AR
- Gentry Diesel Maintenance Facility - Gentry, AR
- Gentry Public Schools Multi-Purpose Athletics & Activities Facility - Gentry, AR
- Springdale Elementary School 2016 (Knapp Elementary) - Springdale, AR
- Northwest Arkansas Community College - Shewmaker Center for Global Business Development - Bentonville, AR
- The Legacy Building - Fayetteville, AR
- Rogers Heritage High School Construction Trade Program Remodel - Rogers, AR



Guest House at Graceland - Memphis, Tenn.



### **STEVEN JORDAN, *Safety Director***

Steve is responsible for enforcing safety policies and all federal and state safety regulations. He is also in charge of employee safety orientation and conducts safety meetings prior to the start of construction with all subcontractors. Additionally, he conducts safety audits at jobsites and accident investigations. Steve also works with the corporate safety director to establish safety rules, regulations and policies.

Steve joined Flintco as a safety coordinator and quickly proved his ability to provide constructive solutions to onsite challenges and was promoted to area safety director for the Flintco Texas Division. As a direct result of his leadership in safety, the Flintco Texas division has won nine University of Texas Safety Through Exemplary Performance (STEP) Silver awards and five University of Texas STEP Gold awards. The Flintco Texas division has also been recognized with the Associated Builders & Constructors STEP Diamond Level award.

#### **EDUCATION**

1993 B.A., University of Pittsburgh  
Coursework, Texas A&M

#### **INDUSTRY EXPERIENCE**

25 years in Construction  
9 years with Flintco

#### **PROJECT EXPERIENCE**

- 810 Building Remodel - Tulsa, OK
- Arkansas Arts Academy High School Expansion & Renovation - Rogers, AR
- Asian American Resource Center - Austin, TX
- Baptist Memorial Hospital Crittenden County - West Memphis, AR
- Ben Geren Aquatics Park - Fort Smith, AR
- Bentonville Elementary School #12 - Bentonville, AR
- Bentonville Midtown Center - Bentonville, AR
- Bentonville Public Works Maintenance Facility - Bentonville, AR
- Bentonville West High School - Centerton, AR
- GE Oil and Gas Technology Center Oklahoma City - Oklahoma City, OK
- Guest House At Graceland - Memphis, TN
- Crystal Bridges North Elevator Tower - Bentonville, AR
- EMSA Education Center - Tulsa, OK
- Hilti Fitness Facility Renovation and Training Center - Tulsa, OK
- Cherokee Nation Roland Casino and Hotel - Roland, OK
- Hardesty Center for Dance Education - Broken Arrow, OK
- Gentry Diesel Maintenance Facility - Gentry, AR
- Gentry Public Schools Intermediate School - Gentry, AR
- CBMAA: The Momentary - Bentonville, AR
- J3 Multifamily Apartments - Bentonville, AR







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

## AGENDA FORM

CITY COUNCIL MEETING OF:

July 10, 2018

Submitted by:

Jon Simpson

Department

Police

Phone

271-3172

### ACTION REQUIRED:

Request that City Council approve a Resolution authorizing the Mayor and City Clerk to enter into a guaranteed maximum price amendment to the existing professional services agreement with Nabholz to provide construction management and general contractor services for the construction of the new Police/Fire/EMS Communications Center for an amount not to exceed \$8,191,226.00, with the cost for the total program being \$9,556,480.00. This agreement will require a budget adjustment recognizing funds from various accounts and to fund the construction of the new Police/Fire/EMS Communications Center in the amount of \$9,556,480.00. See attached Memorandum, Budget Adjustment Request Form and Spreadsheet.

### COST TO CITY:

Cost of this Request: \$9,556,480

Additional Budget Amount \$9,556,480

☐ One time amount

☐ Continuing O and M

|                            |              |
|----------------------------|--------------|
| Previously Budgeted        | \$           |
| Funds Expended to Date     |              |
| Remaining Budget           | -            |
| Budget Adjustment          | 9,556,480    |
| Remaining After Adjustment | \$ 9,556,480 |

*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







## POLICE DEPARTMENT

908 SE 14<sup>TH</sup> STREET  
BENTONVILLE, AR 72712  
479-271-3173 FAX 479-271-3187  
[www.bentonvillear.com](http://www.bentonvillear.com)

---

### MEMORANDUM

To: Mayor McCaslin and City Council  
From: Chief Jon Simpson  
Date: July 10, 2018  
Subject: Contract for Construction Management and General Contractor Services  
for the construction of the Police/Fire/EMS Communications Center

August 9, 2016, the City Council approved the Capital Improvement Plan that included considerations for funding an additional police facility utilizing general fund revenues, bonds, and impact fees.

March 14, 2017, the City Council approved the issuance of the remaining Capital Bond proceeds for this new police facility.

July 25, 2017, the City Council approved an agreement with WER Architects/Planners to provide design services for the construction of the aforementioned Police/Fire/ EMS Communications Center which would be constructed on the existing grounds of the current police facility at 908 SE 14<sup>th</sup> Street.

At, or about this same time, preliminary engineering services with CEI and preconstruction services with Nabholz were also contracted (at amounts not exceeding \$20,000 each). It was presented to Council that the facility would be centered upon a severe weather resistant Police/Fire/EMS Communications Center that would also include a City Emergency Operations Center (EOC). The facility would likewise provide a new headquarters for the Criminal Investigation Division and include a multi-use space suitable for vehicle storage, vehicle processing, and various training needs. Existing spaces in our current facility would be re-purposed with minimal modifications to add even greater economy and utility to this project and also supporting the security and safety needs of our growing city.

July 25, 2017, it was also presented to City Council that the total program cost, based upon conceptual work by WER Architects/Planners in coordination with Nabholz, was estimated at \$7,500,000 to \$8,500,000.

March 7, 2018 the project received approved Large Scale Development approval by the City.

At present, WER has worked with Nabholz and their sub-consultants to prepare the Facility Master Plan and Final Construction Drawings. City building permits are currently in progress and approvals from the Arkansas Department of Health are complete.

The pre-construction phase culminated in a competitive bidding process, which combined with two value engineering processes, has determined a guaranteed maximum price (GMP) for the construction work of \$8,191,226.

The pre-construction contract with Nabholz has a provision to proceed into construction services and City Council approval is needed to enter into a guaranteed maximum price agreement with Nabholz to provide construction management and general contractor services for this 22,137 square foot project at the above stated cost of \$8,191,226. See attached Nabholz construction contract, amendment number 1.

Design costs, engineering, and civil fees, previously contracted with WER Architects/Planners add \$711,254 to this amount.

Other costs, including, but not limited to (8) dispatching consoles, audio visual equipment to integrate the dispatch center with the emergency operations center, equipment relocation fees, other civil work, and materials testing fees, add \$654,000 to this amount. (Note: materials testing and special inspection services will be sourced through a previously selected provider, GTS, Inc., at a cost not to exceed \$30,000, and will require an independent contract). See attached GTS Inc. contract.

In summary, the cost for this project includes \$8,191,226 for construction, \$711,254 for design and engineering, and \$654,000 in other costs, resulting in a total program cost not to exceed \$9,556,480.

Various funds will be utilized for the project including approximately \$3,200,000 in bond monies, \$3,200,000 in impact fees, and \$3,200,000 in set asides.

Thank you for your consideration of this request.





June 18, 2018

Chief Jon Simpson  
908 S.E. 14<sup>th</sup> Street  
Bentonville, AR 72712

Subject: Bentonville Emergency Communications Center GMP

Chief Simpson,

This letter is to provide an update on the GMP pricing efforts for the Emergency Communications Center. Bids were received on May 23<sup>rd</sup>, 2018 with a total of 109 bids received. Following the bid date Nabholz has verified the scopes of the bidders to ensure the accuracy of pricing as well as reviewed any potential savings opportunities with the bidders. Nabholz has spent a considerable amount of time reviewing the drawings and specifications with the subcontractors, architects, and engineers to further reduce construction costs to the City of Bentonville.

The total construction Guaranteed Maximum Price (GMP) is **\$8,191,226** which incorporates \$468,485 in approved value engineering savings. This places the total program budget, with the owner's other costs and contingencies, at \$9,556,480. Additional value engineering items totaling \$114,009 are in the process of being verified and will be incorporated into the GMP as a deductive change order once vetted and approved.

We greatly appreciate the opportunity to work with you and your staff and ask that you do not hesitate to call or e-mail us should you have any questions or comments.

Best regards,  
Nabholz Construction

  
Randy Bernhard  
Project Executive

3301 North 2nd Street, Rogers, AR 72756 | (479) 659-7800  
Conway, AR | Little Rock, AR | Jonesboro, AR | Fort Smith, AR | Rogers, AR | Springfield, MO | Olathe, KS  
Tulsa, OK | Oklahoma City, OK | Olive Branch, MS | [www.nabholz.com](http://www.nabholz.com)



## Amendment No. 1

### TO AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER City of Bentonville Emergency Communications Center

Pursuant to Section 5.2 of the Agreement, dated June 29, 2017 between the City of Bentonville (Owner) and Nabholz Construction Services (the Construction Manager), for construction of the new City of Bentonville Emergency Communications Center as defined in the Construction Documents noted within Exhibit A (the Project), the Owner and Construction Manager establish a Guaranteed Maximum Price and Contract Time for the Work as set forth below.

#### ARTICLE I GUARANTEED MAXIMUM PRICE

The Construction Manager's Guaranteed Maximum Price for the Work, including the estimated Cost of the Work as defined in Article 6 and the Construction Manager's Fee as defined in Article 5, is **\$8,191,226.00**. This Price is for the performance of the Work in accordance with the Contract Documents listed and attached to this Amendment and marked Exhibits A as follows:

Exhibit A Drawings, Specifications, Addenda and other Conditions of the Contract on which the Guaranteed Maximum Price is based, Exhibit A consists of a Summary of the Contract Documents Narrative dated June 18, 2018; and GMP Cost Summary.

This Guaranteed Maximum Price includes the work as defined in Amendment No.1. As of the date of this fully executed document the total Guaranteed Maximum Price for the total project is **\$8,191,226.00**.

The information contained herein is considered confidential and proprietary and is being provided by Nabholz Construction specifically for the project noted and the exclusive use of the individual or firm that requested it. Any duplication, re-transmission or modification of any of the information is strictly prohibited without the written authorization of Nabholz Construction Services.

#### ARTICLE II CONTRACT TIME

The date of Substantial Completion established by this Amendment is: June 14, 2019, based on receipt of Notice to Proceed and Building Permit on or before July 16, 2018.

OWNER

CONSTRUCTION MANAGER

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



PROJECT NAME  
PROJECT LOCATION  
DATE  
ARCHITECT

**Program Budget Summary**  
Emergency Communications Center  
Bentonville, AR  
6/21/2018  
WER

| ITEM DESCRIPTION                            |        | GMP                | PERCENT OF TOTAL |
|---------------------------------------------|--------|--------------------|------------------|
| <b>CONSTRUCTION</b>                         |        | <b>8,191,226</b>   | <b>85.71%</b>    |
| Cost of Work                                | 22,137 | 8,493,949          | 89%              |
| General Requirements                        |        | 65,762             | 1%               |
| Approved VE Analysis Items                  |        | (468,485)          | -5%              |
| Contingency                                 |        | 100,000            | 1%               |
| <b>DESIGN</b>                               |        | <b>761,254</b>     | <b>8%</b>        |
| Architecture and Engineering Fees           | 8.50%  | 696,254            | 7%               |
| Civil Engineering and Geotech Fees          |        | 50,000             | 1%               |
| Reimbursables                               |        | 15,000             | 0%               |
| <b>OTHER COSTS</b>                          |        | <b>604,000</b>     | <b>6%</b>        |
| Dispatch Consoles                           |        | 187,000            | 2%               |
| Wireless headsets and triggers for consoles |        | 3,000              | 0%               |
| Relocate 911 Equipment                      |        | 20,000             | 0%               |
| Relocate Federal Signal Equipment           |        | 10,000             | 0%               |
| Audio Visual Equipment Allowance            |        | 234,000            | 2%               |
| Owner Contingency                           |        | 150,000            | 2%               |
| <b>TOTAL</b>                                |        | <b>\$9,556,480</b> | <b>100.00%</b>   |

**City of Bentonville**  
**Emergency Communications Center**

6/28/2018

**Construction Costs**

|                                                |    |           |                     |
|------------------------------------------------|----|-----------|---------------------|
| Unrevised Cost of Work                         | \$ | 8,559,711 |                     |
| Approved Value Engineering Items               | \$ | (468,485) |                     |
| Construction Contingency                       | \$ | 100,000   |                     |
| <b>Nabholz Construction Contract Amendment</b> |    |           | <b>\$ 8,191,226</b> |

**Design Costs**

|                                                     |    |         |                   |
|-----------------------------------------------------|----|---------|-------------------|
| Architect, Engineering, Civil Fees(w/reimbursables) | \$ | 711,254 |                   |
| <b>WER Design Contract Amendment</b>                |    |         | <b>\$ 711,254</b> |

**Other Costs (by City of Bentonville Purchasing)**

|                                                 |    |         |                   |
|-------------------------------------------------|----|---------|-------------------|
| CEI Civil Work, GTS Geotech Testing & Reporting | \$ | 50,000  |                   |
| Russ Bassett Dispatch Consoles, etc.            | \$ | 190,000 |                   |
| AT&T Relocate 911 equipment                     | \$ | 20,000  |                   |
| Relocate Federal Signal storm siren equipment   | \$ | 10,000  |                   |
| Keystone Audio Visual Equipment                 | \$ | 234,000 |                   |
| Owner Contingency                               | \$ | 150,000 |                   |
| <b>Other Costs Total</b>                        |    |         | <b>\$ 654,000</b> |

**Total Program Budget** **\$ 9,556,480**

# **AIA® Document A133™ – 2009**

## **Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price**

**AGREEMENT** made as of the 29<sup>th</sup> day of June in the year 2017  
(In words, indicate day, month and year.)

**BETWEEN** the Owner:  
(Name, legal status and address)

City of Bentonville  
117 West Central Avenue  
Bentonville AR 72712

and the Construction Manager:  
(Name, legal status and address)

Nabholz Construction Corporation, dba/  
Nabholz Construction Services  
3301 North Second Street / P.O. Box 277  
Rogers, AR 72757-0277

for the following Project:  
(Name and address or location)

City of Bentonville Emergency Communications Center  
908 SE 14<sup>th</sup> Street  
Bentonville AR 72712

The Architect:  
(Name, legal status and address)

WER Architects/Planners  
2241 Green Acres Road  
Fayetteville AR 72703

The Owner's Designated Representative:  
(Name, address and other information)

Jon Simpson, Chief of Police  
City of Bentonville Police Department  
908 SE 14<sup>th</sup> Street  
Bentonville AR 72712  
Phone Number: 1-479-271-3173  
Mobile Number: 1-479-621-1574  
Email Address: [Jon.Simpson@Bentonville.Arkansas.gov](mailto:Jon.Simpson@Bentonville.Arkansas.gov)

### **ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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The Construction Manager's Designated Representative:  
(Name, address and other information)

Randy Bernard, Sr. Project Manager  
Nabholz Construction Corporation, dba/  
Nabholz Construction Services  
3301 N. 2<sup>nd</sup> Street / P.O. Box 277  
Rogers, AR 72757-0277  
Direct Number: 1-479-659-7814  
Mobile Number: 1-479-270-3071  
Email Address: [randy.bernard@nabholz.com](mailto:randy.bernard@nabholz.com)

The Architect's Designated Representative:  
(Name, address and other information)

John Langham, NWA Managing, Principal  
WER Architects/Planners  
2241 Green Acres Road  
Fayetteville AR 72703  
Phone Number: 1-479-651-3233  
Email Address: [jangham@werarch-nwa.com](mailto:jangham@werarch-nwa.com)

The Owner and Construction Manager agree as follows.

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### ARTICLE 1 GENERAL PROVISIONS

#### § 1.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.

§ 1.1.1 Construction Manager shall exercise the degree of care, skill and diligence in the performance of the Construction Manager's Work, to assure its Work is performed in a good and workmanlike manner, consistent with construction industry standards for similar projects and circumstances in the same geographic area (hereinafter the "Construction Manager's Standard of Care"). The Construction Manager shall be responsible for and have control over all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Construction Manager's Work under this Agreement, including all coordination of the duties of all trades, and shall furnish efficient business administration and supervision of the Work.

Construction Manager's Standard of Care specifically excludes any design or design-related responsibilities, and any action taken by Construction Manager under this Agreement does not and shall not be construed to approve, represent or warrant the adequacy and suitability of the plans and specifications for the purpose for which they are provided.

