



BENTONVILLE CITY COUNCIL AGENDA

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

**Tuesday, May 14, 2019 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: April 23, 2019**

AGENDA

1. Proclamation presented to recognize "National EMS Week" in Bentonville, Arkansas. **(Page 6)**
2. Recognition of EMS Personnel.
3. Planning:

- 3a. **Ordinance accepting a lot split of Lots 20-21, Block G of Orchard Addition, Cadence Group, LLC, 506 SE D Street, RC-2, Central Residential-Moderate Density.**

(Pages 12-14)

The Planning Commission voted 7-0, recommending approval.

A lot split of Lot 4, Block G, of Orchard Addition, creating new Lots 20 (+/- .09 acres) and 21 (+/- .09 acres) of Orchard Addition. The lot line to be created per this plat is on the common wall of a single-family attached structure. The single-family attached use and lot layout were approved through Board of Adjustment on September 26, 2018 (VAR18-0026). The plat dedicates a 10-foot utility easement along Southeast D Street.

- 3b. **Ordinance accepting a lot split of Lots 1-2 of Haynie Addition, Connie Haynie and David Reynolds, 411 Tiger Boulevard, DN-3, Downtown High-Density Residential.**

(Pages 15-17)

The Planning Commission voted 7-0, recommending approval.

A lot split of a previously unplatted tract of land creating new Lots 1 (+/- .119 acres) and 2 (+/- .151 acres) of Haynie Addition. The plat dedicates 10-foot utility easements along both western lot lines, 25-foot utility easements along both eastern lot lines, and 7-foot utility and access easements along their shared lot line. In addition, the plat dedicates additional right-of-way along both street frontages to meet the requirements of the Master Street Plan.

- 3c. **Ordinance accepting a property line adjustment of Lot 17, Block 14 of Deming's Second Addition, Dwellings, Inc., 105 NW 6th Street, R-1, Single Family Residential.**

(Pages 18-20)

The Planning Commission voted 7-0, recommending approval.

A property line adjustment of Lots 7 and 8, Block 14 of Deming's Second Addition, creating new Lot 17 (+/- .209 acres). The plat dedicates a 10-foot utility easement along both street frontages. The plat dedicates additional right-of-way to meet the requirements of the Master Street Plan.

- 3d. **Ordinance accepting a property line adjustment of Lots 17-19, Block 15 of W.A. Burk's Addition, CCSM Ventures, LLC, Fillmore Street, DN-2, Downtown Medium-Density Residential.**

(Pages 21-23)

The Planning Commission voted 7-0, recommending approval.

A property line adjustment of Lots 7, 8, and 15, Block 15 of W.A. Burk's Addition, creating new Lots 17 (+/- 6,600 square feet), 18 (+/- 6,600 square feet), and 19 (+/- 9,800 square feet), Block 15, of W.A. Burk's Addition. The plat dedicates a 20-foot utility easement along Fillmore Street and 7.5-foot utility easements along all shared lot lines.

- 3e. **Ordinance accepting a property line adjustment of Lot 19, Block 2 of Railroad Addition, Kathy Muldoon Trustee, Southeast 3rd Street, DC, Downtown Core.**

(Pages 24-26)

The Planning Commission voted 7-0, recommending approval.

A property line adjustment of Lots 12 and 13, Block 2 of Railroad Addition, creating new Lot 19, Block 2 (+/- .46 acres). The plat dedicates 10-foot utility easements along both street frontages.

- 3f. **Ordinance accepting a property line adjustment of Lots 5-7 of Brown Subdivision, Frank and Anna Bray, 706 Bella Vista Road, DN-2, Downtown Medium-Density Residential.**

(Pages 27-29)

The Planning Commission voted 7-0, recommending approval.

A property line adjustment of Lots 2-4 of Brown Subdivision, creating new Lots 5 (+/- .18 acres), 6 (+/- .18 acres), and 7 (+/- .34 acres). The plat dedicates a 10-foot utility easement based on a sewer line relocation.

- 3g. **Ordinance changing real estate from R-1, Single Family Residential to DN-4, Downtown Mixed-Use Residential, Sample and PBR Holdings, LLC, 802 SE 3rd Street, 804 SE 3rd Street, and 305 SE G Street.**
(Pages 30-32)

The Planning Commission voted 7-0, recommending approval.

The Future Land Use Plan currently depicts this property as Low Density Residential. These areas include detached single-family residential properties and local amenities for residents. While the rezoning does not fit into the Future Land Use Plan, it can potentially be justified due to the adjacent uses of the apartment complex to the north and future proposed large scale development to the west. In addition, the Future Land Use Plan depicts the property directly west from this area as High Density Residential.

- 3h. **Ordinance changing real estate from R-1, Single Family Residential to DE, Downtown Edge, Habitat for Humanity of Benton County, 301 SW 4th Street.**

(Pages 33-35)

The Planning Commission voted 7-0, recommending approval.

The Future Land Use Plan currently depicts this property as Medium Density Residential. These areas include townhouse or duplex residential properties along with local amenities for residents. The site's general location near downtown and adjacent uses of townhouses to the east and south, as well as existing DE-zoned property to the south and east of the subject property may justify a rezoning to DE, Downtown Edge.

- 3i. **Ordinance changing real estate from C-1, Neighborhood Commercial to C-2, General Commercial, Hogwild Development, LLC, 2902 SE I Street.**

(Pages 36-40)

The Planning Commission voted 7-0, recommending approval.

The Future Land Use Plan currently depicts this property as Residential Estate. These areas include large detached single-family residential properties. The site's adjacency to an arterial road (Southeast 28th Street) and surrounding uses, including commercial development to the north and industrial development to the south, may justify a rezoning to C-2, General Commercial.

- 3j. **Ordinance accepting a lot split of Lots 31-32, Block 24 of Deming's Second Addition, Christopher and Jenny Miller, 107 NE 7th Street, R-1, Single Family Residential.**

(Pages 41-43)

The Planning Commission voted 7-0, recommending approval.

A property line adjustment of Lots 18 and 20, Block 24 of Deming's Second Addition, creating new Lots 31 (+/- .31 acres) and 32 (+/- .25 acres) of Deming's Second Addition. The plat dedicates additional right-of-way along NE A Street.

- 3k. **Ordinance accepting a final plat of Red Barn, 1605 NW A Street.**
(Pages 44-49)
The Planning Commission voted 7-0, recommending approval.
- A final plat establishing a multi-family, PRD subdivision known as Red Barn Subdivision. The plat dedicates a public street to be known as NW Barn Avenue, as well as multiple utility easements of varying widths. All non-bondable items and guarantees of improvements must be complete and a final inspection performed and approved prior to final plat approval.
4. A reconciliation change order with Central Square Technologies for the TrakIt software, reducing the contract amount by \$12,280.00. (Pages 50-53)
5. A budget adjustment in the amount of \$9,680.00 for the professional services agreement with Central Square Technologies for an on-site Business Process Review (BPR). (Pages 54-55)
6. Public hearing and ordinance vacating a utility easement requested for Lot 2 of Straube Business Park, to the City of Bentonville, Arkansas, Benton County, Arkansas. (Pages 56-59)
7. Public hearing and ordinance vacating a utility easement requested for Lot 7 of Straube Business Park, to the City of Bentonville, Arkansas, Benton County, Arkansas. (Pages 60-63)
8. Public hearing and ordinance vacating an Alley Right of Way Vacation between Lot 149 and Lot 158 of Bentonville Original (307 & 401 W Central). (Pages 64-75)
9. A resolution authorizing the Mayor and City Clerk to enter into a Bentonville Municipal Airport Land Lease Agreement with BBT Investments, LLC. (Pages 76-88)
10. Resolution approval to authorize the Mayor and City Clerk to enter into an amendment of the Master agreement with Garver, LLC, for the Stormwater Pollution Prevention Plan and permit application to ADEQ for work to be performed on the Bentonville Municipal Airport. (Pages 89-93)
- 11a. Resolution to authorize Change Order #43 to the ArDOT Project #090376, 8th Street Widening Project. This is for required gates at electrical service boxes. (Pages 94-97)
- 11b. Approval of Budget Adjustment for Change Order #43 to the ArDOT Project #090376, 8th Street Widening Project. This is for required gates at electrical service boxes. (Pages 98-100)
12. Resolution approval to authorize the Mayor and City Clerk to enter into an agreement for the professional services of O.R. Colan Associates, LLC, ORC has been selected to acquire City right of way for the Water Tower widening/8th Street Extension construction project. (Pages 101-132)
13. Informational Only - Review of the Street Departments 2019 Overlay list. See Attachments. (Pages 133-143)

14. Resolution authorizing the Mayor and Clerk to enter into a contract with Arkansas Municipal Power Association (AMPA) to provide Mutual Aid Assistance to other public power entities during an emergency situation. **(Pages 144-157)**

PROCLAMATION

WHEREAS: Emergency Medical Services is a vital public service; and

WHEREAS: The members of emergency medical services teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and

WHEREAS: Access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS: The emergency medical services system consists of emergency physicians, emergency nurses, emergency medical technicians, paramedics, firefighters, first responders, educators, administrators and others; and

WHEREAS: The members of emergency medical services teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills, and

WHEREAS: It is appropriate to recognize the value and the accomplishments of emergency medical services providers by designating Emergency Medical Services Week.

NOW, THEREFORE, I Stephanie Orman, Mayor of the City of Bentonville do hereby proclaim the week of May 19-25, 2019 as "**Emergency Medical Services Week**" in the City of Bentonville, Arkansas. With the theme, "EMS Strong: Stronger Together", I encourage the community to observe this week with appropriate programs, ceremonies and activities.

Given this 14th day of May, 2019, in Bentonville, in the great State of Arkansas, in the United States of America.


Stephanie Orman, Mayor
City of Bentonville





City Council Agenda Items
For City Council meeting of May 14, 2019
From the May 7, 2019 Planning Commission Meeting

- a. Ordinance accepting a lot split of Lots 20-21, Block G of Orchard Addition, Cadence Group, LLC, 506 SE D Street, RC-2, Central Residential-Moderate Density.**

The Planning Commission voted 7-0, recommending approval.

A lot split of Lot 4, Block G, of Orchard Addition, creating new Lots 20 (+/- .09 acres) and 21 (+/- .09 acres) of Orchard Addition. The lot line to be created per this plat is on the common wall of a single-family attached structure. The single-family attached use and lot layout were approved through Board of Adjustment on September 26, 2018 (VAR18-0026). The plat dedicates a 10-foot utility easement along Southeast D Street.

- b. Ordinance accepting a lot split of Lots 1-2 of Haynie Addition, Connie Haynie and David Reynolds, 411 Tiger Boulevard, DN-3, Downtown High-Density Residential.**

The Planning Commission voted 7-0, recommending approval.

A lot split of a previously unplatted tract of land creating new Lots 1 (+/- .119 acres) and 2 (+/- .151 acres) of Haynie Addition. The plat dedicates 10-foot utility easements along both western lot lines, 25-foot utility easements along both eastern lot lines, and 7-foot utility and access easements along their shared lot line. In addition, the plat dedicates additional right-of-way along both street frontages to meet the requirements of the Master Street Plan.

- c. Ordinance accepting a property line adjustment of Lot 17, Block 14 of Deming's Second Addition, Dwellings, Inc., 105 NW 6th Street, R-1, Single Family Residential.**

The Planning Commission voted 7-0, recommending approval.

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- e. Ordinance accepting a property line adjustment of Lot 19, Block 2 of Railroad Addition, Kathy Muldoon Trustee, Southeast 3rd Street, DC, Downtown Core.**

The Planning Commission voted 7-0, recommending approval.

A property line adjustment of Lots 12 and 13, Block 2 of Railroad Addition, creating new Lot 19, Block 2 (+/- .46 acres). The plat dedicates 10-foot utility easements along both street frontages.

- f. Ordinance accepting a property line adjustment of Lots 5-7 of Brown Subdivision, Frank and Anna Bray, 706 Bella Vista Road, DN-2, Downtown Medium-Density Residential.**

The Planning Commission voted 7-0, recommending approval.

A property line adjustment of Lots 2-4 of Brown Subdivision, creating new Lots 5 (+/- .18 acres), 6 (+/- .18 acres), and 7 (+/- .34 acres). The plat dedicates a 10-foot utility easement based on a sewer line relocation.

- g. Ordinance changing real estate from R-1, Single Family Residential to DN-4, Downtown Mixed-Use Residential, Sample and PBR Holdings, LLC, 802 SE 3rd Street, 804 SE 3rd Street, and 305 SE G Street.**

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- i. Ordinance changing real estate from C-1, Neighborhood Commercial to C-2, General Commercial, Hogwild Development, LLC, 2902 SE I Street.**

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- k. Ordinance accepting a final plat of Red Barn, 1605 NW A Street.**

The Planning Commission voted 7-0, recommending approval.

A final plat establishing a multi-family, PRD subdivision known as Red Barn Subdivision. The plat dedicates a public street to be known as NW Barn Avenue, as well as multiple utility easements of varying widths. All non-bondable items and guarantees of improvements must be complete and a final inspection performed and approved prior to final plat approval.



Consent Agenda Items

For Planning Commission meeting of May 7, 2019

Reviewer: Tyler Overstreet, Planner

- ❖ At the Technical Review meeting held on April 30, 2019 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.

Lot Split: Lots 20 & 21, Block G, Orchard Addition, Cadence Group, LLC, 506 SE D Street, RC-2, Central Residential – Moderate Density (LS19-0010)

A Lot Split of Lot 4, Block G, of Orchard Addition, Creating new Lots 20 (+/- .09 acres) & 21 (+/- .09 acres) of Orchard Addition. The lot line to be created per this plat is on the common wall of a single-family attached structure. The single-family attached use and lot layout were approved through Board of Adjustment on September 26, 2018 (VAR18-0026). The plat dedicates a 10-foot utility easement along SE D Street.

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

Lot Split: Lots 1 & 2, Haynie Addition, Connie Haynie & David Reynolds, 411 Tiger Boulevard, DN-3, Downtown High-Density Residential (LS19-0011)

A Lot Split of a previously unplatted tract of land creating new Lots 1 (+/- .119 acres) & 2 (+/- .151 acres) of Haynie Addition. The plat dedicates 10-foot utility easements along both western lot lines, 25-foot utility easements along both eastern lot lines, and 7-foot utility and access easements along their shared lot line. In addition, the plat dedicates additional right-of-way along both street frontages to meet the requirements of the Master Street Plan.

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

Property Line Adjustment: Lot 17, Block 14, Demings Second Addition, Dwellings, Inc, 105 NW 6th Street, R-1, Single-Family Residential, (LS19-0012)

A Property Line Adjustment of Lots 7 & 8, Block 14, of Deming's Second Addition, creating new Lot 17 (+/- .209 acres). The plat dedicates a 10-foot utility easement along both street frontages. The plat dedicates additional right-of-way to meet the requirements of the Master Street Plan.

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

Property Line Adjustment: Lots 17-19, W.A. Burks Addition, CCSM Ventures, LLC, Fillmore Street, DN-2, Downtown Medium-Density Residential, (LS19-0007)

A Property Line Adjustment of Lots 7, 8, & 15, Block 15, of W.A. Burk's Addition, creating new Lots 17 (+/- 6,600 square feet), 18 (+/- 6,600 square feet), and 19 (+/- 9,800 square feet), Block 15, of W.A. Burk's Addition. The plat dedicates a 20-foot utility easement along Fillmore Street and 7.5-foot utility easements along all shared lot lines.

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

Property Line Adjustment: Lot 19, Block 2, Railroad Addition, Kathy Muldoon Trustee, SE 3rd Street, DC, Downtown Core, (PLA19-0006)

A Property Line Adjustment of Lots 12 and 13, Block 2, of Railroad Addition, creating new Lot 19, Block 2 (+/- .46 acres). The plat dedicates 10-foot utility easements along both street frontages.