§ 1.1.2 To the extent the Owner requests that the Construction Manager provide services within standard of care, such as value analysis and/or constructability suggestions or comments with respect to the Drawings and Specifications, Owner acknowledges that such services are advisory only and not professional design services. The Owner shall refer all suggestions and comments to the Architect or other design professionals for review and evaluation prior to Owner's acceptance thereof. The Owner further acknowledges that the Construction Manager is

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not responsible for adequacy of the drawings and specifications or for confirming the absence of errors or omissions that may exist therein. The Owner shall cause the Architect to revise the Drawings and Specifications to reflect all value analysis and constructability suggestions and comments accepted by the Owner without delay or disruption to the timely and orderly progress of the work. The contract sum and contract time may be adjusted upon the Contractor's review and pricing of the revised Drawings and Specifications.

#### **§ 1.2 Relationship of the Parties**

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

#### **§ 1.3 General Conditions**

For the Preconstruction Phase, AIA Document A201™-2007, General Conditions of the Contract for Construction, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2007, which document is incorporated herein by reference. The term "Contractor" as used in A201-2007 shall mean the Construction Manager.

### **ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES**

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. The Owner and Construction Manager may agree for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

#### **§ 2.1 Preconstruction Phase**

**§ 2.1.1** The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

#### **§ 2.1.2 Consultation**

The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, and possible cost reductions.

**§ 2.1.3** When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: completion of various elements of the Architect's work, submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor (or appropriate breakdown of the Work); ordering and delivery of products, including those that must be ordered in advance of construction (if such products are known by or communicated to the Construction Manager) and the occupancy requirements of the Owner.

#### **§ 2.1.4 Phased Construction**

The Construction Manager shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues.

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**§ 2.1.5 Preliminary Cost Estimates**

§ 2.1.5.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Architect's review and Owner's approval. If the Architect or Construction Manager suggest alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 2.1.5.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner and Construction Manager, estimates of the Cost of the Work of increasing detail and refinement until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

**§ 2.1.6 Subcontractors and Suppliers**

The Construction Manager shall develop bidders' interest in the Project.

**§ 2.1.7 Extent of Responsibility**

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

**§ 2.1.8 Notices and Compliance with Laws**

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi governmental authorities for inclusion in the Contract Documents.

*(Paragraphs deleted)*

**§ 2.2 Guaranteed Maximum Price Proposal and Contract Time**

§ 2.2.1 When the Drawings and Specifications have been completed, the Construction Manager will solicit trade contractors for competitive bids in relevant trade categories. Upon completion of the bidding cycle, the Construction Manager shall propose a Guaranteed Maximum Price ("GMP"), which shall be the sum of the estimated cost of work, including contingencies described in Section 2.2.4 and the Construction Manager's Fee.

§ 2.2.2 The Owner and Construction Manager acknowledge that the Construction Manager will/has developed the Guaranteed Maximum Price based upon completed Contract Documents "CDs".

In the event that the Owner and Construction Manager agree that the Construction Manager will develop a Guaranteed Maximum Price before the completion of the Contract Documents (CDs), in that such Drawings and Specifications do not contain all details and requirements of the Work, the Guaranteed Maximum Price will be based on certain assumptions by the Construction Manager. To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager will include an allowance to be identified in the GMP Amendment for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, or any condition which was not reasonably anticipated by the Construction Manager's assumptions regarding the completion of the design, all of which, if required shall be incorporated by Change Order for additional cost and/or time as required. If the Contract Documents (CDs) or final Drawings and Specifications require performance of the Work in any manner different from such assumptions, or contain changes in the scope of the Work to be performed by the Construction Manager, the Construction Manager shall as soon as practicable notify the Owner thereof and of the Construction Manager's

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estimate of the resulting increase or decrease in the Guaranteed Maximum Price. At such time as the Owner and the Construction Manager have agreed upon the effect of such difference and/or changes in the scope of the Work, a Change Order shall be issued substituting the finished Contract Documents (CDs) for those described in this Agreement and the Guaranteed Maximum Price and Contract Time shall be adjusted as agreed by the parties.

§ 2.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, contingency, and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based;
- .5 A date by which the Owner must accept the Guaranteed Maximum Price; and
- .6 The Date of Commencement of the Work shall be within ten (10) days of receipt of 1) Owner's Notice to Proceed, 2) the issuance of all applicable permits, and 3) Proof of adequate financing for the Work by the Owner and/or Owner's lender (in a form suitable to the Construction Manager), whichever is later.

§ 2.2.4 The GMP shall contain a mutually agreeable and separately identified contingency (the "Construction Contingency") for the sole use by the Construction Manager. The Construction Contingency is not allocated to any particular item of the cost of the Work and is established for the Cost of the Work incurred by the Construction Manager, including mitigation of weather impact, losses, expenses or damages not covered by insurance or bonds, low estimates or deviations from the estimated cost and overly aggressive scheduling or shortage of properly skilled workforce. It is understood by the Parties that this contingency is not to be allocated to costs due to errors and omissions in the Contract Documents (CDs) or to remedy, correct or resolve any inconsistencies, ambiguities, errors or omissions contained within the Architect's work product on which the Construction Manager's Guaranteed Maximum Price was based.

§ 2.2.5 The Construction Manager shall meet with the Owner to review the Guaranteed Maximum Price proposal. In the event that the Owner and Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 2.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 2.2.7 Prior to the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal and issuance of a Notice to Proceed, with the exception of reimbursable costs associated with Preconstruction Services, the Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work, except as the Owner may specifically authorize in writing.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications, provided the Architect clouds all changes to the Drawings and Specifications on which the Guaranteed Maximum Price was based.

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§ 2.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted at the time the Guaranteed Maximum Price Amendment is executed.

### § 2.3 Construction Phase

#### § 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201-2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal or the Owner's issuance of a Notice to Proceed, whichever occurs earlier.

#### § 2.3.2 Administration

§ 2.3.2.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. However, if the Guaranteed Maximum Price has been established, the Owner may not prohibit the Construction Manager from obtaining bids from other bidders. The Construction Manager shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Owner. The Owner shall then determine, in consultation with the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 2.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (1) is recommended to the Owner by the Construction Manager, (2) is qualified to perform that portion of the Work, and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Contract Time and the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 2.3.2.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the subcontract is awarded on a costplus a fee basis, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Section 6.10 below.

§ 2.3.2.4 If the Construction Manager recommends a specific bidder that is a parent, subsidiary, affiliate, or other entity having common ownership or management with the Construction Manager, then the Construction Manager shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction.

§ 2.3.2.5 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner and Architect.

§ 2.3.2.6 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and submittal schedule in accordance with Section 3.10 of A201-2007.

§ 2.3.2.7 The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner. The Construction Manager shall also keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

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§ 2.3.2.8 The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes.

**§ 2.4 Professional Services**

Section 3.12.10 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

**§ 2.5 Hazardous Materials**

Section 10.3 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

**ARTICLE 3 OWNER'S RESPONSIBILITIES**

**§ 3.1 Information and Services Required of the Owner**

§ 3.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems sustainability and site requirements.

§ 3.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.

§ 3.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 3.1.4 **Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 3.1.4.1 The Owner shall furnish tests, inspections and reports required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 3.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 3.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

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§ 3.1.4.4 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

**§ 3.2 Owner's Designated Representative**

The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owners approval or authorization. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2007, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 3.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

**§ 3.3 Architect**

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B103™-2007, Standard Form of Agreement Between Owner and Architect, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

**ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES**

**§ 4.1 Compensation**

§ 4.1.1 For the Construction Manager's Preconstruction Phase services, the Owner shall compensate the Construction Manager as follows:

The fee for preconstruction services shall be a lump sum of sixteen thousand dollars (\$16,000.00).

**§ 4.1.2**

*(Paragraphs deleted)*

Compensation for Preconstruction Phase Services shall be equitably adjusted if such services extend beyond (180) days from the date of this Agreement or if the originally contemplated scope of services is significantly modified. If preconstruction services extend past the time frame identified, the following rates shall apply and will be billed on a timecard basis for those individuals working on this project:

|                                              |            |
|----------------------------------------------|------------|
| Preconstruction Manager                      | \$95.00/hr |
| Chief Estimator                              | \$75.00/hr |
| Senior Project Manager                       | \$95.00/hr |
| Constructability/Value Analysis Professional | \$90.00/hr |
| Project Manager                              | \$75.00/hr |
| General Superintendent                       | \$80.00/hr |
| Project Coordinator                          | \$50.00/hr |
| Clerical                                     | \$35.00/hr |
| Model Integrator                             | \$55.00/hr |

Owner acknowledges that the Charging Rates noted in this 4.1.2 are confidential and competitive to Construction Manager, and shall not be disclosed to any third-party without advance written authorization of Construction Manager's Operations President. Should the date of commencement, as defined in the initial solicitation, be delayed through no fault of the Construction Manager, the Construction Manager reserves the right to substitute project team members from those originally proposed or be entitled to compensation for those team members per the rate schedule list above.

§ 4.1.3 Compensation based on Direct Personnel Expense includes the direct salaries of the Construction Manager's personnel providing Preconstruction Phase services on the Project and the Construction Manager's costs for the

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mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

*(Paragraph deleted)*

**§ 4.2 Payments**

**§ 4.2.1** Unless otherwise agreed, payments for services will be in accordance with 4.1.1.

**§ 4.2.2** Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.  
*(Insert rate of monthly or annual interest agreed upon.)*

Highest allowed by Arkansas law.

**ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES**

**§ 5.1** For the Construction Manager's performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract. The Contract Sum is the Cost of the Work as defined in Section 6.1.1 plus the Construction Manager's Fee.

**§ 5.1.1** The Construction Manager's Fee:

*(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)*

Construction Manager shall receive a fee of five point two five percent (5.25%) of the Cost of Work. The Construction Manager's Fee shall be adjusted for changes in the Work by zero percent (0%) for deductive changes and five point two five percent (5.25%) for additive changes.

**§ 5.1.2** Rental rates for Construction Manager-owned equipment shall not exceed One Hundred percent ( 100% ) of the standard rate paid at the place of the Project.

**§ 5.1.3** Unit prices, if any:

*(Identify and state the unit price; state the quantity limitations, if any, to which the unit price will be applicable.)*

| Item | Units and Limitations | Price per Unit (\$0.00) |
|------|-----------------------|-------------------------|
|------|-----------------------|-------------------------|

*(Table deleted)*

*(Paragraphs deleted)*

**§ 5.2 Guaranteed Maximum Price**

**§ 5.2.1** The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.  
*(Insert specific provisions if the Construction Manager is to participate in any savings.)*

**§ 5.2.1.2** Owner acknowledges that the Guaranteed Maximum Price applies in the aggregate to all categories and line items of the Cost of Work as defined in Article 6 of this Agreement and in no event shall be considered a line item guarantee of the cost of any individual portion of the Work.

**§ 5.2.2** The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

**§ 5.3 Changes in the Work**

**§ 5.3.1** The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The

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Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201-2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 5.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Section 7.3.3 of AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 5.3.3 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in Section 7.3.3.3 of AIA Document A201-2007 and the term "costs" as used in Section 7.3.7 of AIA Document A201-2007 shall have the meanings assigned to them in AIA Document A201-2007 and shall not be modified by Sections 5.1 and 5.2, Sections 6.1 through 6.7, and Section 6.8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 5.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in the above-referenced provisions of AIA Document A201-2007 shall mean the Cost of the Work as defined in Sections 6.1 to 6.7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 5.1 of this Agreement.

§ 5.3.5 If no specific provision is made in Section 5.1.2 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 5.1.2 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

#### ARTICLE 6 COST OF THE WORK FOR CONSTRUCTION PHASE

##### § 6.1 Costs to Be Reimbursed

§ 6.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 6.1 through 6.7.

§ 6.1.1.1 The sum for General Conditions will be billed as a lump sum and paid in monthly installments commencing with the next calendar month following the date of commencement of construction of the Project and concluding on the date of completion of the Work. Payments will be pro-rated for part of a calendar month at the commencement of construction and the calendar month in which Final Completion occurs.

§ 6.1.2 Where any cost is subject to the Owner's prior approval, the Construction Manager shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.

##### § 6.2 Labor Costs

§ 6.2.1 Wages of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or at off-site locations or workshops.

§ 6.2.2 Salaries and burden of the Construction Manager's supervisory, project/operations management, executive, safety and administrative personnel, when engaged in execution of the Work, whether at the site, at the Construction Manager's principal office or offices other than the site office. These persons costs will be charged on an hourly basis and will be included in an agreed upon General Conditions costs.

Classification

Name

*(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager's principal office or offices other than the site office shall be included in the Cost of the Work, such personnel shall be identified below.)*

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§ 6.2.3 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements, and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, collectively referred to as "Labor Burden", shall be charged at a flat rate of 49% of base wage, provided that such costs are based on wages and salaries included in the Cost of the Work as described herein. Owner acknowledges that the Labor Burden rate set in this 6.2.3 is confidential and competitive to Construction Manager, and shall not be disclosed to any third-party without advance written authorization of Construction Manager's Operations President.

§ 6.2.4 The Contract Sum is based upon the Project not being subject to State and Federal Prevailing Wage Law. In the event that this Project becomes subject to State or Federal Prevailing Wage Law the Contract Sum will be adjusted accordingly.

§ 6.2.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, with the Owner's prior approval.

**§ 6.3 Subcontract Costs**

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts.

**§ 6.4 Costs of Materials and Equipment Incorporated in the Completed Construction**

§ 6.4.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

**§ 6.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items**

§ 6.5.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 6.5.2 Rental charges for temporary facilities, machinery, equipment and hand tools not owned by the construction workers, which are provided by the Construction Manager at the site, whether rented from the Construction Manager or others, and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof. Equipment owned by the Construction manager shall be rented at a rate not to exceed the standard rental rate in the geographical area in which the project is located.

§ 6.5.3 Costs of removal of debris and/or costs associated with diverting waste to a waste recycling center from the site of the Work and its proper and legal disposal.

§ 6.5.4 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, data lines, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

§ 6.5.5 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 6.5.6 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

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**§ 6.6 Miscellaneous Costs**

**§ 6.6.1** Premiums for that portion of insurance, bonds and other surety programs required by the Contract Documents and the Construction Manager that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

**§ 6.6.2** Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Construction Manager is liable.

**§ 6.6.3** Fees and assessments for the building permit and for other permits, licenses and inspections for which the Construction Manager is required by the Contract Documents to pay.

**§ 6.6.4** Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201-2007 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 6.7.3.

**§ 6.6.5** Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Construction Manager's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201-2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

**§ 6.6.6** Costs for electronic equipment and software, directly related to the Work.

**§ 6.6.7** Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

**§ 6.6.8** Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

**§ 6.6.9** Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work.

**§ 6.7 Other Costs and Emergencies**

**§ 6.7.1** Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

**§ 6.7.2** Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.4 of AIA Document A201-2007.

**§ 6.7.3** Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Construction Manager and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

**§ 6.7.4** The costs described in Sections 6.1 through 6.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201-2007 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 6.8.

**§ 6.8 Costs Not To Be Reimbursed**

**§ 6.8.1** The Cost of the Work shall not include the items listed below:

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- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 6.2, or as may be provided in Article 11;
- .2 Expenses of the Construction Manager's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Sections 6.1 to 6.7;
- .4 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .5 Except as provided in Section 6.7.3 of this Agreement, costs due to the negligence or failure of the Construction Manager, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Sections 6.1 to 6.7; and
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

#### **§ 6.9 Discounts, Rebates and Refunds**

§ 6.9.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 6.9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 6.9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

#### **§ 6.10 Accounting Records**

The Construction Manager shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

*(Paragraphs deleted)*

§ 6.11 The Contractor shall not be obligated to provide any services, information or documentation relating to its Work to auditors working on a contingency fee basis (auditor's fees calculated as a percentage of the client's net recovery), nor shall any reimbursement obligation otherwise required by the Contract Documents be applicable to Contractor when an auditor is hired by Owner on a contingency fee basis.

### **ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES**

#### **§ 7.1 Progress Payments**

§ 7.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Construction Manager as provided below and elsewhere in the Contract Documents.

§ 7.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 7.1.3 Provided an Application for Payment is received by the architect not later than the 1<sup>st</sup> day of the month, the Owner shall make payment to the Construction Manager not later than the 20<sup>th</sup> day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than 30 days after the Architect received the Application for Payment. Owner and Construction Manager agree to the terms outlined in 4.2.2 shall apply to this article 7.1.3. An Application for

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Payment shall be deemed certified 14 days after submittal unless the Owner or Architect objects to all or part of the Application for Payment within 14 days of submittal.

§ 7.1.4 If required by the Owner, with each Application for Payment, the Construction Manager shall submit a detailed cost transaction report generated from the Construction Manager's accounting system, and upon request by the Owner or Architect, shall provide any other evidence reasonably required by the Owner or Architect to demonstrate that cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed (1) progress payments already received by the Construction Manager, less (2) that portion of those payments attributable to the Construction Manager's Fee, plus (3) payrolls for the period covered by the present Application for Payment.