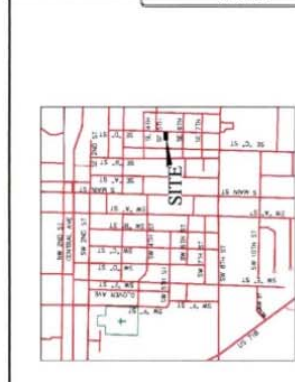
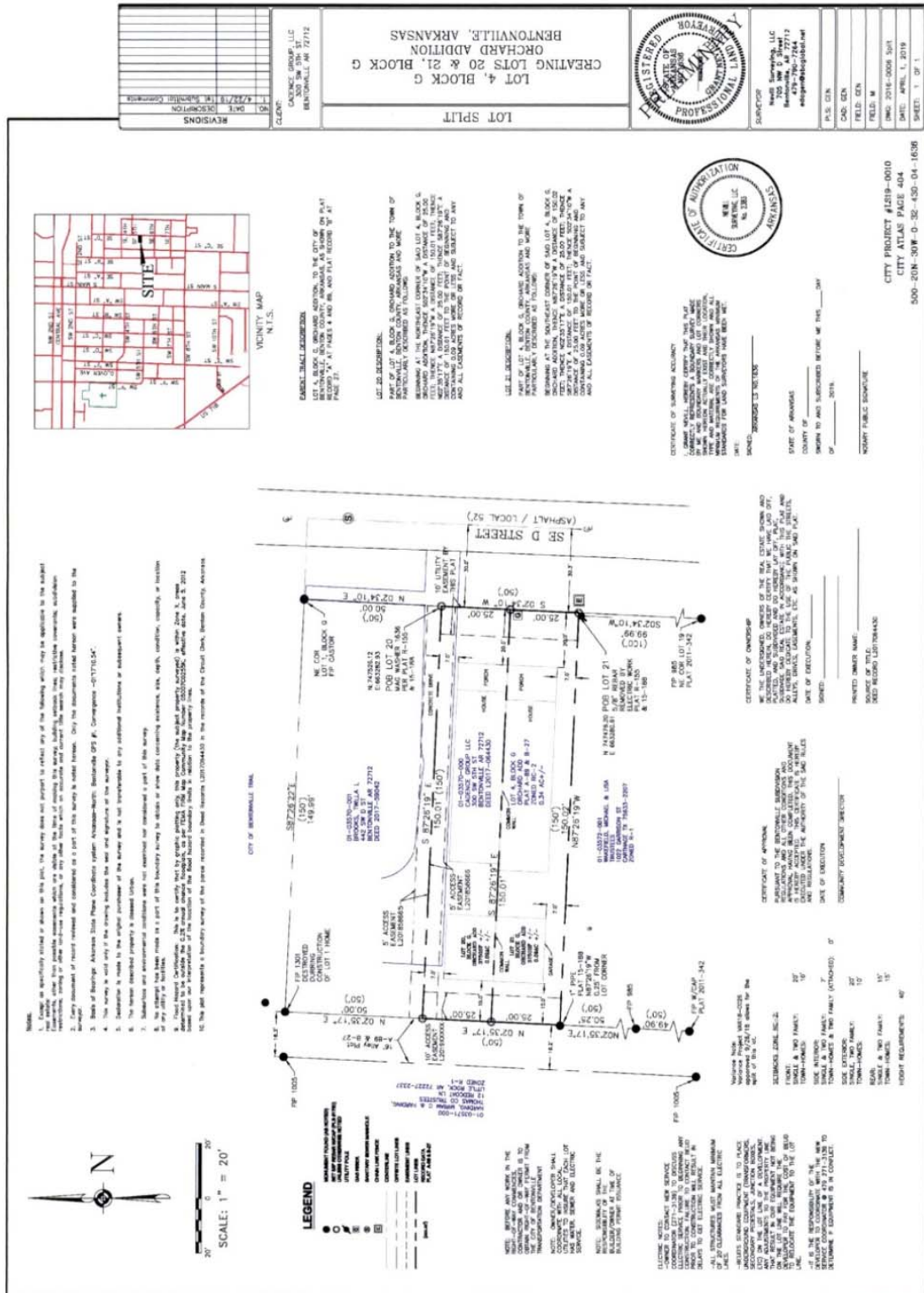
(Please click on this link to access the vicinity map for this item: <http://geo.bentonvillear.com/mgweb/PZpending/>)

Property Line Adjustment: Lots 5-7 Brown Subdivision, Frank & Anna Bray, 706 Bella Vista Road, DN-2, Downtown Medium-Density Residential, (PLA19-0010)

A Property Line Adjustment of Lots 2-4 of Brown Subdivision, creating new Lots 5 (+/- .18 acres), 6 (+/- .18 acres), and 7 (+/- .34 acres). The plat dedicates a 10-foot utility easement based upon a sewer line relocation.

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





NOTES:

1. This survey was conducted in accordance with the provisions of the Arkansas Surveying Act, Chapter 107, A.C.A., and the rules and regulations of the Arkansas Board of Surveying.
2. The survey was conducted in accordance with the provisions of the Arkansas Surveying Act, Chapter 107, A.C.A., and the rules and regulations of the Arkansas Board of Surveying.
3. The survey was conducted in accordance with the provisions of the Arkansas Surveying Act, Chapter 107, A.C.A., and the rules and regulations of the Arkansas Board of Surveying.
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9. The survey was conducted in accordance with the provisions of the Arkansas Surveying Act, Chapter 107, A.C.A., and the rules and regulations of the Arkansas Board of Surveying.
10. The survey was conducted in accordance with the provisions of the Arkansas Surveying Act, Chapter 107, A.C.A., and the rules and regulations of the Arkansas Board of Surveying.

LEGEND:

- 1. Surveyed boundary
- 2. Unsurveyed boundary
- 3. Easement
- 4. Access
- 5. Utility
- 6. Other

CLIENT: CACINCE GROUP, LLC
300 SW 3rd St
Bentonville, AR 72712

PROJECT: LOT 4, BLOCK G
ORCHARD ADDITION
BENTONVILLE, ARKANSAS

LOT SPLIT

REVISIONS:

NO.	DATE	REVISIONS
1	4/27/18	1. Initial Survey
2	5/1/18	2. Final Survey

DATE: 4/27/18

BY: [Signature]

CITY PROJECT #1219-0010
CITY ATLAS PAGE 404
500-20N-30W-0-32-45D-04-1636

ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING A LOT SPLIT OF LOTS 20-21, BLOCK G OF
ORCHARD ADDITION TO THE CITY OF BENTONVILLE, ARKANSAS
(PROJECT NUMBER: LS19-0010).**

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the lot split of Lots 20-21, Block G of Orchard Addition, Benton County, Arkansas, was submitted to the Bentonville Planning Commission on May 6, 2019; and,

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

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

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

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

Section 1: That the lot split of Lots 20-21, Block G of Orchard Addition to the City of Bentonville, Arkansas, should be and the same is hereby accepted and approved for all purposes.

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

PASSED AND APPROVED this _____ day of _____, 2019.

APPROVED:

ATTEST:

MAYOR

CITY CLERK



ORDINANCE NO. _____

AN ORDINANCE ACCEPTING A LOT SPLIT OF LOTS 1-2 OF HAYNIE
ADDITION TO THE CITY OF BENTONVILLE, ARKANSAS (PROJECT
NUMBER: LS19-0011).

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the lot split of Lots 1-2 of Haynie Addition, Benton County, Arkansas, was submitted to the Bentonville Planning Commission on May 7, 2019; and,

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

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

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

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

Section 1: That the lot split of Lots 1-2 of Haynie Addition to the City of Bentonville, Arkansas, should be and the same is hereby accepted and approved for all purposes.

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

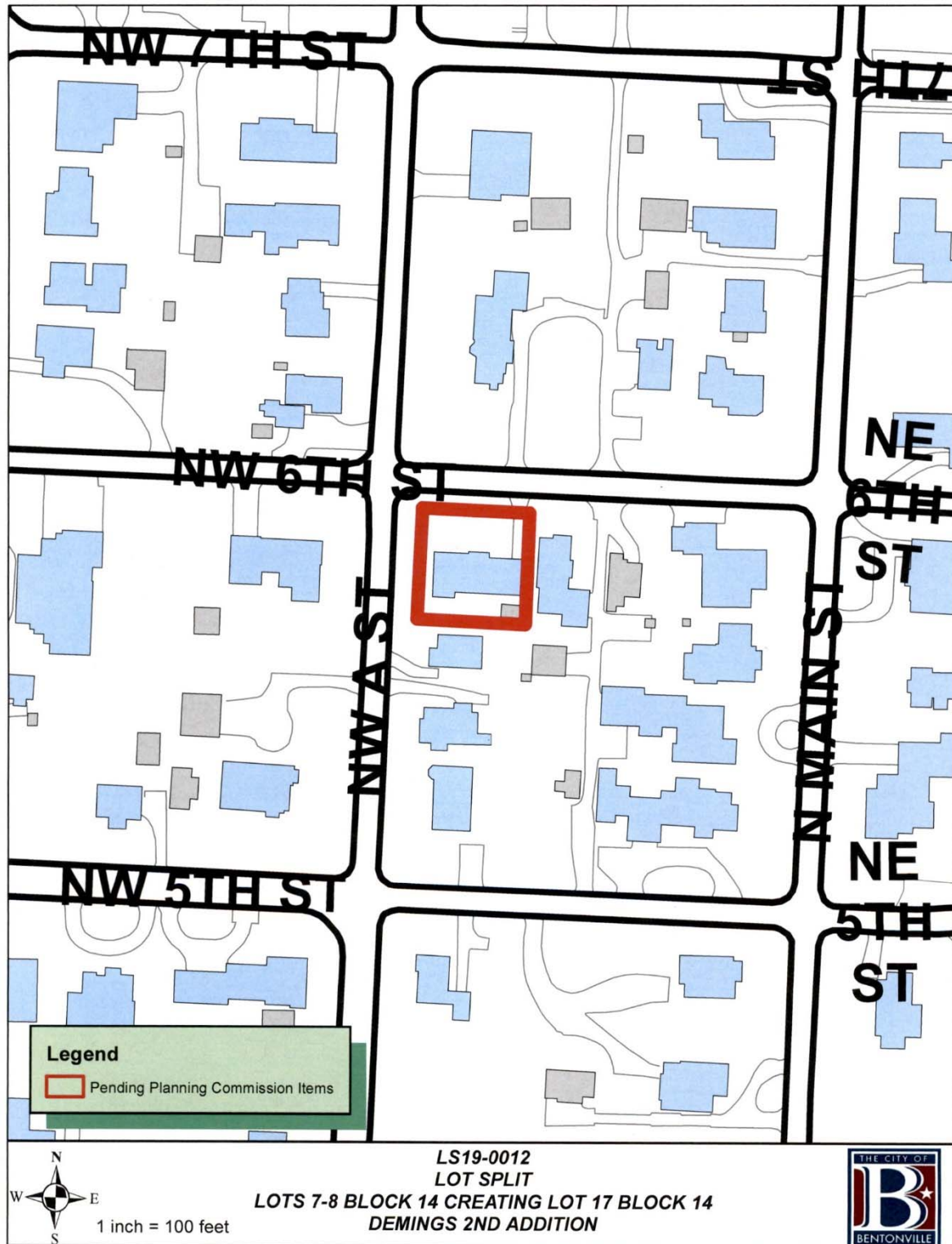
PASSED AND APPROVED this _____ day of _____, 2019.

APPROVED:

MAYOR

ATTEST:

CITY CLERK



ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING A PROPERTY LINE ADJUSTMENT OF LOT
17, BLOCK 14 OF DEMING'S SECOND ADDITION TO THE CITY OF
BENTONVILLE, ARKANSAS (PROJECT NUMBER: LS19-0012).**

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the property line adjustment of Lot 17, Block 14 of Deming's Second Addition of the City of Bentonville, Benton County, Arkansas was submitted to the Bentonville Planning Commission on May 7, 2019; 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 17, Block 14 of Deming's Second Addition to the City of Bentonville, Arkansas, should be and the same is hereby accepted and approved for all purposes.

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

PASSED AND APPROVED this _____ day of _____, 2019.

APPROVED:

ATTEST:

MAYOR

CITY CLERK



ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING A PROPERTY LINE ADJUSTMENT OF LOTS
17-19, BLOCK 15 OF W.A. BURK'S ADDITION TO THE CITY OF
BENTONVILLE, ARKANSAS (PROJECT NUMBER: LS19-0007).**

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the property line adjustment of Lots 17-19, Block 15 of W.A. Burk's Addition of the City of Bentonville, Benton County, Arkansas was submitted to the Bentonville Planning Commission on May 7, 2019; 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 17-19, Block 15 of W.A. Burk's Addition to the City of Bentonville, Arkansas, should be and the same is hereby accepted and approved for all purposes.

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

PASSED AND APPROVED this _____ day of _____, 2019.

APPROVED:

ATTEST:

MAYOR

CITY CLERK



ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING A PROPERTY LINE ADJUSTMENT OF LOT
19, BLOCK 2 OF RAILROAD ADDITION TO THE CITY OF BENTONVILLE,
ARKANSAS (PROJECT NUMBER: PLA19-0006).**

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the property line adjustment of Lot 19, Block 2 of Railroad Addition of the City of Bentonville, Benton County, Arkansas was submitted to the Bentonville Planning Commission on May 7, 2019; 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,

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ATTEST:

MAYOR

CITY CLERK



ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING A PROPERTY LINE ADJUSTMENT OF LOTS
5-7 OF BROWN SUBDIVISION TO THE CITY OF BENTONVILLE,
ARKANSAS (PROJECT NUMBER: PLA19-0010).**

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the property line adjustment of Lots 5-7 of Brown Subdivision of the City of Bentonville, Benton County, Arkansas was submitted to the Bentonville Planning Commission on May 7, 2019; 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 5-7 of Brown Subdivision 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 _____, 2019.

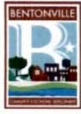
APPROVED:

ATTEST:

MAYOR

CITY CLERK

REZONING STAFF REPORT



Sample & PBR Holdings, LLC

802 SE 3rd Street, 804 SE 3rd Street, & 305 SE G Street

PC Date: 5/7/2019

Reviewer: Ali Worley, Planning Technician

Project Number	RZ19-0010
Applicant / Current Owner	Rodney & Mary Sample Chelsea Sample PBR Holdings, LLC
Site Area	+/- 0.9 acres
Current Zoning	R-1, Single Family Residential
Requested Zoning	DN-4, Downtown Mixed-Use Residential
Future Land Use Map Designation	Low Density Residential

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

Property Description

This property is located south of SE 3rd Street and east of SE G Street. The property is currently zoned R-1, Single Family Residential. Adjacent zonings are R-1, Single Family Residential to the north, east, and south and RC-2, Central Residential-Moderate Density to the west.

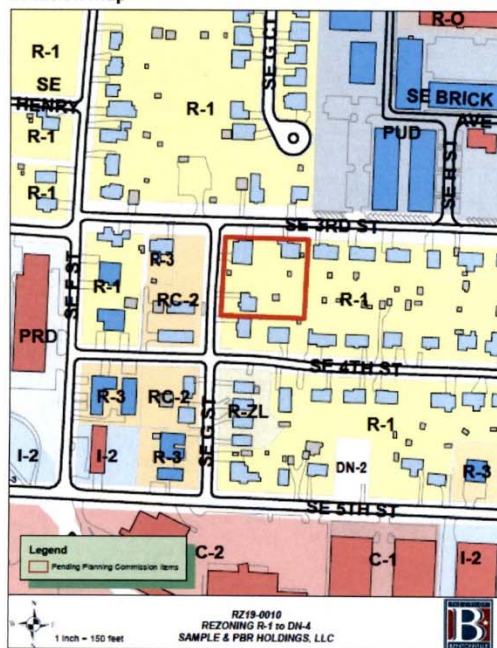
Relationship to the General Plan

The Future Land Use Plan currently depicts this property as Low Density Residential. These areas include detached single-family residential properties and local amenities for residents.

Analysis

While the rezoning does not fit into the Future Land Use Plan, it can potentially be justified due to the adjacent uses of the apartment complex to the north and future proposed large scale development to the west. In addition, the Future Land Use Plan directly west from this area is depicted as High Density Residential.

Location Map



Rezoning Narrative
305 SE G, 804 SE 3rd, 802 SE 3rd

Current Zoning Designation: R1- Single Family Residential

Proposed Zoning Designation: DN4- Downtown Mixed Use Residential

Explanation: 502 SE C Street, LLC proposes to rezone the properties at 305 SE G Street (Parcel # 01-04691-001), 804 SE 3rd Street (Parcel # 01-04689-001 and 802 SE 3rd Street (Parcel #01-04689-000) from R1 to DN 4, in order to develop a real estate project in compliance with DN development standards. The current owners are: 305 SE G- Chelsea Sample, 804 SE 3rd PBR Holdings, LLC, and 802 SE 3rd- Mary K and Rodney Lee Sample who endeavor to sell the property.