§ 7.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 7.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 7.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201-2007;
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Construction Manager's Fee, less retainage of five percent ( 5.0% ). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of five percent ( 5.0% ) from that portion of the Work that the Construction Manager self-performs;
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

§ 7.1.8 Except with the Owner's prior approval, payments to Subcontractors shall be subject to retention of not less than five percent ( 5.0% ). Upon recommendation of the Construction Manager, a Subcontractor's retainage may be reduced by a percentage established and agreed upon by the Construction Manager. The full five percent ( 5.0% ) retainage may be reinstated with respect to remaining payments for identified Subcontractors whose manner of completion of the work and its progress do not remain satisfactory to the Construction Manager and/or the Owner, or if any surety withholds its consent, or for other good and sufficient reasons.

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§ 7.1.9 If the manner of completion of the work, and its progress are and remain satisfactory for the Owner, and the Work is shown at fifty percent (50%) or more complete in the Application for Payment, without reduction of previous retainage, no further retainage will be withheld.

§ 7.1.10 In taking action on the Construction Manager's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 7.1.11 Except with the Owner's prior approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 7.1.12 The receipt by Construction Manager of a partial payment of any amount due to Construction Manager endorsed as payment in full will be deemed to be a part payment only, and any endorsements or statements on a check or other form of commercial paper, or any other document accompanying the payment, shall not be deemed an accord and/or satisfaction, notwithstanding such endorsements.

## § 7.2 Final Payment

§ 7.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract except for the Construction Manager's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-2007.
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect.

The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 7.2.2 The Owner's auditors will review and report in writing on the Construction Manager's final accounting within 30 days after delivery of the final accounting to the Architect by the Construction Manager. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Construction Manager's final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 9.5.1 of the AIA Document A201-2007. The time periods stated in this Section supersede those stated in Section 9.4.1 of the AIA Document A201-2007. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 7.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Construction Manager's final accounting to be less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Section 15.2 of A201-2007. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 7.2.4 If, subsequent to final payment and at the Owner's request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager such costs and the Construction Manager's Fee applicable thereto on the same

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basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.

#### ARTICLE 8 INSURANCE AND BONDS

§ 8.1 For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201-2007. *(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007)*

§ 8.1.1 Workers' Compensation and Employers' Liability meeting statutory limits mandated by state and federal laws. If (1) limits in excess of those required by statute are to be provided, or (2) the employer is not statutorily bound to obtain such insurance coverage or (3) additional coverages are required, additional coverages and limits for such insurance shall be as follows:

§ 8.1.2 Commercial General Liability including coverage for Premises-Operations, Independent Contractors' Protective, Products-Completed Operations, Contractual Liability, Personal Injury and Broad Form Property Damage (including coverage for Explosion, Collapse and Underground hazards):

|              |                                         |
|--------------|-----------------------------------------|
| \$ 2,000,000 | Each Occurrence                         |
| \$ 4,000,000 | General Aggregate                       |
| \$ 2,000,000 | Personal and Advertising Injury         |
| \$ 4,000,000 | Products-Completed Operations Aggregate |

- .1 The policy shall be endorsed to have the General Aggregate apply to this Project only.
- .2 Products and Completed Operations insurance shall be maintained for a minimum period of at least (1) year(s) after either 90 days following Substantial Completion or final payment, whichever is earlier.
- .3 The Contractual Liability insurance shall include coverage sufficient to meet the obligations in Section 3.18 of A201™-2007.

§ 8.1.3 Automobile Liability (owned, non-owned and hired vehicles) for bodily injury and property damage:  
\$1,000,000 Each Accident

§ 8.1.4 Other coverage:

\$ 25,000,000 – Umbrella Coverage

That portion of insurance including deductibles and bond premiums that can be directly attributed to this Contract and expenses for Subcontractor Surety shall be reimbursed at the following rate: 1) Construction Manager's Subcontractor Default Insurance (SDI) at one-point-two-five percent (1.25%) of the subcontract value; or 2) Construction Manager's actual premium cost of the above. Application of SDI or surety bond shall be at the sole discretion of the Construction Manager.

The cost of the Construction Manager's insurance program shall be reimbursed at the rate of \$8.50 per thousand dollars of Contract Sum. Rates shall be subject to adjustment on the first day of each calendar year if required by the Construction Manager.

The Construction Manager will maintain Builders Risk Insurance at the rate of \$0.15 per thousand of Contract Sum per month to insure the components of the Project while under construction and shall also maintain General Liability coverage as identified above to insure against losses to the adjacent structures from damage which may be caused by construction activity.

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Owner acknowledges that the information provided in this 8.1.4 is trade secret, proprietary, or otherwise confidential and competitive to Construction Manager, and shall not be disclosed to any third-party without advance written authorization of Construction Manager's Operations President.

*(If Umbrella Excess Liability coverage is required over the primary insurance or retention, insert the coverage limits. Commercial General Liability and Automobile Liability limits may be attained by individual policies or by a combination of primary policies and Umbrella and/or Excess Liability policies. If Project Management Protective Liability Insurance is to be provided, state the limits here.)*

§ 8.1.5 If required, the Construction Manager shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Construction Manager's usual source, and the cost thereof shall be included in the Cost of the Work. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum.

*(Table deleted)*

#### ARTICLE 9 DISPUTE RESOLUTION

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201-2007. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution.

§ 9.2 For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201-2007, the method of binding dispute resolution shall be as follows:

*(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)*

☒ [ X ] Arbitration pursuant to Section 15.4 of AIA Document A201-2007

☐ [ ] Litigation in a court of competent jurisdiction

☐ [ ] Other: *(Specify)*

*(Paragraphs deleted)*

#### ARTICLE 10 TERMINATION OR SUSPENSION

##### § 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price

§ 10.1.1 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Section 14.1.1 of A201-2007.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 4.1.

§ 10.1.3 If the Owner terminates the Contract pursuant to Section 10.1.1 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 10.1.2:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

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The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager which the Owner elects to retain and which is not otherwise included in the Cost of the Work. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 10, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

#### **§ 10.2 Termination Subsequent to Establishing Guaranteed Maximum Price**

Following execution of the Guaranteed Maximum Price Amendment and subject to the provisions of Section 10.2.1 and 10.2.2 below, the Contract may be terminated as provided in Article 14 of AIA Document A201-2007.

**§ 10.2.1** If the Owner terminates the Contract after execution of the Guaranteed Price Amendment, the amount payable to the Construction Manager pursuant to Sections 14.2 and 14.4 of A201-2007 shall not exceed the amount the Construction Manager would otherwise have received pursuant to Sections 10.1.2 and 10.1.3 of this Agreement.

**§ 10.2.2** If the Construction Manager terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager under Section 14.1.3 of A201-2007 shall not exceed the amount the Construction Manager would otherwise have received under Sections 10.1.2 and 10.1.3 above, except that the Construction Manager's Fee shall be calculated as if the Work had been fully completed by the Construction Manager, utilizing as necessary a reasonable estimate of the Cost of the Work for Work not actually completed.

#### **§ 10.3 Suspension**

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2007. In such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201-2007, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 5.1 and 5.3.5 of this Agreement.

### **ARTICLE 11 MISCELLANEOUS PROVISIONS**

**§ 11.1** Terms in this Agreement shall have the same meaning as those in A201-2007.

#### **§ 11.2 Ownership and Use of Documents**

Section 1.5 of A201-2007 shall apply to both the Preconstruction and Construction Phases.

#### **§ 11.3 Governing Law**

Section 13.1 of A201-2007 shall apply to both the Preconstruction and Construction Phases.

#### **§ 11.4 Assignment**

The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement. Except as provided in Section 13.2.2 of A201-2007, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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§ 11.5 Other provisions:

§ 11.5.1 Owner acknowledges that certain information provided to it by Construction Manager contains information deemed trade secret, proprietary, competitive or otherwise confidential to Construction Manager, regardless of whether specifically identified as such in this Agreement. Such information includes but is not limited to Construction Manager's research, development, methods, processes, techniques, operations, computer programs, pricing/price modeling, and financial data of Construction Manager, its subsidiaries, operating service groups and affiliated companies, including data provided in support of Applications for Payment, Change Orders, or commercial information, including value engineering and constructability studies; current and prospective clients, subcontractors, and/or competitors; and proposals. Owner acknowledges the value of such information to the Construction Manager, and agrees to use reasonable diligence in protecting this information from unauthorized disclosures to third parties (excluding any governmental regulatory bodies entitled to access such information by law, or Owner's parent, subsidiary of affiliated companies, or Owner's auditors or lenders to the extent such disclosure is necessary).

§ 11.5.2 If Drawings are revised after the Drawings referenced in the Contract, the Owner shall have the Architect re-date all revised sheets and clearly identify all changes by bubble and delta number or other means acceptable to the Construction Manager and Owner. The Owner and Construction Manager acknowledge that it is difficult to determine and implement changes that are not so identified. Regardless if the Contract is amended to incorporate revised Drawings, the Guaranteed Maximum Price and Contract Time are subject to additional equitable adjustments for the cost and time impacts if implementing any changes not so identified.

**ARTICLE 12 SCOPE OF THE AGREEMENT**

§ 12.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 12.2 The following documents comprise the Agreement:

- .1 AIA Document A133-2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
  - .2 AIA Document A201-2007, General Conditions of the Contract for Construction
  - .3 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
    - .4 AIA Document E202™-2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
    - .5 Other documents:  
(List other documents, if any, forming part of the Agreement.)
- Supplementary Conditions to AIA Document A201-2007, General Conditions of the Contract for Construction

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This Agreement is entered into as of the day and year first written above.

OWNER (Signature)

Bob McGowan Mayor  
(Printed name and title)

CONSTRUCTION MANAGER (Signature)

Stephen J. Clouten, Executive Vice President  
(Printed name and title)

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RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO ENTER INTO A GUARANTEED MAXIMUM PRICE AMENDMENT TO THE EXISTING AGREEMENT WITH NABHOLZ CONSTRUCTION, INC. FOR THE CONSTRUCTION OF THE POLICE/FIRE/EMS COMMUNICATIONS CENTER.**

**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 a Guaranteed Maximum Price Amendment to the existing agreement with Nabholz Construction, Inc. for the construction of the Police/Fire/EMS Communications Center for the City of Bentonville 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 \_\_\_\_\_, 2018.**

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:

July 10, 2018

Submitted by:

Bryan Wick

Department

Engineering

Phone

696-0227

### ACTION REQUIRED:

City council approval of a resolution allowing the Mayor to enter into an agreement with GTS, Inc. for geotechnical services and inspections for the Bentonville Police Department Call Center project. The cost of this agreement is not to exceed \$30,000.00 which will come from bond.

### COST TO CITY:

Cost of this Request: \$30,000.00

Additional Budget Amount

☒ One time amount

☐ Continuing O and M

| Previously Budgeted        | Bond Account |
|----------------------------|--------------|
| 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:** Thursday, June 28, 2018

**Re:** Material Testing and Inspection Contract with GTS, Inc. for Police Call Center

---

GTS, Inc. has been selected to provide material testing and inspection services needed for the construction of the Bentonville Police Department Call Center building project. The cost of this contract is a not to exceed amount of \$30,000.00, which will come from the bond account. Services for this contract include: site preparation, foundations, footings and slabs, asphalt paving and structural steel. A more detailed listing of services are contained within the contract submitted as exhibit A.

Staff is seeking City Council approval for a resolution allowing the Mayor to enter into an agreement with GTS, Inc.

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

## AGREEMENT FOR CONSTRUCTION MATERIALS TESTING AND SPECIAL INSPECTION SERVICES

---

**THIS AGREEMENT**, effective as of this \_\_\_\_\_ day of \_\_\_\_\_ 2018, is by and between The City of Bentonville ("Client") and GTS, Inc. ("Engineer").

**THE PROJECT** is understood to consist of:

The planned Bentonville Police Department Call Center located at 908 Southeast 14<sup>th</sup> Street in Bentonville, Arkansas.

**THIS AGREEMENT** consists of the appended documents which are incorporated herein by reference:

- GTS Proposal No. **GTS11811026** (a/k/a Scope of Services);
- GTS Laboratory and Field Unit Rate Sheets; and
- General Conditions for Construction Materials Testing and Special Inspection Services

Engineer agrees to perform the Services set forth in this Agreement and in accordance with its terms, including all attachments incorporated herein by reference. This Agreement may not be modified or altered, except in writing as specifically described in this Agreement.

**CLIENT:**

**ENGINEER:**

|                    |                                |                              |
|--------------------|--------------------------------|------------------------------|
| <b>Signature:</b>  |                                |                              |
| <b>Print Name:</b> |                                | David Berry, P.E.            |
| <b>Title:</b>      |                                | CMT Services Manager         |
| <b>Company:</b>    | City of Bentonville            | GTS, Inc.                    |
| <b>Address:</b>    | 3200 Southwest Municipal Drive | 1915 N Shiloh Drive, Suite 1 |
|                    | Bentonville, Arkansas 72712    | Fayetteville, Arkansas 72704 |
| <b>Date:</b>       |                                |                              |



1915 North Shiloh Drive, Suite 1  
Fayetteville, Arkansas 72704  
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[www.gtsconsulting.net](http://www.gtsconsulting.net)

June 1, 2018



3200 Southwest Municipal Drive  
Bentonville, Arkansas 72712

Attn: Mr. Bryan Wick, CPESC, CFM

Re: Special Inspections and Materials Testing Services Proposal  
Planned Bentonville Police Station Call Center  
908 Southeast 14<sup>th</sup> Street  
Bentonville, Arkansas  
Proposal No. GTS11811026

Mr. Wick:

GTS, Inc. appreciates the opportunity to submit this proposal to perform Special Inspections and Construction Materials Testing (CMT) Services on the above referenced project. This proposal contains our understanding of the project, our scope of services, and an estimate of the total fees anticipated for this project based on trips to the site.

#### PROJECT SUMMARY

GTS, Inc. understands that this project will consist of construction of a single-story and connected two-story building located at 908 Southeast 14<sup>th</sup> Street in Bentonville, Arkansas. The structure will have a footprint area of approximately 21,300 square feet with a second-floor area of approximately 6,500 square feet. The building frame will be constructed with structural steel, light gauge metal, and precast concrete walls. The first floor will consist of a fiber reinforced concrete slab on grade, the second-floor slab will consist of steel reinforced concrete.

Asphalt and concrete pavement will also be constructed. Based on the grading plan, the site will require upwards of five feet of cut depth and minimal fill depths to achieve plan finish subgrade elevations.

A project construction schedule was not provided to GTS, Inc.; therefore, the number of trips are estimates. Once a construction schedule is available and in order to provide a more accurate testing budget, we should be given the opportunity to compare the schedule to the scope of work defined in this proposal.



## ANTICIPATED SCOPE OF SERVICES AND FEE ESTIMATES

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Based on the plans and specifications provided by your office and assumptions regarding the construction schedule, CMT and Special Inspection Services for this project are anticipated to include the following scope:

### Site Preparation and Grading/Backfilling

- Observe proofrolling operations and make recommendations for undercutting and/or stabilization if required – 6 trips
- Perform field density tests for all building and pavement areas – 25 trips
- Perform laboratory classifications of proposed fill soils to determine their suitability and moisture-density relationships (proctor) – 4 samples

### Foundations, Footings, and Slabs

- Verify the bearing capacity of native soils or select fill at foundation bearing depths of perimeter and column foundations and reinforcing steel inspections through foundation observations by an engineer or senior technician – 19 trips (8 trips for bearing capacity verification, 11 trips for steel reinforcement inspection)
- Perform cast-in-place concrete field testing including casting of cylinders for testing of compressive strength and testing slump, air content, and temperature – 21 trips (Foundations: 8 trips; Miscellaneous Pours: 10 trips; Slabs: 4 trips)
- Provide an on-site curing box for concrete specimens and perform site visits to pick-up concrete specimens for laboratory compressive strength testing – 21 trips
- Perform laboratory compressive strength tests on cured concrete cylinders

### Asphalt Paving

- Coring of asphalt pavement to verify depth and test for laboratory density determination – 1 trip sampling 4 cores

### Structural Steel

- Inspection of structural steel elements by a Certified Welding Inspector including bolted connections – 6 trips

## COST ESTIMATE

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Based on the information outlined in this proposal, "on-call" Testing and Special Inspection Services for this project will not exceed **\$30,000** billed based on GTS, Inc.'s standard unit rates.

\*Services requested for this project in addition to the scope outlined above will be billed based on GTS Inc.'s standard unit rate sheets.





## CLOSING

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We appreciate the opportunity to provide this estimate to you. To approve of this proposal, please sign and return the attached GTS, Inc. standard terms and conditions. Please contact us if you have any questions regarding the information provided in this proposal.

Sincerely,



Nathan Young, P.E.  
Project Engineer

David Berry  
Principal Engineer

Copies to: [bwick@bentonvillear.com](mailto:bwick@bentonvillear.com)

Attachments: GTS, Inc. Standard Terms & Conditions  
GTS, Inc. Laboratory and Field Unit Rate Sheets

## GENERAL CONDITIONS FOR CONSTRUCTION MATERIALS TESTING AND SPECIAL INSPECTION SERVICES

### 1. DEFINITIONS

**1.1. Contract Documents.** Plans, specifications, and agreements between Client and Contractors, including addenda, amendments, supplementary instructions, and change orders.

**1.2. Contractor.** The contractor or contractors retained to construct the Project for which Engineer is providing Services under this Agreement.

**1.3. Day(s).** Calendar day(s) unless otherwise stated.

**1.4. Hazardous Materials.** The term Hazardous Materials means any toxic substances, chemicals, radioactivity, pollutants or other materials, in whatever form or state, known or suspected to impair the environment in any way whatsoever. Hazardous Materials include, but are not limited to, those substances defined, designated or listed in any federal, state or local law, regulation or ordinance concerning hazardous wastes, toxic substances or pollution.

**1.5. Services.** The Services provided by Engineer as set forth in this Agreement, the SCOPE OF SERVICES and any written amendment to this Agreement.

**1.6. Work.** The labor, materials, equipment and services required to complete the work described in the Contract Documents.

### 2. SCOPE OF SERVICES

Engineer will perform the Services set forth in the attached SCOPE OF SERVICES.

**2.1. Changes in Scope.** If Engineer provides Client with a writing confirming a change in the SCOPE OF SERVICES, it will become an amendment to this Agreement unless Client objects in writing within 5 business days after receipt. All Services performed by Engineer on the Project are subject to the terms and limitations of this Agreement. If Services are performed, but the parties do not reach agreement concerning modifications to the SCOPE OF SERVICES or compensation, then the terms and limitations of this Agreement apply to such Services, except for the payment terms. The parties agree to resolve disputes concerning modifications to scope or compensation pursuant to Section 19, "Disputes."

**2.2. Licenses.** Engineer will procure and maintain business and professional licenses and registrations necessary to provide its Services.

**2.3. Excluded Services.** Engineer's Services under this Agreement include only those Services specified in the SCOPE OF SERVICES.

**2.3.1. General.** Client expressly waives any claim against Engineer resulting from its failure to perform

recommended additional Services that Client has not authorized Engineer to perform, and any claim that Engineer failed to perform services that Client instructs Engineer not to perform.

**2.3.2. Biological Pollutants.** Engineer's SCOPE OF SERVICES specifically excludes the investigation, detection, prevention or assessment of the presence of Biological Pollutants. The term "Biological Pollutants" includes, but is not limited to, molds, fungi, spores, bacteria, viruses, and/or any of their byproducts. Engineer's SCOPE OF SERVICES will not include any interpretations, recommendations, findings, or conclusions pertaining to Biological Pollutants. Client agrees that Engineer has no liability for any claims alleging a failure to investigate, detect, prevent, assess, or make recommendations for preventing, controlling, or abating Biological Pollutants. Furthermore, Client agrees to defend, indemnify, and hold harmless Engineer from all claims by any third party concerning Biological Pollutants, except for damages caused by Engineer's sole negligence.

### 3. PAYMENTS TO ENGINEER

**3.1. Basic Services.** Engineer will perform all Services set forth in the attached SCOPE OF SERVICES for the amount(s) set forth therein.

**3.2. Additional Services.** Any Services performed under this Agreement, except those Services expressly identified in the attached SCOPE OF SERVICES, will be provided on a time and materials basis unless otherwise specifically agreed to in writing by both parties.

**3.3. Estimate of Fees.** Engineer will, to the best of its ability, perform the Services and accomplish the objectives defined in this Agreement within any written cost estimate provided by Engineer. Client recognizes that changes in scope and schedule, and unforeseen circumstances can all influence the successful completion of Services within the estimated cost. The use of an estimate of fees or of a "not to exceed" limitation is not a guarantee that the Services will be completed for that amount; rather, it indicates that Engineer shall not incur fees and expenses in excess of the estimate or limitation amount without obtaining Client's agreement to do so.

**3.4. Rates.** Client will pay Engineer at the rates set forth in the FEES SECTION OF THE SCOPE OF SERVICES.

**3.4.1. Changes to Rates.** Client and Engineer agree that the FEES SECTION OF THE SCOPE OF SERVICES is subject to periodic review and amendment, as appropriate to reflect Engineer's then-current fee structure. Engineer will give Client at least 30 days advance notice of any changes. Unless Client objects in writing to the proposed amended fee structure within 30 days of notification, the amended fee structure will be incorporated into this Agreement and will then supersede any prior fee structure. If Client timely objects to the amended

fee structure, and Engineer and Client cannot agree upon a new fee structure within 30 days after notice, Engineer may terminate this Agreement and be compensated as set forth under Section 18, "Termination."

**3.4.2. Prevailing Wages.** Unless Client specifically informs Engineer in writing that prevailing wage regulations cover the Project and the SCOPE OF SERVICES identifies it as covered by such regulations, Client will reimburse, defend, indemnify and hold harmless Engineer from and against any liability resulting from a subsequent determination that prevailing wage regulations cover the Project, including all costs, fines and attorneys' fees.

**3.5. Payment Timing; Late Charge.** All invoices are due within 30 days after receipt. All amounts unpaid 30 days after the invoice date will include a late payment charge from the date of the invoice, at the rate of 1-1/2% per month or the highest rate permitted by law.

#### **4. STANDARD OF PERFORMANCE; DISCLAIMER OF WARRANTIES**

**4.1. Level of Service.** Engineer offers different levels of geotechnical engineering Services to suit the desires and needs of different clients. Although the possibility of error can never be eliminated, more detailed and extensive Services yield more information and reduce the probability of error, but at increased cost. Client must determine the level of Services adequate for its purposes. Client has reviewed the SCOPE OF SERVICES and has determined that it does not need or want a greater level of Services than that being provided.

**4.2. Standard of Care.** Subject to the limitations inherent in the agreed SCOPE OF SERVICES as to the degree of care, the amount of time and expenses to be incurred, and subject to any other limitations contained in this Agreement, Engineer may perform its Services consistent with that level of care and skill ordinarily exercised by other professional engineers practicing in the same locale and under similar circumstances at the time the Services are performed.

**4.3. No Warranty.** No warranty, express or implied, is included or intended by this Agreement.

#### **5. ESTIMATE OF CONSTRUCTION COSTS**

Client acknowledges that construction and Project development are subject to many influences that are not subject to precise forecasting and are outside of Engineer's control. Client further acknowledges that actual costs incurred may vary substantially from the estimates prepared by Engineer and that Engineer does not warrant or guaranty the accuracy of construction or development cost estimates.

#### **6. CONSTRUCTION PHASE SERVICES**

If Engineer's SCOPE OF SERVICES includes observation and/or testing during the course of construction, Engineer may:

##### **6.1. Construction Observation.**

**6.1.1. Site Meetings & Visits.** Engineer will participate in job site meetings as requested by Client, and, unless otherwise requested by Client, visit the site at times specified in the SCOPE OF SERVICES or, if not specified in the SCOPE OF SERVICES, at intervals as Engineer deems appropriate to the

various stages of construction to observe the geotechnical conditions encountered by Contractor and the progress and quality of the geotechnical aspects of the Work. Based on information obtained during such visits and on such observations, Engineer may inform Client of the progress of the geotechnical aspects of the Work. Client understands that Engineer may not be on site continuously; and, unless expressly agreed otherwise, Engineer will not observe all of the Work.

**6.1.2. Contractor's Performance.** Engineer does not, and cannot, warrant or guarantee that all of the geotechnical Work performed by Contractor meets the requirements of Engineer's geotechnical recommendations or the plans and specifications for such geotechnical Work; nor can Engineer be responsible for Contractor's failure to perform the Work in accordance with the plans, specifications or the recommendations of Engineer.

**6.1.3. Contractor's Responsibilities.** Engineer will not supervise, direct or have control over the Work nor will Engineer have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor for the geotechnical aspects of the Project; for safety precautions and programs incident to the Work; nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor furnishing and performing its Work.

**6.1.4. Final Report.** At the conclusion of Construction Phase Services, Engineer will provide Client with a written report summarizing the tests and observations, if any, made by Engineer.

**6.2. Review of Contractor's Submittals.** If included in the SCOPE OF WORK, Engineer will review and take appropriate action on the Contractor's submittals, such as shop drawings, product data, samples, and other required submittals. Engineer will review such submittals solely for general conformance with Engineer's design, and will not include review for the following, all of which will remain the responsibility of the Contractor: accuracy or completeness of details, quantities or dimensions; construction means, methods, sequences or procedures; coordination among trades; or construction safety.

**6.3. Tests.** Tests performed by Engineer on finished Work or Work in progress are taken intermittently and indicate the general acceptability of the Work on a statistical basis. Engineer's tests and observations of the Work are not a guarantee of the quality of Work and do not relieve other parties from their responsibility to perform their Work in accordance with applicable plans, specifications and requirements.

#### **7. CLIENT'S RESPONSIBILITIES**

In addition to payment for the Services performed under this Agreement, Client agrees to:

**7.1. Cooperation.** Assist and cooperate with Engineer in any manner necessary and within its ability to facilitate Engineer's performance under this Agreement.

**7.2. Representation.** Designate a representative with authority to receive all notices and information pertaining to agreement, communicate Client's policies and decisions, and assist as necessary in matters pertaining to the Project and this



Agreement. Client's representative will be subject to change by written notice.

**7.3. Rights of Entry.** Provide access to and/or obtain permission for Engineer to enter upon all property, whether or not owned by Client, as required to perform and complete the Services. Engineer will operate with reasonable care to minimize damage to the Project Site(s). However, Client recognizes that Engineer's operations and the use of investigative equipment may unavoidably alter conditions or affect the environment at the existing Project Site(s). The cost of repairing such damage will be borne by Client and is not included in the fee unless otherwise stated.

**7.4. Relevant Information.** Supply Engineer with all information and documents in Client's possession or knowledge which are relevant to Engineer's Services. Client warrants the accuracy of any information supplied by it to Engineer, and acknowledges that Engineer is entitled to rely upon such information without verifying its accuracy. Prior to the commencement of any Services in connection with a specific property, Client will notify Engineer of any known potential or possible health or safety hazard existing on or near the Project Site, with particular reference to Hazardous Materials or conditions.

**7.5. Subsurface Structures.** Correctly designate on plans to be furnished to Engineer, the location of all subsurface structures, such as pipes, tanks, cables and utilities within the property lines of the Project Site(s), and be responsible for any damage inadvertently caused by Engineer to any such structure or utility not so designated. Engineer is not liable to Client for any losses, damages or claims arising from damage to subterranean structures or utilities that were not correctly shown on plans furnished by Client to Engineer.

## 8. CHANGED CONDITIONS

If Engineer discovers conditions or circumstances that it had not contemplated at the commencement of this Agreement ("Changed Conditions"), Engineer will notify Client in writing of the Changed Conditions. Client and Engineer agree to that they will then renegotiate in good faith the terms and conditions of this Agreement. If Engineer and Client cannot agree upon amended terms and conditions within 30 days after notice, Engineer may terminate this Agreement and be compensated as set forth in Section 18, "Termination."

## 9. HAZARDOUS MATERIALS

Client understands that Engineer's Services under this Agreement are limited to geotechnical engineering and that Engineer has no responsibility to locate, identify, evaluate, treat or otherwise consider or deal with Hazardous Materials. Client is solely responsible for notifying all appropriate federal, state, municipal or other governmental agencies, including the potentially affected public, of the existence of any Hazardous Materials located on or in the Project site, or located during the performance of this Agreement. The existence or discovery of Hazardous Materials constitutes a Changed Condition under this Agreement.

## 10. CERTIFICATIONS

Client agrees not to require that Engineer execute any certification with regard to Services performed or Work tested

and/or observed under this Agreement unless: 1) Engineer believes that it has performed sufficient Services to provide a sufficient basis to issue the certification; 2) Engineer believes that the Services performed or Work tested and/or observed meet the criteria of the certification; and 3) Engineer has reviewed and approved in writing the exact form of such certification prior to execution of this Agreement. Any certification by Engineer is limited to an expression of professional opinion based upon the Services performed by Engineer, and does not constitute a warranty or guaranty, either expressed or implied.

## 11. ALLOCATION OF RISK

**11.1. Limitation of Liability.** The total cumulative liability of Engineer, its subconsultants and subcontractors, and all of their respective shareholders, directors, officers, employees and agents (collectively "Engineer Entities"), to Client arising from Services under this Agreement, including attorney's fees due under this Agreement, will not exceed the gross compensation received by Engineer under this Agreement or \$50,000 whichever is greater; provided, however, that such liability is further limited as described below. This limitation applies to all lawsuits, claims or actions that allege errors or omissions in Engineer's Services, whether alleged to arise in tort, contract, warranty, or other legal theory. Upon Client's written request, Engineer and Client may agree to increase the limitation to a greater amount in exchange for a negotiated increase in Engineer's fee, provided that they amend this Agreement in writing as provided in Section 20.

### 11.2. Indemnification.

**11.2.1. Indemnification of Client.** Subject to the provisions and limitations of this Agreement, Engineer agrees to indemnify and hold harmless Client, its shareholders, officers, directors, employees, and agents from and against any and all claims, suits, liabilities, damages, expenses (including without limitation reasonable attorney's fees and costs of defense), or other losses (collectively "Losses") to the extent caused by Engineer's negligent performance of its Services under this Agreement.

**11.2.2. Indemnification of Engineer.** Except as governed by Arkansas law regarding the immunity of municipalities, Client will indemnify and hold harmless Engineer Entities from and against any and all Losses to the extent caused by the negligence of Client, its employees, agents and contractors. In addition, except to the extent caused by Engineer's sole negligence, Client expressly agrees to defend, indemnify and hold harmless Engineer Entities from and against any and all Losses arising from or related to the existence, disposal, release, discharge, treatment or transportation of Hazardous Materials, or the exposure of any person to Hazardous Materials, or the degradation of the environment due to the presence, discharge, disposal, release of or exposure to Hazardous Material.

**11.3. Consequential Damages.** Neither Client nor Engineer will be liable to the other for any special, consequential, incidental or penal losses or damages including but not limited to losses, damages or claims related to the unavailability of property or facilities, shutdowns or service interruptions, loss of use, profits, revenue, or inventory, or for use charges, cost of capital, or claims of the other party and/or its customers.



**11.4. Continuing Agreement.** The indemnity obligations and the limitations of liability established under this Agreement will survive the expiration or termination of this Agreement. If Engineer provides Services to Client that the parties do not confirm through execution of an amendment to this Agreement, the obligations of the parties to indemnify each other and the limitations on liability established under this Agreement apply to such Services as if the parties had executed an amendment.

## **12. INSURANCE**

**12.1. Engineer's Insurance.** Engineer will obtain, if reasonably available, the following coverages:

**12.1.1. Statutory Workers' Compensation/Employer's Liability Insurance;**

**12.1.2. Commercial General Liability Insurance with a combined single limit of \$1,000,000;**

**12.1.3. Automobile Liability Insurance, including liability for all owned, hired and non-owned vehicles with minimum limits of \$1,000,000 for bodily injury per person, \$1,000,000 property damage, and \$1,000,000 combined single limit per occurrence; and,**

**12.1.4. Professional Liability Insurance in amounts of \$1,000,000 per claim and annual aggregate.**

**12.2. Contractor's Insurance.** Client shall require that all Contractors and subcontractors for the Project name Engineer as an additional insured under their General Liability and Automobile Liability insurance policies. If Client is not the Project owner, Client will require the Project owner to require the owner's Contractor to purchase and maintain General Liability, Builder's Risk, Automobile Liability, Workers' Compensation, and Employer's Liability insurance with limits no less than as set forth above, and to name Engineer and its subcontractors and subconsultants as additional insureds on the General Liability insurance.

**12.3. Certificates of Insurance.** Upon request, Engineer and Client will each provide the other with certificate(s) of insurance evidencing the existence of the policies required herein. Except for Professional Liability and Workers' Compensation Insurance, all policies required herein shall contain a waiver of subrogation.

## **13. OWNERSHIP AND USE OF DOCUMENTS**

**13.1. Client Documents.** All documents provided by Client will remain the property of Client. Engineer will return all such documents to Client upon request, but may retain file copies of such documents.

**13.2. Engineer's Documents.** Unless otherwise agreed in writing, all documents and information prepared by Engineer or obtained by Engineer from any third party in connection with the performance of Services, including, but not limited to, Engineer's reports, boring logs, maps, field data, field notes, drawings and specifications, laboratory test data and other similar documents (collectively "Documents") are the property of Engineer. Engineer has the right, in its sole discretion, to dispose of or retain the Documents.