Reason to Rezone: The rezone would allow for future owners to build higher density multifamily apartments.

Statement of how the property will relate to surrounding properties: The development proposed for the property will fit in form and scale with the SE side of Downtown Bentonville.

Use: This residential development will fit into the Downtown Core development plan.

Traffic: The additional units should not impact current traffic patterns.

Signage: None proposed.

Appearance: Infill multi-family construction similar to other small multi-family projects on SW side of town.

Water/ Sewer/ Electric: On-Site

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: RZ19-0010).

WHEREAS, Rodney & Mary Sample, Chelsea Sample, and PBR Holdings, 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 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:

LOT'S 9 & 10 BLOCK 4 YOUNG'S ADDITION TO BENTONVILLE, BENTON COUNTY, AR AS SHOWN ON PLAT RECORD BOOK 19 PAGE 205, AND LOT 5 BLOCK 4 YOUNG'S ADDITION TO BENTONVILLE, BENTON COUNTY, AR AS SHOWN ON PLAT RECORD BOOK 14 PAGE 339, RECORDED IN THE BENTON COUNTY CLERK'S OFFICE, BENTONVILLE, ARKANSAS.;
and,

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held May 7, 2019 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 _____, 2019.

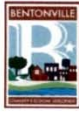
APPROVED:

MAYOR

ATTEST:

CITY CLERK

REZONING STAFF REPORT



Habitat for Humanity of Benton County

301 SW 4th Street

PC Date: 5/7/2019

Reviewer: Ali Worley, Planning Technician

Project Number	RZ19-0011
Applicant / Current Owner	Habitat for Humanity of Benton County 1212 N Walton Blvd Bentonville, AR 72712
Site Area	+/- 0.17 acres
Current Zoning	R-1, Single Family Residential
Requested Zoning	DE, Downtown Edge
Future Land Use Map Designation	Medium Density Residential

Property Description

This property is located south of SW 4th Street and west of SW B Street. The property is currently zoned R-1, Single Family Residential. Adjacent zonings are R-1, Single Family Residential to the north, south, and west and DE, Downtown Edge to the east.

Relationship to the General Plan

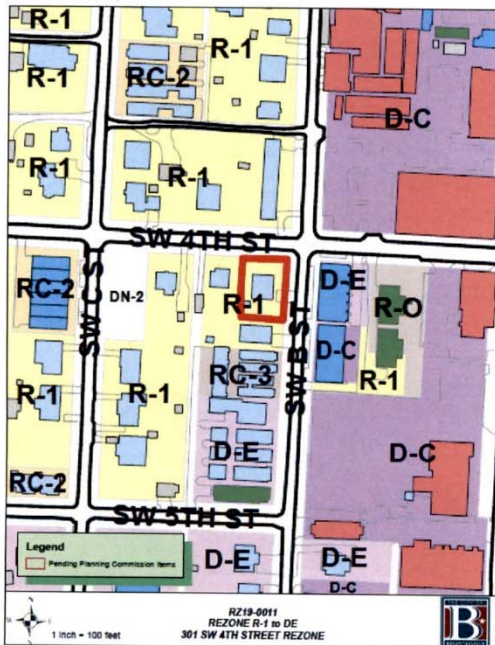
The Future Land Use Plan currently depicts this property as Medium Density Residential. These areas include townhouse or duplex residential properties along with local amenities for residents.

Analysis

The site's general location near downtown and adjacent uses of townhouses to the east and south, as well as existing DE-zoned property to the south and east of the subject property may justify a rezoning to DE, Downtown Edge.

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

Location Map



Rezoning Narrative 301 SW 4th Street

Current Zoning Designation: R1- Single Family Residential

Proposed Zoning Designation: DE-Downtown Edge

Explanation: Newell Development proposes to rezone the property at 301 SW 4th Street (Parcel # 1-03132-000) from R1 to DE, in order to develop a real estate project in compliance with DE development standards. The current owner is Habitat for Humanity of Benton County, Inc (mailing address: 1212 N Walton, Blvd, Bentonville, AR 72712) who endeavors to sell the property to NEWELL Development.

Reason to Rezone: The rezone would allow for Newell Development to build more single-family density units as they have completed to the south on B Street.

Statement of how the property will relate to surrounding properties: The development proposed for the property will fit in form and scale with similar Newell Development properties to the south on B Street.

Use: This residential development will fit into the SW Downtown development plan.

Traffic: The additional units should not impact current traffic patterns.

Signage: None proposed.

Appearance: Similar in style other Newell Development properties on B Street.

Water/ Sewer/ Electric: On-Site

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 DE, DOWNTOWN EDGE (PROJECT NUMBER: RZ19-0011).

WHEREAS, Habitat for Humanity of Benton County, Inc. duly filed a petition with the Planning Commission requesting that the hereinafter described property situated in Benton County, Arkansas, be changed from its present zoning classification of R-1, Single Family Residential to DE, Downtown Edge to be used in accordance with city zoning laws and state laws, which property is described as follows:

LOT 8 BLOCK 2 T.J. HOLLAND'S SUBDIVISION TO BENTONVILLE, BENTON COUNTY, AR AS SHOWN ON PLAT RECORD BOOK 2011 PAGE 414, RECORDED IN THE BENTON COUNTY CLERK'S OFFICE, BENTONVILLE, ARKANSAS.; and,

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held May 7, 2019 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 DE, Downtown Edge.

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 DE, Downtown Edge to be used in accordance with the city zoning laws and state laws.

PASSED AND APPROVED this _____ day of _____, 2019.

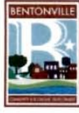
APPROVED:

ATTEST:

MAYOR

CITY CLERK

REZONING STAFF REPORT



Hogwild Development, LLC

2902 SE I Street

PC Date: 5/7/2019

Reviewer: Ali Worley, Planning Technician

Project Number	RZ19-0012
Applicant / Current Owner	Hogwild Development, LLC 833 S East Ave Columbus, KS 66725
Site Area	+/- 4.7 acres
Current Zoning	C-1, Neighborhood Commercial
Requested Zoning	C-2, General Commercial
Future Land Use Map Designation	Residential Estate

Property Description

This property is located south of SE 28th Street and west of SE I Street. The property is currently zoned C-1, Neighborhood Commercial. Adjacent zonings are C-2, General Commercial to the north, A-1, Agricultural to the east and west, and I-1, Light Industrial to the south.

Relationship to the General Plan

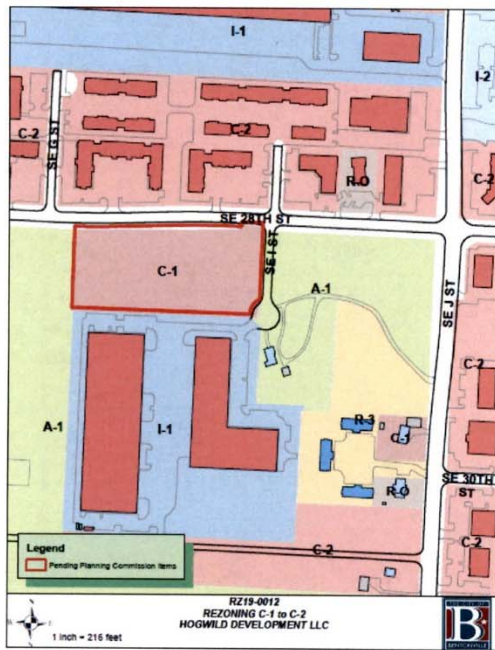
The Future Land Use Plan currently depicts this property as Residential Estate. These areas include large detached single-family residential properties.

Analysis

The site's adjacency to an arterial road (Southeast 28th Street) and surrounding uses, including commercial development to the north and industrial development to the south, may justify a rezoning to C-2, General Commercial.

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

Location Map





March 29, 2019

Planning Commission
City of Bentonville
315 S.W. "A" St.
Bentonville, AR 72712

**Re: Parcel #01-00166-000, Bentonville, AR
Rezoning Request**

Dear Planning Commission:

Hogwild Development, LLC is requesting to rezone parcel 01-00166-000 to provide parking for the existing warehouse structures located at the southwest corner of SE 28th Street and SE J Street. The rezone would allow them to provide the parking by right rather than by Conditional Use. Please find below the narrative addressing the required items under the Rezoning Request Checklist.