**13.3. Use of Documents.** All Documents prepared by Engineer are solely for use by Client and will not be provided

by either party to any other person or entity without Engineer's prior written consent.

**13.3.1. Use by Client.** Client has the right to reuse the Documents for purposes reasonably connected with the Project for which the Services are provided, including without limitation design and licensing requirements of the Project.

**13.3.2. Use by Engineer.** Engineer retains the right of ownership with respect to any patentable concepts or copyrightable materials arising from its Services and the right to use the Documents for any purpose.

**13.4. Electronic Media.** Consultant may agree at Client's request to provide Documents and information in an electronic format. Client recognizes that Documents or other information recorded on or transmitted as electronic media are subject to undetectable alteration due to (among other causes) transmission, conversion, media degradation, software error, or human alteration. Accordingly, all Documents and information provided by Consultant in electronic media are for informational purposes only and not as final documentation. Unless otherwise defined in the Scope of Services, Consultant's electronic Documents and media will conform to Consultant's standards. Consultant will provide any requested electronic Documents for a 30-day acceptance period, and Consultant will correct any defects reported by Client to Consultant during this period. Consultant makes no warranties, either express or implied, regarding the fitness or suitability of any electronic Documents or media.

**13.5. Unauthorized Reuse.** No party other than Client may rely, and Client will not represent to any other party that it may rely on Documents without Consultant's express prior written consent and receipt of additional compensation. Client will not permit disclosure, mention, or communication of, or reference to the Documents in any offering circular, securities offering, loan application, real estate sales documentation, or similar promotional material without Consultant's express prior written consent. Client waives any and all claims against Consultant resulting in any way from the unauthorized reuse or alteration of Documents by itself or anyone obtaining them through Client. Client will defend, indemnify and hold harmless Consultant from and against any claim, action or proceeding brought by any party claiming to rely upon information or opinions contained Documents provided to such person or entity, published, disclosed or referred to without Consultant's prior written consent.

## **14. SAMPLES AND CUTTINGS**

**14.1. Sample Retention.** If Engineer provides laboratory testing or analytic Services, Engineer will preserve such soil, rock, water, or other samples as it deems necessary for the Project, but no longer than 45 days after issuance of any Documents that include the data obtained from these samples. Client will promptly pay and be responsible for the removal and lawful disposal of all contaminated samples, cuttings, Hazardous Materials, and other hazardous substances.

**14.2. Monitoring Wells.** Client will take custody of all monitoring wells and probes installed during any investigation by Engineer, and will take any and all necessary steps for the proper maintenance, repair or closure of such wells or probes at Client's expense.

## 15. RELATIONSHIP OF THE PARTIES

Engineer will perform Services under this Agreement as an independent contractor.

## 16. ASSIGNMENT AND SUBCONTRACTS

Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other party, except for an assignment of proceeds for financing purposes. Engineer may subcontract for the services of others without obtaining Client's consent if Engineer deems it necessary or desirable for others to perform certain Services.

## 17. SUSPENSION AND DELAYS

**17.1. Procedures.** Client may, at any time by 10 days written notice suspend performance of all or any part of the Services by Engineer. Engineer may terminate this Agreement if Client suspends Engineer's Services for more than 60 days and Client will pay Engineer as set forth under Section 18, "Termination." If Client suspends Engineer's Services, or if Client or others delay Engineer's Services, Client and Engineer agree to equitably adjust: (1) the time for completion of the Services; and (2) Engineer's compensation in accordance with Engineer's then current SCHEDULE OF CHARGES for the additional labor, equipment, and other charges associated with maintaining its workforce for Client's benefit during the delay or suspension, or charges incurred by Engineer for demobilization and subsequent remobilization.

**17.2. Liability.** Engineer is not liable to Client for any failure to perform or delay in performance due to circumstances beyond Engineer's control, including but not limited to pollution, contamination, or release of hazardous substances, strikes, lockouts, riots, wars, fires, flood, explosion, "acts of God," adverse weather conditions, acts of government, labor disputes, delays in transportation or inability to obtain material and equipment in the open market.

## 18. TERMINATION

**18.1. Termination for Convenience.** Engineer and Client may terminate this Agreement for convenience upon 30 days written notice delivered or mailed to the other party.

**18.2. Termination for Cause.** In the event of material breach of this Agreement, the party not breaching the Agreement may terminate it upon 10 days written notice delivered or mailed to the other party. The termination notice shall state the basis for the termination. The Agreement may not be terminated for cause if the breaching party cures the breach within the 10-day period.

**18.3. Payment on Termination.** Following termination other than for Engineer's material breach of this Agreement, Client will pay Engineer for Services performed prior to the termination notice date, and for any necessary Services and expenses incurred in connection with the termination of the Project, including but not limited to, the costs of completing analysis, records and reports necessary to document job status at the time of termination and costs associated with termination of subcontractor contracts in accordance with Engineer's then current FEES SECTION OF THE SCOPE OF SERVICES.

## 19. DISPUTES

**19.1. Mediation.** All disputes between Engineer and Client are subject to mediation. Either party may demand mediation by serving a written notice stating the essential nature of the dispute, amount of time or money claimed, and requiring that the matter be mediated within 45 days of service of notice.

**19.2. Precondition to Other Action.** No action or suit may be commenced unless the mediation did not occur within 45 days after service of notice; or the mediation occurred but did not resolve the dispute; or a statute of limitation would elapse if suit was not filed prior to 45 days after service of notice.

**19.3. Choice of Law; Venue.** This Agreement will be construed in accordance with and governed by the laws of the state in which the Project is located. Unless the parties agree otherwise, any mediation or other legal proceeding will occur in the state in which the Project is located.

**19.4. Statutes of Limitations.** Any applicable statute of limitations will be deemed to commence running on the earlier of the date of substantial completion of Engineer's Services under this Agreement or the date on which claimant knew, or should have known, of facts giving rise to its claims.

## 20. MISCELLANEOUS

**20.1. Integration and Severability.** This Agreement reflects the entire agreement of the parties with respect to its terms and supersedes all prior agreements, whether written or oral. If any portion of this Agreement is void or voidable, such portion will be deemed stricken and the Agreement reformed to as closely approximate the stricken portions as the law allows.

**20.2. Modification of this Agreement.** This Agreement may not be modified or altered, except by a written agreement signed by authorized representatives of both parties and referring specifically to this Agreement.

**20.3. Notices.** Any and all notices, requests, instructions, or other communications given by either party to the other must be in writing and either hand delivered to the recipient or delivered by first-class mail (postage prepaid) or express mail (billed to sender) at the addresses given in this Agreement.

**20.4. Headings.** The headings used in this Agreement are for convenience only and are not a part of this Agreement.

**20.5. Waiver.** The waiver of any term, conditions or breach of this Agreement will not operate as a subsequent waiver of the same term, condition, or breach.

1915 N. Shiloh Drive office 479-521-7645  
 Fayetteville, Arkansas 72704 fax 479-521-6232  
**Fayetteville, Arkansas Office**

**GTS, Inc.**  
 Geotechnical & Testing Services

Laboratory Materials Testing Services (please call for unlisted items)

| Category                                  | Name of Test                                  | Description                                                                                                               | Relevant ASTM and AASHTO              | Unit Rate |
|-------------------------------------------|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|---------------------------------------|-----------|
| <b>Earthwork and Soils and Aggregates</b> | Moisture - Density Relationship               | Standard Proctor                                                                                                          | AASHTO T99, ASTM D698                 | \$129.00  |
|                                           | Moisture - Density Relationship               | Modified Proctor                                                                                                          | AASHTO T180, ASTM D1557               | \$149.00  |
|                                           | Moisture Content                              | Moisture content of soils                                                                                                 | ASTM D2216                            | \$10.50   |
|                                           | Atterberg Limits                              | 3 point wet preparation for liquid limit and one point plastic limit                                                      | AASHTO T-89, AASHTO T-90, ASTM D 4318 | \$62.00   |
|                                           | Sieve Analysis                                | Washed and dried sieve used for soil classification determination (< 5 lbs)                                               | ASTM C136                             | \$62.00   |
|                                           | Sieve Analysis                                | Washed and dried oversized sieve (greater than 5 lbs)                                                                     | AASHTO T 27, ASTM C136                | \$129.00  |
|                                           | Sieve Analysis (Hydrometer)                   | Fine particle determination using a hydrometer                                                                            | AASHTO T 88, ASTM D 422               | \$103.00  |
|                                           | Specific Gravity and Absorption               | Determination of specific gravity and absorption or material retained on a #4 or 3/4" sieve                               | AASHTO T 100, ASTM D 854              | \$52.00   |
|                                           | California Bearing Ratio (CBR) 3-point method | Evaluating the potential strength of subgrade, subbase, and base course material, for use in road and airfield pavements. | ASTM D 1883, AASHTO T 193             | \$259.00  |



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| Category                                          | Name of Test                                                 | Description                                                                                                                                                                         | Relevant ASTM and AASHTO                     | Unit Rate |
|---------------------------------------------------|--------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|-----------|
| <b>Earthwork and<br/>Soils and<br/>Aggregates</b> | Unconfined Compressive Strength Testing                      | Obtain a measure of compressive strength for soils that possess sufficient cohesion to permit testing in the unconfined state                                                       | ASTM D 2166,<br>AASHTO T 208                 | \$100.00  |
|                                                   | Triaxial testing**                                           | Unconsolidated - Undrained (UU)                                                                                                                                                     | AASHTO T 296,<br>ASTM D 2850                 | \$375.00  |
|                                                   | Triaxial testing**                                           | Consolidated - Undrained (CU)                                                                                                                                                       | AASHTO T 297,<br>ASTM D 4767                 | \$500.00  |
|                                                   | Triaxial testing**                                           | Consolidated - Drained (CD)                                                                                                                                                         | ASTM WK 3821                                 | \$750.00  |
|                                                   | Soil Consolidation<br>** (One-Dimensional, Interval Loading) | Determining the magnitude and rate of consolidation of soil when it is restrained laterally and drained axially while subjected to incrementally applied controlled-stress loading. | ASTM D 2435,<br>AASHTO T 216                 | \$300.00  |
|                                                   | Permeability Testing (Flexible Wall)**                       | These test methods apply to one-dimensional, laminar flow of water within porous materials such as soil and rock.                                                                   | ASTM D 2434,<br>AASHTO T-215,<br>ASTM D 5084 | \$300.00  |
|                                                   | **                                                           | sample prep or remolding                                                                                                                                                            | NA                                           | \$75.00   |



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 Geotechnical & Testing Services

Laboratory Materials Testing Services (please call for unlisted items)

| Category                                  | Name of Test                                                                   | Description                                                                                                                        | Relevant ASTM and AASHTO  | Unit Rate      |
|-------------------------------------------|--------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|---------------------------|----------------|
| <b>Earthwork and Soils and Aggregates</b> | Sand Equivalency Test                                                          | This test assigns an empirical value to the relative amount, fineness, and character of claylike material present in the specimen. | ASTM D 2419, AASHTO T 176 | \$150.00       |
|                                           | Soundness of Aggregates                                                        | Standard Test Method for Soundness of Aggregates by Use of Sodium Sulfate                                                          | ASTM C 88, AASHTO T 104   | \$425.00       |
|                                           | LA Abrasion                                                                    | Resistance to Degradation of Large-Size Coarse Aggregate by Abrasion and Impact in the Los Angeles Machine                         | ASTM C 131, AASHTO T 96   | \$575.00       |
|                                           | Deleterious Material Determination                                             | determination of friable particles, clay lumps, and soft fragments in an aggregate                                                 | NA                        | \$55.00        |
|                                           | Swell Test ** (One-Dimensional)                                                | Standard Test Method for One-Dimensional Swell or Settlement Potential of Cohesive Soils                                           | ASTM D 4546, AASHTO T 216 | \$300.00       |
|                                           | Soil Stabilization                                                             | using fly ash, cement and lime to stabilize soils                                                                                  | NA                        | call for quote |
|                                           | ***For any soils and aggregate lab testing not listed please call for quote*** |                                                                                                                                    |                           |                |
| <b>Concrete and Masonry</b>               | Laboratory Compressive Strength of Cylinders                                   | Curing, Storing and Testing (Pad Capping) 6" x 12" cylinders                                                                       | ASTM C 39                 | \$12.50        |
|                                           | Laboratory Compressive Strength of Cylinders                                   | Curing, Storing and Testing (Pad Capping) 4" x 8" cylinders                                                                        | ASTM C 39                 | \$11.00        |

1915 N. Shiloh Drive office 479-521-7645  
 Fayetteville, Arkansas 72704 fax 479-521-6232  
**Fayetteville, Arkansas Office**

**GTS, Inc.**  
 Geotechnical & Testing Services

Laboratory Materials Testing Services (please call for unlisted items)

| Category             | Name of Test                                      | Description                                                                                                                                              | Relevant ASTM and AASHTO | Unit Rate      |
|----------------------|---------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|----------------|
| Concrete and Masonry | Laboratory Flexural Strength of Beams (per beam)  | Curing, Storing and Testing 6" x 6" x 18" beams                                                                                                          | ASTM C 78                | \$35.00        |
|                      | Laboratory Compressive Strength of drilled cores  | Curing, Storing and Testing (sulfur Capping)                                                                                                             | ASTM C 42, ASTM C 39     | \$35.00        |
|                      | Saw cutting cylinders and drilled cores           | Saw cutting ends of contractor formed cylinders to achieve a perpendicular surface (per end)                                                             | NA                       | \$5.00         |
|                      | Petrographic Analysis                             | Microscopic analysis of hardened concrete                                                                                                                | ASTM C 457               | Call for Quote |
|                      | Laboratory Compressive Strength of Grout Prisms   | Curing, Storing and Testing (Pad Capping) 6" x 3" x 3" prisms                                                                                            | ASTM C 1019              | \$25.00        |
|                      | Laboratory Compressive Strength of mortar cubes   | Curing, Storing and Testing (Pad Capping) 2" x 2" x 2" cubes                                                                                             | ASTM C 109               | \$25.00        |
|                      | Laboratory testing of concrete masonry units      | This test methods provides various testing procedures commonly used for evaluating characteristics of concrete masonry units and related concrete units. | ASTM C 140               | \$120.00       |
| Asphalt              | Laboratory testing of Asphalt Cores               | Laboratory Testing of asphalt cores for specific gravity (density)                                                                                       | AASHTO T-166             | \$35.00        |
| Fireproofing         | Laboratory Density of Fireproofing (each density) | Laboratory determination of SRFM density                                                                                                                 | ASTM E 605               | \$60.00        |

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**Fayetteville, Arkansas Office**



Field Materials Testing Services (please call for unlisted items)

| Category                   | Name of Test                               | Description                                                                                                       | Relevant ASTM and AASHTO                                              | Hourly Rate | Daily Equipment Fee (if applicable) |
|----------------------------|--------------------------------------------|-------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|-------------|-------------------------------------|
| <b>Earthwork and Soils</b> | Soil Density Testing                       | Materials Testing Technician performing in-place soil densities                                                   | AASHTO T310, ASTM D6938                                               | \$43.75     | NA                                  |
|                            | Soil/Aggregate Sample Pick up              | On site sampling of soils and aggregates for laboratory testing                                                   | AASHTO T2, ASTM D 75                                                  | \$43.75     | NA                                  |
|                            | Proofroll and Undercut Observation         | Engineering observation of on site soils prior to placement of fill material or after undercut has been completed | NA                                                                    | \$89.00     | NA                                  |
| <b>Concrete</b>            | Field Concrete Testing                     | On site sampling, testing and making concrete test specimens of freshly mixed concrete                            | AASHTO T23, T119, T141, T152, T309, ASTM C31, C143, C172, C231, C1064 | \$43.75     | NA                                  |
|                            | Concrete Cylinder Pick up (per set charge) | Retrieving concrete test specimens made by GTS or by the client                                                   | NA                                                                    | \$30.00     | NA                                  |
|                            | Concrete Rebound Hammer (Schmidt Hammer)   | Assess the in-place uniformity of concrete and to estimate in-place strength                                      | ASTM C805                                                             | \$89.00     | \$15.00                             |

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Field Materials Testing Services (please call for unlisted items)

| Category        | Name of Test                                               | Description                                                                                         | Relevant ASTM and AASHTO | Hourly Rate | Daily Equipment Fee (if applicable) |
|-----------------|------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|--------------------------|-------------|-------------------------------------|
| <b>Concrete</b> | Concrete Coring and Sampling                               | Coring and sampling of hardened concrete including backfilling with grout                           | AASHTO T24<br>ASTM C42   | \$65.00     | \$65.00                             |
|                 | Concrete maturity and temperature testing                  | Placement and downloading of maturity and temperature information and equipment                     | ASTM C1074               | \$89.00     | NA                                  |
|                 | Concrete maturity and temperature sensors (per sensor fee) | Field Sensors                                                                                       | ASTM C1074               | NA          | \$70.00                             |
|                 | Floor Flatness Determination                               | Evaluating and providing statistical (and graphical) information concerning floor surface profiles  | ASTM E1155               | \$89.00     | .02 per square foot                 |
|                 | Concrete Floor Vapor Emission Testing                      | Obtaining a quantitative value indicating the rate or moisture vapor emission from a concrete floor | ASTM F1869               | \$89.00     | \$25 per kit                        |
|                 | Concrete Ph testing                                        | Evaluating the Ph of concrete floors                                                                | ASTM F710                | \$89.00     | \$10 per kit                        |
|                 | Concrete mortar time of setting testing                    | Time of setting concrete by means of penetration resistance method                                  | ASTM C403                | \$89.00     | \$150.00                            |



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Field Materials Testing Services (please call for unlisted items)

| Category                  | Name of Test                                          | Description                                                                                   | Relevant ASTM and AASHTO                        | Hourly Rate | Daily Equipment Fee (if applicable) |
|---------------------------|-------------------------------------------------------|-----------------------------------------------------------------------------------------------|-------------------------------------------------|-------------|-------------------------------------|
| Concrete                  | Concrete Floor Relative Humidity Insitu Probe Testing | Quantitative determination of percent relative humidity in concrete slabs                     | ASTM F2170                                      | \$89.00     | \$100.00 per site visit             |
| Masonry, Grout and Mortar | Field Grout Testing                                   | On site sampling, testing and making grout test specimens of freshly mixed grout              | AASHTO T23, T119, T309, ASTM C1019, C143, C1064 | \$46.50     | NA                                  |
|                           | Field Observation of CMU Block Wall Construction      | Visual observation of CMU reinforcing, joint placement, bond beams etc.                       | NA                                              | \$89.00     | NA                                  |
|                           | Field Mortar Testing                                  | On site sampling, testing and making mortar test specimens of freshly mixed preblended mortar | ASTM C1714                                      | \$46.50     | NA                                  |
| Asphalt                   | Asphalt Rolling Pattern                               | Evaluation of density with passes of compaction equipment of fresh hot mix asphalt            | ASTM D2950                                      | \$65.00     | NA                                  |
|                           | Asphalt coring and sampling                           | Coring and sampling of in place asphalt including backfilling with grout                      | ASTM D979, AASHTO T168                          | \$65.00     | \$65.00                             |

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Field Materials Testing Services (please call for unlisted items)

| Category                                                           | Name of Test                                                           | Description                                                                    | Relevant ASTM and AASHTO | Hourly Rate | Daily Equipment Fee (if applicable) |
|--------------------------------------------------------------------|------------------------------------------------------------------------|--------------------------------------------------------------------------------|--------------------------|-------------|-------------------------------------|
| <i>Construction Observation and additional Special Inspections</i> | Observation of straight shaft drilled piers                            | Observation of soil type, depth, reinforcing bars, bearing capacity, etc.      | NA                       | \$89.00     | NA                                  |
|                                                                    | Observation of Geopier foundations                                     | Observation of soil type, depth, compactive effort, bearing capacity, etc.     | NA                       | \$89.00     | NA                                  |
| <i>Construction Observation and additional Special Inspections</i> | Observation of retaining wall installation                             | Observation of retaining wall construction                                     | NA                       | \$89.00     | NA                                  |
|                                                                    | Observation of soil bearing capacity for foundation elements           | Observation of soil types and bearing capacity                                 | NA                       | \$89.00     | NA                                  |
|                                                                    | Observation of reinforcing bars for foundation and structural elements | Observation of size, number and placement of reinforcing bars                  | NA                       | \$89.00     | NA                                  |
|                                                                    | Observation of driven pile foundations                                 | Observation of driven piles, number of blows, pile size, etc.                  | NA                       | \$89.00     | NA                                  |
|                                                                    | Observation of soil nail reinforcement                                 | Observation of soil nails, bar size, bar length, grout type and strength, etc. | NA                       | \$89.00     | NA                                  |
|                                                                    | Observation of micropile foundations                                   | observation of micropiles, bar size, bar length, grout type and strength, etc. | NA                       | \$89.00     | NA                                  |

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Field Materials Testing Services (please call for unlisted items)

| Category                                                           | Name of Test                                 | Description                                                                                              | Relevant ASTM and AASHTO | Hourly Rate | Daily Equipment Fee (if applicable) |
|--------------------------------------------------------------------|----------------------------------------------|----------------------------------------------------------------------------------------------------------|--------------------------|-------------|-------------------------------------|
| <i>Construction Observation and additional Special Inspections</i> | Observation of Post Tension concrete systems | observation of installation and tensioning of post tension cables                                        | NA                       | \$89.00     | NA                                  |
|                                                                    | Fireproofing Observation                     | observation of fireproofing for thickness, density and cohesion                                          | ASTM E605                | \$89.00     | NA                                  |
| <i>Engineering</i>                                                 | Principal Professional Engineer              | Professional Engineer services in the field or report writing                                            | NA                       | \$120.00    | NA                                  |
|                                                                    | Staff Professional Engineer                  | Professional Engineer services in the field or report writing                                            | NA                       | \$100.00    | NA                                  |
|                                                                    | Intern-Engineer                              | Intern engineer services in the field or report writing                                                  | NA                       | \$89.00     | NA                                  |
| <i>Structural Steel</i>                                            | Certified Welding Inspector (CWI)            | Code compliance, visual and ultrasonic weld inspection, bolt inspection, impact wrench calibration, etc. | Varies                   | \$120.00    | NA                                  |
|                                                                    | Reinforcing Bar Locating                     | Locating reinforcing bars, conduits, post tension cables, etc. in concrete slabs                         | Varies                   | \$120.00    | \$500.00                            |
|                                                                    | Skidmore Wilhelm                             | Tension Calibrator                                                                                       | Varies                   | \$120.00    | \$40.00                             |
|                                                                    | Torque Multiplier                            | Used in conjunction with torque wrench for high strength bolt testing                                    | NA                       | \$120.00    | \$100.00                            |

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*Fayetteville, Arkansas Office*



Field Materials Testing Services (please call for unlisted items)

| Category                | Name of Test             | Description                                                                                                                   | Relevant ASTM and AASHTO | Hourly Rate  | Daily Equipment Fee (if applicable) |
|-------------------------|--------------------------|-------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------|-------------------------------------|
| <i>Structural Steel</i> | Torque Wrench            | Used for testing torque of high strength bolts                                                                                | Varies                   | \$120.00     | \$20.00                             |
|                         | Ultra Sonic Testing      | UT Machine                                                                                                                    | Varies                   | \$120.00     | \$40.00                             |
|                         | Mag Particle Testing     | Mag Particle Yoke                                                                                                             | Varies                   | \$120.00     | \$40.00                             |
|                         | x-ray services           | x-ray of structural welds                                                                                                     | Varies                   | upon request | upon request                        |
|                         | Bolt Pulling Test        | Used to check the suitability and allowable loads of an anchor type and check they have been installed correctly              | Varies                   | \$120.00     | \$150.00                            |
| <i>Forensic Testing</i> | Impact Echo Services     | Using sound waves to determine flaws and/or thicknesses in concrete structures                                                | NA                       | \$120.00     | \$250.00                            |
|                         | Ground Penetrating Radar | Using radar to locate, reinforcing bars or conduits in concrete, underground utilities, underground structures or tanks, etc. | NA                       | \$120.00     | \$500.00                            |



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Field Materials Testing Services (please call for unlisted items)

| Category                          | Name of Test                               | Description                                                                                                                                                                                                                                                                                                                                                       | Relevant ASTM and AASHTO | Hourly Rate                                                     | Daily Equipment Fee (if applicable) |
|-----------------------------------|--------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-----------------------------------------------------------------|-------------------------------------|
| <b>Forensic Testing</b>           | Sonic Echo Impulse Response                | Non-Destructive method of determining length and integrity of concrete foundations                                                                                                                                                                                                                                                                                | NA                       | \$120.00                                                        | \$1,000.00                          |
|                                   | FLIR Infrared Camera Imaging               | Infrared imaging of building components using a Flir E60 camera                                                                                                                                                                                                                                                                                                   | NA                       | \$120.00                                                        | \$400.00                            |
| <b>Administrative and Mileage</b> | Mileage                                    | Portal to portal rates to and from the GTS, Inc. office to the jobsite                                                                                                                                                                                                                                                                                            | NA                       | Based on published current IRS government mileage rates plus 5% |                                     |
|                                   | Report Preparation and Review (Per Report) | Includes report typing and distribution. (Technician reports only)                                                                                                                                                                                                                                                                                                | NA                       | \$10.00                                                         | NA                                  |
|                                   | Overtime, Weekend, and Holiday Rates       | Work requested to be performed on weekends or prior to 6:00 am and after 6:00 pm Monday through Friday will be billed an additional \$5 per hour above the normal hourly rates listed above and Holiday will be Triple the normal hourly rates.<br>Any test scheduled before 5:00 A.M. but not performed by no fault of GTS will be a minimum charge of \$200.00. |                          |                                                                 |                                     |
|                                   | Minimum Time Charge                        | There is a Minimum charge of 1 hour on site Time and .5 hour travel time                                                                                                                                                                                                                                                                                          |                          |                                                                 |                                     |

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY  
CLERK TO ENTER INTO AN AGREEMENT WITH GTS,  
INC. FOR GEOTECHNICAL SERVICES AND  
INSPECTIONS FOR THE BENTONVILLE POLICE  
DEPARTMENT CALL CENTER PROJECT.**

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

**Section 1:** That the Mayor be and are hereby authorized to enter into an agreement with GTS, Inc. for geotechnical services and inspections for the Bentonville Police Department Call Center project in an amount not to exceed \$30,000.00 as set forth in 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 \_\_\_\_\_, 2018.**

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK



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

## AGENDA FORM

CITY COUNCIL MEETING OF:

July 10, 2018

Submitted by: Jon Simpson

Department: Police

Phone: 271-3172

### ACTION REQUIRED:

Request that City Council approve the conversion of One (1) Police Officer position to One (1) Police Sergeant position within our current rank structure. This position would be staffed from our existing headcount and would not require any additional headcount, funding or budget adjustment. This request would be used to upgrade the position of Community and Media Relations Officer from the current Police Officer I/II/Police Corporal status to a status of Police Sergeant. This upgrade would better recognize the far reaching duties and responsibilities associated with our Community and Media Relations position and also better align it with similar positions within neighboring law enforcement agencies. Currently, our Community and Media Relations Officer has the job title of Police Officer II, but holds the number one position on the existing promotion list for Sergeant, allowing this upgrade to be accomplished in place and without any sort of internal reorganization.

### 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





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

### AGENDA FORM

CITY COUNCIL MEETING OF:

July 10, 2017

Submitted by:

David Wright

Department

Parks and Rec

Phone

271-6813

#### ACTION REQUIRED:

Parks and Recreation is requesting City Council approval of a resolution authorizing the Mayor to apply for an Outdoor Recreation Grant from Arkansas Department for Parks and Tourism for assistance to develop Old Tiger Park.

#### 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: Lee Farmer, Recreation Services Manager  
Through: David Wright, Parks and Recreation Director  
Date: July 2, 2018  
Re: City Council approval of a resolution authorizing Mayor to apply for Outdoor Recreation Grant to Arkansas Department of Parks and Tourism.

---

Parks and Recreation is seeking City Council's approval to submit an Outdoor Recreation Grant application to the Arkansas Department of Parks and Tourism for assistance to develop Old Tiger Park. The Arkansas Department of Parks and Tourism Outdoor Recreation Grant allows applicants to apply for up to a \$250,000 in reimbursable matching funds.

Parks and Recreation held a public meeting previously this year seeking input on recreation priorities for Old Tiger Park. In addition to the public meeting, Parks and Recreation met individually with three minority groups seeking feedback on recreation improvements they wanted at Old Tiger Park.

If awarded this grant, Parks and Recreation would use the funds to improve access to the park by adding ADA compliant entries, resurface the running/walking track, add a restroom facility, pavilion, and improve the multipurpose grass field. These improvements and additions came from the public recreation priority meetings.

If you have any questions regarding this item, please call me at 464.7275 or email [lfarmer@bentonvillear.com](mailto:lfarmer@bentonvillear.com).

**RESOLUTION NO. \_\_\_\_\_**

**WHEREAS**, The City of Bentonville, Arkansas seeks to improve the recreation facilities and wishes to seek grant funding assistance; and

**WHEREAS**, in order to obtain the funds necessary to develop and/or improve the site for such a recreation area, it is necessary to obtain a Matching Grant for the Arkansas Department of Parks and Tourism's Outdoor Recreation Grant Program; and

**WHEREAS**, the plans for such recreation areas have been prepared for the price therefore has been established; and

**WHEREAS**, this governing body understands the grantee and grantor will enter into a binding agreement which obligates both parties to policies and procedures contained in the Land and Water Conservation Fund Grants Manual including, but not limited to the following; the park area defined by the project boundary map, submitted in the application, must remain in outdoor recreation use in perpetuity, regardless if the property is bought or developed with matching grant funds and; all present and future overhead utility lines within the project boundary must be routed away or placed underground and; the project area must remain open and available for use by public at all reasonable times of the day and year; facilities can be reserved for special events, league play, etc. but cannot be reserve, leased or assigned for exclusive use, and; the project area must be kept clean, maintained, and operated in a safe and healthful manner.

The City Council for the City of Bentonville, Arkansas is well aware and apprised of the above-mentioned project, and will provide the local portion of the development cost of the entire project.

**NOW, THEREFORE, BE IT RESOLVED By THE CITY OF COUNCIL OF BENTONVILLE, ARKANSAS** that the Mayor is hereby authorized to make application to the Arkansas Department of Parks and Tourism for assistance to develop recreational facilities in Old Tiger Park located at 517 Tiger Boulevard for the City of Bentonville; therefore such application shall be submitted as expediently as possible.

PASSED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2018

APPROVED: \_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK



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

## AGENDA FORM

CITY COUNCIL MEETING OF:

July 10, 2018

Submitted by:

Dennis Birge

Department

Transportation

Phone

271-6840

### ACTION REQUIRED:

Staff recommends that City Council approve a budget adjustment to accept Surface Transportation Block Grant Program-Attributable (STBGP-A) Funding for the Hwy 71 B/NW 12th/Tiger Blvd. intersection improvement project. These funds will be used to reimburse the City 80% of the total cost of the project.

### 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

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PLEASE RECYCLE





**Date of Request:** July 2, 2018

| Acct Number        | Account Name                        | Revenue + (-)   | Expense + (-)   | Fund Balance + (-) |
|--------------------|-------------------------------------|-----------------|-----------------|--------------------|
| 020-3820-331.10-00 | Federal Grants/Federal Direct Grant | \$1,112,000.00  |                 | \$ 1,112,000.00    |
|                    |                                     |                 |                 | \$ -               |
| 020-3820-430.73-80 | Improv's Other than Bldg/           |                 | \$ 1,112,000.00 | \$ (1,112,000.00)  |
|                    | Street Construction                 |                 |                 | \$ -               |
|                    |                                     |                 |                 | \$ -               |
|                    |                                     |                 |                 | \$ -               |
|                    |                                     |                 |                 | \$ -               |
|                    |                                     |                 |                 | \$ -               |
|                    |                                     |                 |                 | \$ -               |
|                    |                                     |                 |                 | \$ -               |
|                    |                                     |                 |                 | \$ -               |
|                    | Totals                              | \$ 1,112,000.00 | \$ 1,112,000.00 | \$ -               |

Budget Adjustment to accept Surface Transportation Block Grant Program-Attributable (STBGP-A) Funding for the Hwy 71 B/NW 12th/Tiger Blvd. intersection improvement project. These funds will be used to reimburse the City 80% of the total cost of the project.

|                     |               |             |             |
|---------------------|---------------|-------------|-------------|
|                     |               |             |             |
| FOR ACTING USE ONLY |               |             |             |
| Council Action:     | Approved      | Disapproved | Other _____ |
| Date:               | Date entered: | By:         |             |

117 WEST CENTRAL AVENUE \* BENTONVILLE, AR 72712  
\*www.bentonvillear.com\*





# Memorandum

**To:** City Council, Mayor McCaslin  
**From:** Dennis Birge, Transportation Engineer  
**Date:** Monday, July 02, 2018  
**Re:** 090421 – Hwy 71B/NW 12<sup>th</sup>/Tiger Grant Acceptance



---

Staff recommends that City Council approve a budget adjustment to accept Surface Transportation Block Grant Program-Attributable (STBGP-A) Funding for the Hwy 71 B/NW 12th/Tiger Blvd. intersection improvement project. These funds will be used to reimburse the City 80% of the total cost of the project.

This project has received STBGP-A funding and will be reimbursed 80% up to the amount of \$1,112,000. The total estimated cost of the project is anticipated to be \$1.5M. The additional funds have previously been budgeted and will not require additional funds at this time.