- The property is currently zoned C-1, Neighborhood Commercial; the proposed zoning is C-2, General Commercial. The property is owned by Hogwild Development, LLC. The property is currently an open pasture with an abandoned residential structure.
- Hogwild Development would like to rezone for future development inconsistent with the regulations of C-1 zoning and for business uses associated with the property to the south.
- The property is intended for future commercial development which is consistent with surrounding business parks, and applications of neighboring property.
- This property will be utilized for the development of a future commercial building and in conjunction with a parking field for use of existing developments on neighboring property.

2407 SE Cottonwood Street | Ste 1
Bentonville, AR 72712
479.273.2209

Planning Commission
March 29, 2019
Page 2 of 2

- Hogwild expects additional traffic will be generated at the time the property is developed. A traffic study has been ordered and will be provided along with the future LSD submittal.
- Signage will not be installed with this project.
- The property will be developed in accordance with planning code and PC review requirements for aesthetics and landscaping. The decaying and partially demolished structure existing on the property currently will be removed in the interim prior to future development.
- Water is available to the east and south, Sewer is not currently available to the site. However, neither will be required for the proposed parking lot

Sincerely,
Morrison Shipley Engineers, Inc.



Larry Grelle
Project Manager

ORDINANCE NO. _____

AN ORDINANCE CHANGING REAL ESTATE IN THE CITY OF BENTONVILLE, ARKANSAS, FROM ITS PRESENT ZONING CLASSIFICATION OF C-1, NEIGHBORHOOD COMMERCIAL TO C-2, GENERAL COMMERCIAL (PROJECT NUMBER: RZ19-0012).

WHEREAS, Hogwild Development, 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 C-1, Neighborhood Commercial to C-2, General Commercial to be used in accordance with city zoning laws and state laws, which property is described as follows:

PART OF THE NE1/4 OF THE NW1/4 OF SECTION 8, TOWNSHIP 19 NORTH, RANGE 30 WEST, BENTONVILLE, BENTON COUNTY, ARKANSAS AND MORE PRECISELY DESCRIBED AS FOLLOWS: BEGINNING AT THE NW CORNER OF THE NE1/4 OF THE NW1/4 OF SECTION 8; THENCE SOUTH 01°50'39" WEST 44.71 FEET FOR THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHERLY RIGHT-OF-WAY OF 28TH STREET AND A CURVE TO THE LEFT WITH A RADIUS OF 3314.05 FEET, AN ARC LENGTH OF 166.28 FEET AND A CHORD OF NORTH 89°57'05" EAST 166.26 FEET; THENCE NORTH 88°30'51" EAST 186.36 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 3397.75 FEET, AN ARC LENGTH OF 237.21 FEET AND A CHORD OF SOUTH 89°29'09" EAST 237.16 FEET; THENCE SOUTH 87°29'09" EAST 9.63 FEET; THENCE NORTH 02°25'06" EAST 16.99 FEET; THENCE SOUTH 87°34'55" EAST 77.33 FEET; THENCE LEAVING SAID RIGHT-OF-WAY SOUTH 02°17'15" WEST 330.09 FEET; THENCE NORTH 88°05'59" WEST 673.88 FEET; THENCE NORTH 01°50'39" EAST 291.49 FEET TO THE TRUE POINT OF BEGINNING. SUBJECT TO THE RIGHT-OF-WAY OF 28TH STREET ALONG THE NORTH SIDE THEREOF.LESS AND EXCEPT:THOSE LANDS CONVEYED IN BOOK 2015 AT PAGE 21992 AND BEING PART OF THE NE1/4 OF THE NW1/4 OF SECTION 8, TOWNSHIP 19 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT; THENCE SOUTH 02°22'51" WEST 330.00 FEET ALONG THE WEST LINE OF SAID 40 ACRE TRACT TO A SET 1/2" IRON REBAR; THENCE SOUTH 87°44'24" EAST 640.00 FEET TO A SET 1/2" IRON REBAR ON THE WEST

RIGHT-OF-WAY LINE OF A DEDICATED ROADWAY AND UTILITY EASEMENT FOR THE TRUE POINT OF BEGINNING, SAID POINT BEING ON A 60 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST; THENCE NORTHEASTERLY 67.49 FEET ALONG SAID CURVE AND RIGHT-OF-WAY LINE, THE CHORD FOR WHICH BEING NORTH 34°28'58" EAST 63.99 FEET, TO A POINT ON THE EAST BOUNDARY OF A TRACT OF LAND DESIGNATED AS PARCEL NUMBER 01-00166-000 AND DESCRIBED IN WARRANTY DEED 2005 AT PAGE 9441 OF THE LAND RECORDS OF BENTON COUNTY, ARKANSAS; THENCE LEAVING SAID RIGHT-OF-WAY LINE SOUTH 02°22'51" WEST 54.13 FEET TO THE SOUTHEAST CORNER OF SAID TRACT OF LAND DESCRIBED IN WARRANTY DEED 2005 AT PAGE 9441; THENCE NORTH 87°44'24" WEST 34.00 FEET ALONG THE SOUTH LINE OF SAID TRACT DESCRIBED IN WARRANTY DEED 2005 AT PAGE 9441 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 May 7, 2019 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 C-1, Neighborhood Commercial to C-2, General Commercial.

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

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

PASSED AND APPROVED this _____ day of _____, 2019.

APPROVED:

ATTEST:

MAYOR

CITY CLERK

LOT SPLIT STAFF REPORT



Lots 31 & 32, Block 24, Demings Second Addition

107 NE 7th Street

PC Date: 5/7/2019

Reviewer: Tyler Overstreet, Planner

Project Number	LS19-0009
Applicant / Current Owner	Christopher and Jenny Miller 103 NE 7 th Street Bentonville, AR 72712
Site Area	+/- .56 acres
Current Zoning	R-1, Single Family Residential
Future Land Use Map Designation	Medium-Density Residential

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

Property Description

This .56-acre property is located northwest of the corner of NE A Street and NE 7th Street. The property is currently zoned R-1, Single Single-Family Residential. The Future Land Use Plan depicts the property as Medium-Density Residential.

Project Details

A Property Line Adjustment of Lots 18 and 20, Block 24, of Deming's Second Addition, creating new Lots 31 (+/- .31 acres) & 32 (+/- .25 acres) of Deming's Second Addition. The plat dedicates additional right-of-way along NE A Street.

Waivers

No waivers requested

Conclusion

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

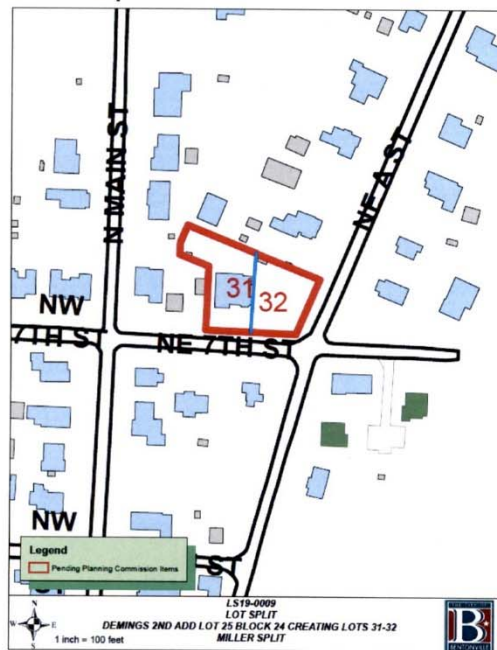
Standard Conditions of Approval

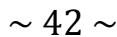
1. Provide a digital copy of the plat.
2. Address all technical review comments prior to filing or requesting a building permit.

NOTES

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

Location Map





ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING A LOT SPLIT OF LOTS 31-32, BLOCK 24 OF
DEMING'S SECOND ADDITION TO THE CITY OF BENTONVILLE,
ARKANSAS (PROJECT NUMBER: LS19-0009).**

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the lot split of Lots 31-32, Block 24 of Deming's Second Addition, Benton County, Arkansas, was submitted to the Bentonville Planning Commission on May 7, 2019; and,

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

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

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

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

Section 1: That the lot split of Lots 31-32, Block 24 of Deming's Second Addition to the City of Bentonville, Arkansas, should be and the same is hereby accepted and approved for all purposes.

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

PASSED AND APPROVED this _____ day of _____, 2019.

APPROVED:

ATTEST:

MAYOR

CITY CLERK

FINAL PLAT STAFF REPORT



Red Barn

1605 NW A Street

PC Date: 5/7/2019

Reviewer: Tyler Overstreet, Planner

Project Number	FP19-0002
Applicant / Current Owner	Red Barn Development JV, LLC PO Box 1860 Bentonville, AR 72712
Site Area	± 44 acres
Current Zoning	PRD, Planned Residential Development
Future Land Use Map Designation	Residential Estates (RE)
No. of Lots	4
Subdivision Name	Red Barn Subdivision

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

Property Description

This property is located north of the intersection of NW A Street and Tiger Boulevard. The approximately 44-acre tract is currently zoned PRD, Planned Residential Development.

Project Details

Final Plat establishing a multi-family, PRD subdivision known as Red Barn Subdivision. The plat dedicates a public street to be known as NW Barn Avenue, as well as multiple utility easements of varying widths.

All non-bondable items and guarantees of improvements must be complete and a final inspection performed and approved prior to final plat approval.

Waivers

No waivers requested.

Conclusion

In conclusion, this final plat does meet the minimum requirements of the subdivision regulations.

Standard Conditions of Approval

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

Location Map

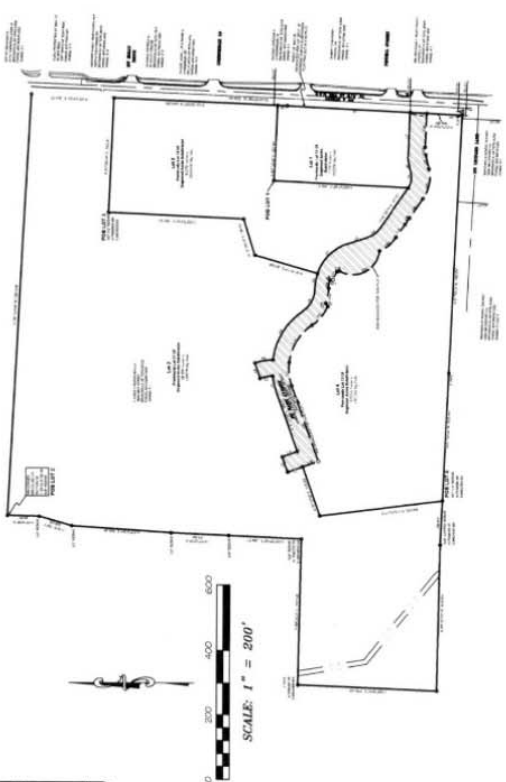


”FINAL PLAT RED BARN SUBDIVISION” DOGWOOD ACRES LOTS 10, 11, 12, 13 CREATING LOTS 1, 2, 3, 4



VICINITY MAP - N.T.S.

PARENT PLAT DESCRIPTION: DOGWOOD ACRES LOTS 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

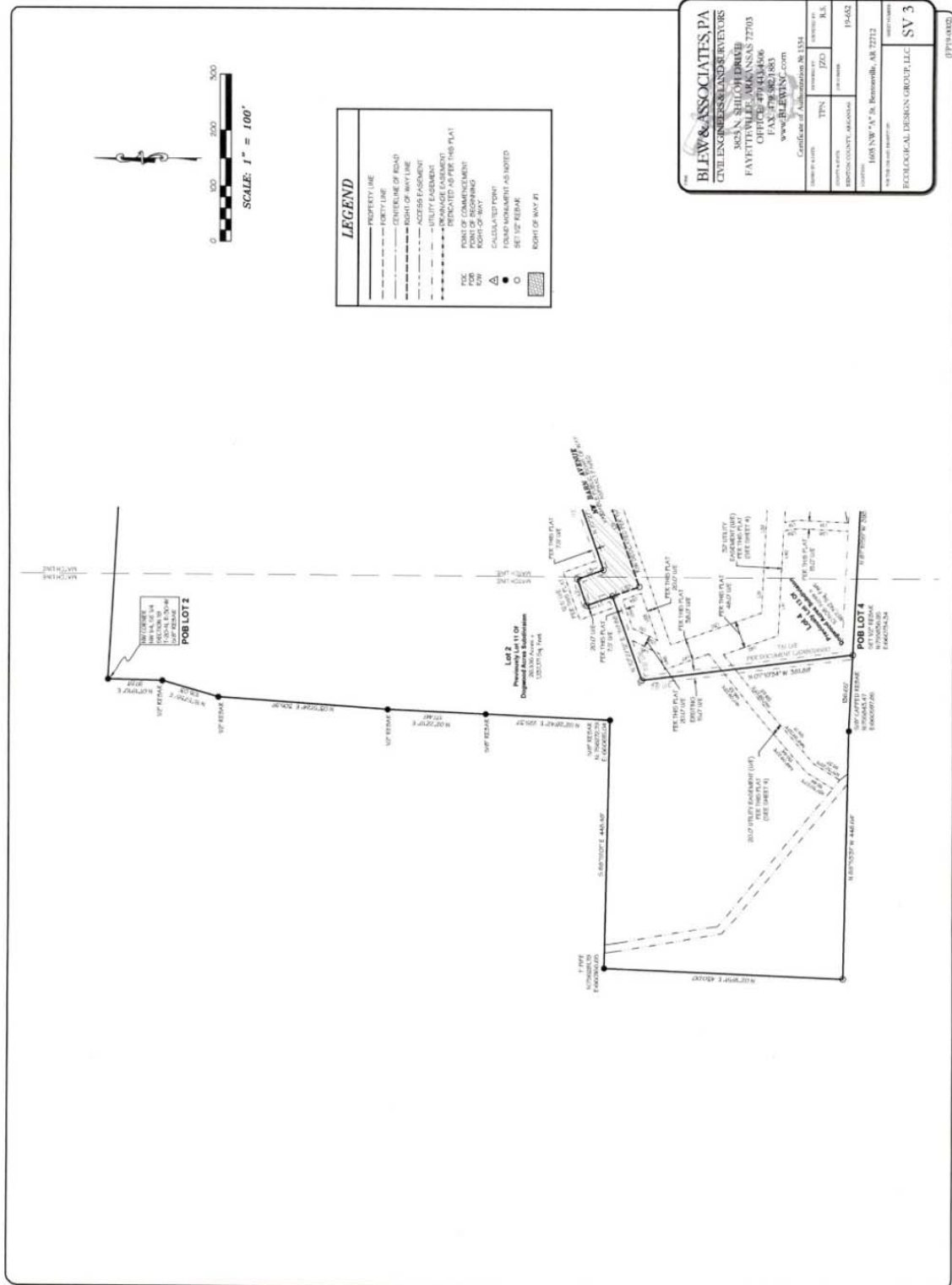


NOTES:
 1. THE PLAT IS A PRELIMINARY PLAT AND IS NOT TO BE USED FOR ANY PURPOSES OTHER THAN FOR THE PURPOSES OF THE PLAT.
 2. THE PLAT IS A PRELIMINARY PLAT AND IS NOT TO BE USED FOR ANY PURPOSES OTHER THAN FOR THE PURPOSES OF THE PLAT.
 3. THE PLAT IS A PRELIMINARY PLAT AND IS NOT TO BE USED FOR ANY PURPOSES OTHER THAN FOR THE PURPOSES OF THE PLAT.