Thank you for your consideration of this request.



## **NORTHWEST ARKANSAS REGIONAL PLANNING COMMISSION**

1311 Clayton St., Springdale, Arkansas, 72762

• (479) 751 7125

• Fax: (479) 751 7150

• <http://nwarpc.org>

January 10, 2017

Mayor Bob McCaslin  
City of Bentonville  
117 West Central  
Bentonville, AR 72712

Re: US 71B and 12<sup>th</sup> Street/Tiger Blvd Intersection  
Construction Phase  
FFY 2017 Surface Transportation Block Grant Program - Attributable (STBGP-A)

Dear Mayor McCaslin:

As you may recall, the US 71B and 12th Street/Tiger Blvd Intersection Project was selected by the Northwest Arkansas Regional Planning Commission on September 23, 2015 for FFY 2017 STBGP-A funding. The STBGP-A funds awarded and the required local match are shown below:

|                   |                         |
|-------------------|-------------------------|
| <b>STBGP-A</b>    | <b>\$500,000</b>        |
| <b>City Match</b> | <b><u>\$125,000</u></b> |
| <b>Total</b>      | <b>\$625,000</b>        |

The STBGP-A funding is subject to an obligation limitation and the total available funds may change after final FFY 2017 funding is published.

These funds are required to be obligated by the end of the Federal Fiscal Year which ends on September 30, 2017. All required AHTD submittals and required approvals for this project should be completed by August 15, 2017 in order to allow sufficient time to obligate the STBGP-A funds for this project.

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

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

Sincerely,

  
Jeff Hawkins  
Director

Cc: Mr. Paul Simms, AHTD



1311 CLAYTON ST. • SPRINGDALE, ARKANSAS 72762  
(479) 751-7125 FAX (479) 751-7150

March 3, 2014

Mayor Bob McCaslin  
City of Bentonville  
117 West Central  
Bentonville, AR 72712

Re: Bentonville US 71B and 12th Street/Tiger Blvd. Intersection Improvement - Design, Environmental, Preliminary Utilities - FY 2014 Surface Transportation Program - Attributable (STP-A)

Dear Mayor McCaslin:

Reference is made to your request for federal Surface Transportation Program - Attributable (STP-A) funds for the Bentonville US 71B and 12th Street/Tiger Blvd. Intersection Design, Environmental, and Preliminary Utilities Project.

I am pleased to inform you the US 71B and 12th Street/Tiger Blvd. Intersection Project was selected by the RPC/Policy Committee on February 26, 2014 subject to the project being programmed in the FY 2013-2016 Transportation Improvement Program. Please find below the total project cost and STP-A funds awarded:

|              |                         |
|--------------|-------------------------|
| <b>TAP</b>   | <b>\$112,000</b>        |
| <b>City</b>  | <b><u>\$ 28,000</u></b> |
| <b>Total</b> | <b>\$140,000</b>        |

The STP-A funding is subject to an obligation limitation and the total available funds may change after final FFY2014 funding is published.

These funds are required to be obligated by the end of the Federal Fiscal Year which ends on September 30, 2014. All required AHTD submittals and required approvals for this project

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PLANNING - MANAGEMENT - IMPLEMENTATION  
*a continuing process*

should be completed by August 15, 2014 in order to allow sufficient time to obligate the STP-A funds for this project.

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

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

Sincerely,

  
Jeff Hawkins  
Director

Cc: Mr. Paul Simms, AHTD





## **NORTHWEST ARKANSAS REGIONAL PLANNING COMMISSION**

1311 Clayton St., Springdale, Arkansas, 72762

• (479) 751 7125

• Fax: (479) 751 7150

• <http://nwarpc.org>

November 23, 2015

Mayor Bob McCaslin  
City of Bentonville  
117 West Central  
Bentonville, AR 72712

Re: US 71B and 12<sup>th</sup> Street/Tiger Blvd Intersection  
Construction Phase  
FFY 2016 Surface Transportation Program - Attributable (STP-A)

Dear Mayor McCaslin:

I am pleased to inform you the US 71B and 12th Street/Tiger Blvd Intersection Project was selected by the Northwest Arkansas Regional Planning Commission on September 23, 2015 for FFY 2016 STP-A funding. The STP-A funds awarded and the required local match are shown below:

|                   |                         |
|-------------------|-------------------------|
| <b>STP-A</b>      | <b>\$500,000</b>        |
| <b>City Match</b> | <b><u>\$125,000</u></b> |
| <b>Total</b>      | <b>\$625,000</b>        |

The STP-A funding is subject to an obligation limitation and the total available funds may change after final FFY 2016 funding is published.

These funds are required to be obligated by the end of the Federal Fiscal Year which ends on September 30, 2016. All required AHTD submittals and required approvals for this project should be completed by August 15, 2016 in order to allow sufficient time to obligate the STP-A funds for this project.

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

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

Sincerely,

Jeff Hawkins  
Director

Cc: Mr. Paul Simms, AHTD



| CHECK ALL THAT APPLY |                   |       |            |
|----------------------|-------------------|-------|------------|
| X                    | Bid Award         | Bid # | IFB-18-027 |
|                      | Budget Adjustment |       |            |
|                      | Change Order      |       |            |
|                      | Informational     |       |            |
|                      | Ordinance         |       |            |
|                      | Resolution        |       |            |
|                      | Other             |       |            |

## AGENDA FORM

CITY COUNCIL MEETING OF:

July 10, 2018

Submitted by:

Brent Boydston

Department

Fire

Phone

271-5927

### ACTION REQUIRED:

Fire Department Staff recommends Council award bid # IFB-18-027 to Superior Chevrolet in the amount of \$41,779.00 to purchase a Chevrolet Silverado 2500 HD to replace a 2011 Ford Explorer.

### COST TO CITY:

Cost of this Request: \$41,779

Additional Budget Amount

☐ One time amount

☐ Continuing O and M

|                            |    |        |
|----------------------------|----|--------|
| Previously Budgeted        | \$ | 57,000 |
| Funds Expended to Date     |    |        |
| Remaining Budget           |    | 57,000 |
| Budget Adjustment          |    | -      |
| Remaining After Adjustment | \$ | 57,000 |

*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





## **Inter-office Memorandum**

To: Mayor McCaslin and City Council  
From: Brent Boydston, Fire Chief  
CC: Camille Thompson, Staff Attorney, Jake Harper, Finance Director, Jessica Thurman, Asst. Finance Director  
Date: July 10, 2018  
Re: Bid Award IFB-18-027

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Fire Department Staff is asking Council to award bid # IFB-18-027 to Superior Chevrolet for \$ 41,776.00 to purchase a 2018 Chevrolet Silverado HD and a topper to cover the bed.

This vehicle is for the Battalion Chief on duty to respond to emergencies with specialized equipment. This vehicle is a central unit for all equipment that would be needed during emergencies. It carries Active Shooter equipment, Hazmat monitors, Command boards, Radios etc. that will be needed within minutes of a call. This unit responds on more emergency calls annually than any other fire department vehicle. The current unit is 8 years old and is insufficient in design to deal with the weight and load security that is needed.

IFB-18-027  
Chevrolet Silverado & Truck Cap - Battalion 1  
Bid Opening Time and Date  
June 29, 2018 @ 10:00 AM

| <u>Vendor</u>      | <u>Bid Amount</u> |                  |
|--------------------|-------------------|------------------|
|                    | <u>Truck</u>      | <u>Truck Cap</u> |
| Superior Chevrolet | 39,981.00         | 1,795.00         |
|                    |                   |                  |
|                    |                   |                  |





CITY OF BENTONVILLE, ARKANSAS  
PURCHASING DEPARTMENT  
CITY HALL  
117 W. CENTRAL AVE  
BENTONVILLE, ARKANSAS 72712

**INVITATION FOR BID**

**IFB-18-027**

**2018 Chevrolet Silverado 2500 HD 4WD Standard Box Crew Cab  
and ARE-Z-Series Truck Cap**

Date of Issuance: **June 17, 2018**

Bid Number: **IFB-18-027**

Bid Opening Date: **June 29, 2018**

Bid Opening Time: **10:00 A.M.**

Questions regarding this bid should be directed to the Purchasing Department at [purchasing@bentonvillear.com](mailto:purchasing@bentonvillear.com).  
All questions must be submitted prior to 10:00 A.M., Friday, June 29, 2018.

Bids must be received by the Purchasing Department on the first floor of City Hall at 117 West Central, Bentonville, AR prior to 10:00 A.M., June 29, 2018 in a sealed envelope, clearly marked on the outside with bid # IFB-18-027. Bids which must be opened to be identified will be rejected. Late bids will be rejected.

Bids will be publicly opened at City Hall, First floor, Purchasing Department, 117 West Central Ave, Bentonville, AR 72712.

☒ Supplier is submitting a firm bid which is not revocable for ninety (90) days.

☐ Supplier is not submitting a bid because, \_\_\_\_\_

**EXECUTION OF BID**

Upon signing this Bid, the bidder certifies that he/she has read and agrees to the requirements set forth in this bid proposal including specifications, conditions and pertinent information regarding the articles being bid on, and agrees to furnish these articles at the prices stated. Unsigned bids will be rejected - no exceptions.

|                                 |                             |               |                     |                       |                     |              |
|---------------------------------|-----------------------------|---------------|---------------------|-----------------------|---------------------|--------------|
| NAME OF FIRM:                   | <b>SUPERIOR CHEVROLET</b>   | PHONE NUMBER: | <b>479-268-1003</b> | FAX NUMBER:           | <b>479-524-3150</b> |              |
| BUSINESS ADDRESS, STREETS:      | <b>490 HIGHWAY 412 EAST</b> |               | CITY:               | <b>SILOAM SPRINGS</b> | AR STATE:           | <b>72761</b> |
| SIGNATURE OF AUTHORIZED PERSON: |                             |               | DATE:               | <b>6/28/2018</b>      |                     |              |
| PRINTED OR TYPED NAME:          | <b>DON CLARK</b>            |               | TITLE:              | <b>6/28/2018</b>      |                     |              |

ARKANSAS SALES OR USE TAX NUMBER (if applicable): N/A  
STATE CONTRACTORS LICENSE NUMBER (if applicable): N/A

**INTENT**

The intent of this solicitation is to purchase a 2018 Chevrolet Silverado 2500 HD 4WD Standard Box Crew Cab and ARE-Z-Series Truck Cap for the City of Bentonville's Fire Department.

**RESPONSE DOCUMENTS**

The following documents must be complete to provide a complete bid response package:

- IFB document, all response fields complete.

**All pricing must be entered on pricing sheet ("no bid" is an acceptable entry). Bid price shall include all destination charges, delivery charges, title fees, rebates, and all other applicable costs and refunds.**

**CONTRACT TERM:**

The awarded bidder shall receive a purchase order from the City Of Bentonville for a one time purchase and delivery of a 2018 Chevrolet Silverado 2500 HD 4WD Standard Box Crew Cab and ARE-Z-Series Truck Cap for the City of Bentonville's Fire Department.

**SCOPE**

The City of Bentonville, AR is soliciting bids for the purchase and delivery of a 2018 Chevrolet Silverado 2500 HD 4WD Standard Box Crew Cab and ARE-Z-Series Truck Cap for our Fire Department. Bidder agrees to furnish equipment as required in the following specifications.

**DELIVERY**

The City Of Bentonville request delivery within 90-120 calendar days after receipt of order. If this delivery schedule cannot be met, bidder must state number of days required to place equipment in the City's designated location. Failure to state delivery time obligates bidder complete delivery by the City's requested 30-45 days. Extended delivery dates may be considered when in the best interest of the City.

Delivery: 30 calendar days after receipt of award.

**EQUIVALENT**

Whenever these specifications mention an item by name and use specific descriptions as refers thereto, it is intended to convey to the bidder an understanding of the standard of excellence required. Items of equal type, quality, and size that will conform substantially to the standard of excellence established to provide equivalent merit, strength, durability, and to perform the required function in accordance with these specifications may be offered. City of Bentonville shall have the final approval of whether a substitute item is equal to the item specified. **The bidder should submit detailed description for equivalent equipment.**

**INVOICING**

Bidder shall provide an invoice to City of Bentonville, AR, 117 W Central Ave., Bentonville AR 72712

**PAYMENT TERMS**

☒ Net 30 days

☐ Other: \_\_\_\_\_

Contractor/Vendor Disclosure

Company Name: SUPERIOR CHEVROLET BUICK GMC

Registered with the Secretary of State's Office to Conduct Business in the State of Arkansas:

☒ Yes ☐ No

Identify each employee of the City Of Bentonville to whom you, any of your Employees owning more that 5% interest in your Company, or are a Director/Executive/Decision Maker of your Company are immediately related.

Immediate Relation includes:

- Spouse/Domestic Partner
- Parents-Natural or Legal/Step/In Laws
- Children/Step, Siblings-Whole/Half/Step/ In Laws
- Grandchildren/Step, Great Grandchildren.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Failure to disclose shall be considered a material breach and grounds for immediate termination of this contract/agreement. **Note: Any change in circumstances resulting in a conflict or appearance of a conflict shall be reported in 30 days of change of circumstance.** CC Initials

**CITY OF BENTONVILLE, ARKANSAS  
PURCHASING DEPARTMENT**

**INSTRUCTIONS TO BIDDERS**

1. **SCOPE:** These instructions to bidders and general conditions apply to solicitations for material, equipment, supplies or services with an estimated single or combined cost of \$20,000 or more. These conditions shall be in force unless otherwise modified by the City in this bid document. Bidders shall be advised that the City of Bentonville is not responsible for the content of any bid package received through any 3<sup>rd</sup> party bid service. It is the sole responsibility of the vendor to ensure the completeness of the documents received from any 3<sup>rd</sup> party source other than hand delivered.
2. **DEFINITIONS (AS USED HEREIN):**
  - a. The term "Invitation For Bid" means a solicitation of formal sealed bids with a combined or single unit value \$20,000 and over. The acronym "IFB" means Invitation for Bid.
  - b. The term "bid" means the offer by the bidder.
  - c. The term "bidder" means the person or organization responding to the solicitation.
  - d. The term "contractor" means a person or organization who is the successful bidder and who enters into a contract with the City.
  - e. The term "change order" means a written order from the Purchasing Department directing the contractor to make changes to a contract.
  - f. The term "City" means the City of Bentonville, Arkansas.
  - g. The term "City Council" means the governing body of the City of Bentonville, Arkansas.
3. **PREPARATION OF BIDS:** Bidders shall review the specifications, drawings, and all special and general conditions. Failure to do so will be at the bidder's risk.

Each bidder shall furnish the information required in the solicitation. The bidder shall provide their name, address, e-mail address, and telephone number where indicated in the solicitation documents. The affidavit must be signed by an officer or employee having the authority to bind the company or organization by his/her signature and included with the bid response.

Unit price for each unit offered must be provided. The unit price will be presumed correct.

The bidder must state a definite time for delivery of supplies or performance of services.
4. **SUBMITTING A BID:** Bids must be received by the City of Bentonville Purchasing Office **BEFORE** the time of opening indicated in the solicitation. All references to time shall be Bentonville, Arkansas time (Central time zone). Late bids will be rejected. Any exceptions or additional information required on a solicitation will be noted in the bid documents. Failure to provide any requested information or to follow these procedures may result in the rejection of your bid.
5. **BID DOCUMENT MISTAKES:** The bidder shall not be allowed to modify or correct mistakes in the bid document after the opening of the bid. Failure to complete the entire bid accurately may result in declaring the bid as non-responsive and the bid may be rejected.

Bids may not be withdrawn after the bid opening time and date if a bid mistake is based upon an error in judgment. If a nonjudgmental mistake, such as a math error, is suspected by the City or the bidder, the bidder shall respond within two (2) business days of the bid opening with a request for the City to consider verification of the mistake. Once a bid has been verified, it shall be considered submitted, as verified. The City shall permit a bidder to withdraw its bid without penalty or forfeiture of bid security if: (a) a nonjudgmental mistake is evident on the face of the bid, or (b) the bidder establishes by clear and convincing evidence that a nonjudgmental mistake was made.

If multiple bids are received from the same vendor, the City will either consider only one of the bids from that vendor, or reject all bids from the vendor, at the sole discretion of the City.
6. **ACCEPTANCE OF OFFER:** The submitted bid is considered an offer on the part of the bidder; such offer is deemed accepted upon issuance by the City of a Purchase Order or other contractual document.
7. **FIRM PRICES:** By submitting the bid, bidder signifies that the prices, terms and conditions quoted in their bid will be firm for acceptance for a period of not less than ninety (90) days from the bid opening date unless otherwise specified in the solicitation. Prices quoted must remain firm for the period of performance of any resulting purchase order or contract to be performed over a specified period of time as indicated in the solicitation.
8. **CONTRACT RENEWAL:** The City reserves the right to renew any contract resulting from this solicitation at the same prices, specifications, terms and conditions, upon mutual agreement between the City and the contractor.



9. **ESTIMATED QUANTITIES:** Whenever a bid requests prices to be firm for a period of performance, the quantities or usages shown are estimated only with no guarantee made by the City. The quantities are for the bidder's information only, and the City will be bound only for actual quantities ordered.
10. **DISCOUNTS:** Cash discounts will be considered in determining the award. Unless otherwise indicated in the IFB, discounts offering 10 days or more will be taken by the City's Accounts Payable Division, with payment made on the nearest pay period after receipt, inspection and acceptance of articles, and receipt of correct invoice(s).
11. **SAMPLES:** Samples of items, when required, must be submitted within the time specified at no expense to the City. If not destroyed by testing, samples may be returned at the bidder's expense unless otherwise indicated in the solicitation.
12. **AWARD:** Award will be made to the lowest most responsive and responsible bidder, which will be judged on the basis of price, conformance to specifications, quality, delivery time, references, payment terms, and in the best interest of the City of Bentonville, all factors being considered.

The City reserves the right to accept or reject any or all bids or part of bids, to waive irregularities and technicalities, and to request rebids on the material described in the solicitation.

The City reserves the right to award the contract on a split-order basis, lump-sum or individual-item basis, or any other combination that is in the best interest of the City unless otherwise specified.

Conditional bids are subject to rejection in whole or in part at the sole discretion of the City.

In the event of two or more identical low bids, Arkansas code Annotated Section 14-22-11 shall apply

No order or contract resulting from this solicitation may be assigned, transferred, or delegated to another party without written approval of the Procurement Manager of the City.

13. **BRAND NAMES:** If brand names, make, name of any manufacturer, trade name, or vendor catalog number are specified in these bid documents, it is for the purpose of establishing a grade or quality of material only. When the City does not wish to rule out other brands or makes, the phrase OR EQUAL is added. However, if a product other than that specified is bid, it is the bidder's responsibility to identify such product in their bid and prove to the City that the product is equal to or better than the product specified. Unless otherwise indicated, evidence in the form of samples may be requested if the proposed brand is other than that specified by the City. Such samples are to be furnished as specified in the solicitation or upon request of the City. Any samples requested by the City must be received by the City no later than four (4) days after formal request is made.
14. **VARIATIONS OF SPECIFICATIONS:** For purposes of evaluation, bidder must indicate any variances from any provision, specification, or condition stated in this solicitation, no matter how slight. If bidder does not indicate any variations, it will be assumed that the product or service fully complies with the provisions, specifications, or conditions as stated. If satisfactory bids are not received, the City reserves the right to consider alternate bids containing deviations from stated specifications.
15. **QUALITY:** Unless otherwise identified in the solicitation, all materials used in the manufacture or construction of supplies, materials or equipment covered by this solicitation shall be new. The items bid must be the latest make or model in current production, as offered to commercial trade, and of the highest quality material and workmanship. Used, shopworn, demonstrator, prototype, or discontinued models are not acceptable.
16. **ECO-FRIENDLY (GREEN) PRODUCTS:** The City of Bentonville supports the use of products that are ecologically friendly to the environment. Bidders are urged to include information with their bid submittal that describes the human health and environmental impact of products proposed. This eco-friendly approach takes into account, but is not limited to, waste production, energy and water use, greenhouse gas emissions, indoor air quality, recycled and reused content and packaging, and the presences of hazardous substances. Consideration may be given to these eco-friendly products when compared to mainstream products in cost and packaging.
17. **MATERIAL SAFETY DATA SHEET (MSDS):** It is mandatory for a manufacturer, supplier, or distributor of hazardous material to supply an MSDS as required by 29CFR 1910.1200 with the first shipment. Any time the content of an MSDS is revised, the vendor is required to provide a new MSDS to the City.
18. **ACCEPTANCE OF MATERIAL:** The material delivered under this bid shall remain the property of the seller until a physical inspection and actual usage of this material and/or service is made and is accepted by the City. It must comply with the terms of this IFB, and fully comply with specifications, and be of the highest quality. In the event the material and/or services supplied to the City is found to be defective or does not conform to specifications, the City reserves the right to cancel the order upon written notice to the contractor and return product to contractor at the contractor's expense.
19. **CODES AND REGULATIONS:** All products supplied and work performed within the scope of this request shall be supplied by the successful bidder to all applicable current prevailing City, State and Federal codes and regulations.

20. **DELIVERY:** Bidders must indicate the number of calendar days required to make delivery after receipt of a purchase order. Delivery time may be considered in making an award. The City reserves the right to cancel any order, or any part of that order, without obligation if delivery is not made within the time(s) specified on the bid form.
- The City may grant additional time for delivery if the City is satisfied the delay is beyond the control of the vendor. Any request for time extension must be in writing and approved by the City's authorized representative.
- All deliveries shall be FOB Destination to the location listed on the purchase order or price agreement unless otherwise specified. Bidders may be requested to provide separate pricing for delivery of all items in this solicitation.
21. **THIRD PARTY FREIGHT SERVICE:** The City of Bentonville may, at its discretion, use a third party freight service to arrange for delivery of the goods ordered as a result of this solicitation. In this case, the freight terms will be FOB Destination/Third Party Prepaid.
22. **PRICE CHANGES ON CONTRACTS:** If this solicitation is for an estimated quantity of supplies, consideration in awarding bid for yearly contracts will be given:
- First to bidder offering firm prices for full contract period; and
  - Second to bidder offering firm prices subject to market price adjustment.
23. **COPYRIGHT OR PATENT RIGHTS:** By submitting the bid, bidder signifies that there has been no violation of copyrights or patent rights in manufacturing, producing or selling the goods shipped or ordered as a result of the bid, and bidder agrees to hold the City harmless from any and all liability, loss, or expense caused by any such violation.
24. **CONFLICT OF INTEREST:** The contractor, by signing the bid form in the solicitation or by acceptance of any purchase order resulting from this solicitation, certifies that to the best of their knowledge or belief, no elected or appointed official of the City is financially interested, directly or indirectly, in the purchase of the goods or services specified on this order or in the contract.
25. **TAXES:** The City of Bentonville is not tax exempt from any taxes imposed by the State and/or Federal Government. Applicable taxes should be included on all vendor invoices.
26. **MANUFACTURER'S CERTIFICATION:** The City reserves the right to request from bidders a separate manufacturer certification of all statements made in the bid. Failure to provide any requested certification may result in rejection of bid or termination of contract for which the bidder must bear full liability.
27. **TERMINATION:** Subject to the following provisions, any contract resulting from this solicitation may be terminated by either party upon thirty (30) days advance written notice to the other party; but if any work or service is in progress but not completed as of the date of termination, then said contract may be extended upon written approval of the City until said work or services are completed and accepted. Types of termination include:
1. Termination for Convenience  
In the event that the contract is terminated or cancelled upon request and for the convenience of the City, without the required thirty (30) days advance written notice, then the City shall negotiate reasonable termination costs, if applicable.
  2. Termination for Cause  
Termination by the City for cause, default or negligence on the part of the contractor shall be excluded from the foregoing provision; termination costs, if any, shall not apply. The thirty (30) days advance notice requirement is waived in the event of termination for cause.
  3. Termination Due to Unavailability of Funds  
When funds are not appropriated or otherwise made available to support continuation of performance, the contract shall be cancelled at the discretion of the City.
28. **W-9 REQUIREMENT:** The City of Bentonville requires a Form W-9 (Request for Taxpayer Identification Number and Certification), updated annually, from all contractors that do business with the City of Bentonville. The Form W-9 verifies the Tax Identification Number of the contractor so the City can correctly report to the IRS all funds paid to the contractor.
29. **DEFAULT OF CONTRACT:** In case of default by the contractor, the City may procure the items or services from other sources and hold the contractor responsible for any excess costs caused by such procurement. Failure of a bidder to furnish the equipment, supplies, material, and/or services as specified is cause for elimination of the bidder from the active bidder's list for the products or services concerned.
30. **BID BOND:** If required in this solicitation, bidders shall include a bid guarantee in the form of a bid bond, certified check, cashier's check in the amount of five percent (5%) of the base bid, payable without condition to the City of Bentonville. Personal or company checks are not acceptable. The bid bond shall be accompanied by a power of attorney showing the authority of the person executing the bond on behalf of the surety company. Failure to include a bid bond or bid guarantee request with your bid submittal may be



cause for rejection of your bid. Bid guarantees (submitted by certified or cashier's checks) will be returned to unsuccessful bidders when the successful bidder is determined and the contract is executed. **When noted, a certified check or bid bond in the amount of 5% of the total bid shall accompany bid if bid exceeds \$35,000.00 [pursuant to Arkansas Code Annotated Section 22-9-203].**

31. **PERFORMANCE BOND:** At the discretion of the City, a performance bond may be required under the contract resulting from this solicitation. Such bond must be of a type and amount suitable for the nature of the commodity or services purchased and the dollar amount of the contract as indicated in this solicitation. The performance bond shall be for the duration of the contract, guaranteeing the faithful performance of the contract, and otherwise conditioned as required by law. Performance bond shall be accompanied by a power of attorney showing the authority of the person executing the bond on behalf of the surety company. Bond forms must be executed with a surety company licensed to do business in the State of Arkansas. The cost of the bond shall be included in the bidder's offer.
32. **MODIFICATIONS FOR CHANGES:** No agreement or understanding to modify this solicitation and resultant purchase orders or contract shall be binding upon the City unless made in writing by the Purchasing Department of the City of Bentonville.
33. **ORDER OF PRECEDENCE:** In the event of an inconsistency between provisions of the solicitation, the inconsistency will be resolved in the following order: (a) the schedule; (b) Instructions to Bidders and General Conditions; (c) special provisions; (d) other provisions of the contract, whether incorporated by reference or otherwise; and, (e) the specifications.
34. **WARRANTY:** Supplies or services furnished as a result of this solicitation shall be covered by the most favorable commercial warranties, expressed or implied, that the bidder and/or manufacturer gives to any customer. The rights and remedies provided herein are in addition to and do not limit any rights afforded to the City by any other clause of this bid. The City reserves the right to request from bidders a separate manufacturer certification of all statements made in the bid.
35. **PAYMENT:** Payment for materials or services received under this contract will be made upon completion of delivery for each purchase order and submission of invoice to the Accounts Payable Department, 117 West Central, Bentonville, AR 72712. Normal pay periods for the City are every Friday.
38. **GOVERNING LAW:** Any agreement resulting from this solicitation shall be interpreted under and governed by the laws of the State of Arkansas.
39. **ESCALATION/DE-ESCALATION CLAUSE:** In the event prevailing market conditions warrant an adjustment in contract pricing, the following escalation/de-escalation clause shall be the only clause acceptable to the City:
  1. Contractor shall give written notice to the Purchasing Department of any proposed changes from contract prices not less than fifteen (15) calendar days prior to the effective date of price changes.
  2. Such notice must be accompanied by a copy of the supplier's notification to the contractor of a justifiable price change.
  3. No price escalation will be authorized in excess of the amount of the increase indicated on the supplier's notice.
  4. The approved price change shall be honored for all orders received by the contractor after the effective date of such price change.
  5. Approved price changes are not applicable to orders already issued and in process at time of price change.
  6. The City reserves the right to audit and/or examine any pertinent books, documents, papers, records, or invoice relating directly to the price increase after reasonable notice and during normal business hours.
  7. The Purchasing Department retains the right to determine whether or not such proposed price changes are in the best interests of the City.
  8. If in the opinion of the Procurement Manager any proposed increase is found unacceptable, the Purchasing Department reserves the right to cancel the contract upon fifteen (15) calendar days' written notice.
  9. Contractors must tie any price change clause to an industry-wide or otherwise nationally recognized index or some other form of verifiable document. Contractor will put the Procurement Manager on the mailing lists for such publications so the Purchasing Department can monitor said changes. Such membership will be at no cost to the City.
  10. If parties to the contract cannot agree on renewal terms, it is understood that the contract will be cancelled and a new contract will be solicited.
40. **ADDITIONAL INFORMATION:** Additional information may be obtained from the Purchasing Office at (479) 271-3115.

## SPECIFICATIONS

Bidder must indicate, as specified, by placing an "x" in the designated column. If Bidder is submitting an alternate they must provide additional information where indicated.

As Specified

## Truck

- **Model**

- 2018 Chevrolet Silverado 2500 HD
- 4WD
- Standard Box
- Crew Cab
- 1LT-LT Preferred Equipment Group
- Color: G7C-RedHot
- Trim: HQU-Cloth, Jet Black, Interior Trim
- L96-Engine: 6.0L, V-8, SFI, Flexfuel w/ E63 Only
- Transmission: MYD-6 Speed Automatic

- X  
X  
X  
X  
X  
X  
X

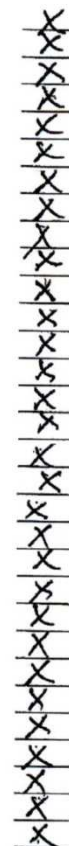
- **Options**

- AG1-Power Seat Adjuster (Driver's side)
- DPN-Mirrors, O/S, Wide Load/Trailer, Full Feature
- GT4-Rear Axle, 3.73 Ratio
- JL1-Integrated Trailer Brake Controller
- K14-110 Volt Electrical Receptacle, In Cab
- NZZ-Underbody Shield
- PYV-Wheels: 18" Aluminum
- QGM-Tires: LT265/70R18 ALT BW
- R9Y-Fleet Maintenance Credit
- RIA-LPO – Interior Floor Liners
- T3U-Fog Lamps, Front
- UD7-Rear Parking Assist Sensors
- UF2-Lighting, Cargo Box, Under Bed Rail, LED
- VBJ-LPO – Under Seat Storage
- VQZ-Holdback N/A, Dealer Fleet Assistance
- VXH-LPO - Assist Steps, 6" Rectangular, Tubular, Chrome
- Z82 – Trailering Package
- A91-Tailgate Lock, Remote Controlled
- AQQ-Keyless Remote Entry
- AYO-Airbags-Head Curtain, Side Impact
- B1J-Liner, Rear Wheelhouse
- B86-Moldings, Body Side, Color Keyed
- D75-Handles, Outside Door, Body Color
- E63-Body: Pick-Up Bed/Box
- G80-Locking Differential, Rear
- I05-Radio, 8" Color Screen, Bluetooth, w/ USB Port

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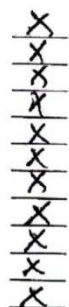


- K47-Air Cleaner, High Capacity
- KG4-Alternator, 150 AMP
- N79-Wheel, Spare, 18 x 8.0, Steel
- PPA-Tailgate: EZ-Lift and Lower
- TG5-Compact Disc and MP3 Player
- U2L-High Definition Radio Reception
- UK3-Radio Controls-Steering Wheel
- UVC-Rear View Camera System
- V46-Bumper, Front, Chrome
- VJH-Bumper: Rear Chrome Step
- VV4-Onstar 4G LTE Wi-Fi Hotspot
- ZY1-Paint, Solid
- A31-Power Windows
- AKO-Glass, Deep Tinted
- AU3-Power Door Locks
- AZ3-Seats: Front 40/20/40 Split-Bench
- B30-Floor Covering: Carpet, Color Keyed
- C67-Air Conditioning, Manual
- DD8-ISRV Mirror, Electro-chromatic
- K34-Cruise Control
- KC4-Cooler, Engine Oil
- KNP-Transmission Cooling System
- NQF-T-Case, w/ Rotary Dial Controls, Electronic Shift
- SAF-Spare Tire Lock
- U2K-SiriusXM Satellite Radio (subscription)
- UE1-OnStar Communication System
- UQ3-Speaker System
- V22-Grille: Chrome Surround
- V76-Recovery Hooks
- VK3-License Plate Front Mounting Hardware
- YM8-LPO Processing Option



#### Truck Cap

- ARE-Z-Series Truck Cap
  - Fits 2018 Chevrolet Silverado 2500/3500 Crew Cab
  - 78.9 in
  - Trim Option: Trimmed Bottom Edge
  - Front Cap Option: Front Picture Window
  - Side Window: Screen Vent Side Window
  - Interior Carpet: Fabric Headliner
  - Interior Light Option: 12V LED Dome Light & Dual Rope Lights
  - Prop Switch: Prop Switch For 12V LED Dome Light & Dual Rope Lights
  - Cap will color match truck – Chevrolet G7C (Red Hot)
  - Cap will include all mounting hardware, including gasket if required



### PRICING SHEET

#### 2018 Chevrolet 2500 HD Silverado 4WD Standard Box Crew Cab

1 each      \$ 39,981.00  
Year:      2018  
Manufacturer: CHEVROLET  
Model: SILVERADO HD 2500

#### ARE-Z-Series Truck Cap

1 each      \$ 1795.00  
Year:      2018  
Manufacturer: ARE  
Model: Z SERIES