LINE	BEARING	DISTANCE	REMARKS
1	N 0° 00' 00" W	10.00	LINE 1
2	S 0° 00' 00" W	10.00	LINE 2
3	N 0° 00' 00" W	10.00	LINE 3
4	S 0° 00' 00" W	10.00	LINE 4
5	N 0° 00' 00" W	10.00	LINE 5
6	S 0° 00' 00" W	10.00	LINE 6
7	N 0° 00' 00" W	10.00	LINE 7
8	S 0° 00' 00" W	10.00	LINE 8
9	N 0° 00' 00" W	10.00	LINE 9
10	S 0° 00' 00" W	10.00	LINE 10
11	N 0° 00' 00" W	10.00	LINE 11
12	S 0° 00' 00" W	10.00	LINE 12
13	N 0° 00' 00" W	10.00	LINE 13
14	S 0° 00' 00" W	10.00	LINE 14
15	N 0° 00' 00" W	10.00	LINE 15
16	S 0° 00' 00" W	10.00	LINE 16
17	N 0° 00' 00" W	10.00	LINE 17
18	S 0° 00' 00" W	10.00	LINE 18
19	N 0° 00' 00" W	10.00	LINE 19
20	S 0° 00' 00" W	10.00	LINE 20
21	N 0° 00' 00" W	10.00	LINE 21
22	S 0° 00' 00" W	10.00	LINE 22
23	N 0° 00' 00" W	10.00	LINE 23
24	S 0° 00' 00" W	10.00	LINE 24
25	N 0° 00' 00" W	10.00	LINE 25
26	S 0° 00' 00" W	10.00	LINE 26
27	N 0° 00' 00" W	10.00	LINE 27
28	S 0° 00' 00" W	10.00	LINE 28
29	N 0° 00' 00" W	10.00	LINE 29
30	S 0° 00' 00" W	10.00	LINE 30
31	N 0° 00' 00" W	10.00	LINE 31
32	S 0° 00' 00" W	10.00	LINE 32
33	N 0° 00' 00" W	10.00	LINE 33
34	S 0° 00' 00" W	10.00	LINE 34
35	N 0° 00' 00" W	10.00	LINE 35
36	S 0° 00' 00" W	10.00	LINE 36
37	N 0° 00' 00" W	10.00	LINE 37
38	S 0° 00' 00" W	10.00	LINE 38
39	N 0° 00' 00" W	10.00	LINE 39
40	S 0° 00' 00" W	10.00	LINE 40
41	N 0° 00' 00" W	10.00	LINE 41
42	S 0° 00' 00" W	10.00	LINE 42
43	N 0° 00' 00" W	10.00	LINE 43
44	S 0° 00' 00" W	10.00	LINE 44
45	N 0° 00' 00" W	10.00	LINE 45
46	S 0° 00' 00" W	10.00	LINE 46
47	N 0° 00' 00" W	10.00	LINE 47
48	S 0° 00' 00" W	10.00	LINE 48
49	N 0° 00' 00" W	10.00	LINE 49
50	S 0° 00' 00" W	10.00	LINE 50
51	N 0° 00' 00" W	10.00	LINE 51
52	S 0° 00' 00" W	10.00	LINE 52
53	N 0° 00' 00" W	10.00	LINE 53
54	S 0° 00' 00" W	10.00	LINE 54
55	N 0° 00' 00" W	10.00	LINE 55
56	S 0° 00' 00" W	10.00	LINE 56
57	N 0° 00' 00" W	10.00	LINE 57
58	S 0° 00' 00" W	10.00	LINE 58
59	N 0° 00' 00" W	10.00	LINE 59
60	S 0° 00' 00" W	10.00	LINE 60
61	N 0° 00' 00" W	10.00	LINE 61
62	S 0° 00' 00" W	10.00	LINE 62
63	N 0° 00' 00" W	10.00	LINE 63
64	S 0° 00' 00" W	10.00	LINE 64
65	N 0° 00' 00" W	10.00	LINE 65
66	S 0° 00' 00" W	10.00	LINE 66
67	N 0° 00' 00" W	10.00	LINE 67
68	S 0° 00' 00" W	10.00	LINE 68
69	N 0° 00' 00" W	10.00	LINE 69
70	S 0° 00' 00" W	10.00	LINE 70
71	N 0° 00' 00" W	10.00	LINE 71
72	S 0° 00' 00" W	10.00	LINE 72
73	N 0° 00' 00" W	10.00	LINE 73
74	S 0° 00' 00" W	10.00	LINE 74
75	N 0° 00' 00" W	10.00	LINE 75
76	S 0° 00' 00" W	10.00	LINE 76
77	N 0° 00' 00" W	10.00	LINE 77
78	S 0° 00' 00" W	10.00	LINE 78
79	N 0° 00' 00" W	10.00	LINE 79
80	S 0° 00' 00" W	10.00	LINE 80
81	N 0° 00' 00" W	10.00	LINE 81
82	S 0° 00' 00" W	10.00	LINE 82
83	N 0° 00' 00" W	10.00	LINE 83
84	S 0° 00' 00" W	10.00	LINE 84
85	N 0° 00' 00" W	10.00	LINE 85
86	S 0° 00' 00" W	10.00	LINE 86
87	N 0° 00' 00" W	10.00	LINE 87
88	S 0° 00' 00" W	10.00	LINE 88
89	N 0° 00' 00" W	10.00	LINE 89
90	S 0° 00' 00" W	10.00	LINE 90
91	N 0° 00' 00" W	10.00	LINE 91
92	S 0° 00' 00" W	10.00	LINE 92
93	N 0° 00' 00" W	10.00	LINE 93
94	S 0° 00' 00" W	10.00	LINE 94
95	N 0° 00' 00" W	10.00	LINE 95
96	S 0° 00' 00" W	10.00	LINE 96
97	N 0° 00' 00" W	10.00	LINE 97
98	S 0° 00' 00" W	10.00	LINE 98
99	N 0° 00' 00" W	10.00	LINE 99
100	S 0° 00' 00" W	10.00	LINE 100

LEGEND
 — PROPERTY LINE
 — CENTERLINE OF ROAD
 — RIGHT-OF-WAY LINE
 — ACCESS EASEMENT
 — UTILITY EASEMENT
 — POINT OF BEGINNING
 — CALCULATED POINT
 — SET LOT MARKER
 — RIGHT-OF-WAY #1

LINE	BEARING	DISTANCE	REMARKS
1	N 0° 00' 00" W	10.00	LINE 1
2	S 0° 00' 00" W	10.00	LINE 2
3	N 0° 00' 00" W	10.00	LINE 3
4	S 0° 00' 00" W	10.00	LINE 4
5	N 0° 00' 00" W	10.00	LINE 5
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17	N 0° 00' 00" W	10.00	LINE 17
18	S 0° 00' 00" W	10.00	LINE 18
19	N 0° 00' 00" W	10.00	LINE 19
20	S 0° 00' 00" W	10.00	LINE 20
21	N 0° 00' 00" W	10.00	LINE 21
22	S 0° 00' 00" W	10.00	LINE 22
23	N 0° 00' 00" W	10.00	LINE 23
24	S 0° 00' 00" W	10.00	LINE 24
25	N 0° 00' 00" W	10.00	LINE 25
26	S 0° 00' 00" W	10.00	LINE 26
27	N 0° 00' 00" W	10.00	LINE 27
28	S 0° 00' 00" W	10.00	LINE 28
29	N 0° 00' 00" W	10.00	LINE 29
30	S 0° 00' 00" W	10.00	LINE 30
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32	S 0° 00' 00" W	10.00	LINE 32
33	N 0° 00' 00" W	10.00	LINE 33
34	S 0° 00' 00" W	10.00	LINE 34
35	N 0° 00' 00" W	10.00	LINE 35
36	S 0° 00' 00" W	10.00	LINE 36
37	N 0° 00' 00" W	10.00	LINE 37
38	S 0° 00' 00" W	10.00	LINE 38



BLEW & ASSOCIATES, PA
 CIVIL ENGINEERS & LAND SURVEYORS
 3025 N. SHILOH DRIVE
 FAYETTEVILLE, ARKANSAS 72703
 OFFICE: 479-431-4466
 FAX: 479-582-1883
 www.bleweng.com

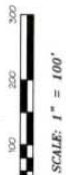
Certificate of Administration No. 1534

Surveyor's Name	TPN	JDG	R.L.
Surveyor's No.	19462		
Surveyor's Address	1005 NW 1/4 N. 38, Bensenville, AR 72712		
Surveyor's Phone	479-431-4466		

RECOGNITION DESIGN GROUP, LLC SV 3

(JTS-MKS)

LEGEND

[illegible]

Curve #	Length	Radius	Delta
13	323.432	125.000	047.3313
12	313.560	76.000	075.3378
25	36.342	111.046	052.4062
24	3.746	67.369	040.3667
15	31.636	112.555	059.3368
16	35.144	107.555	065.3467

Line Labels	
Line #	Length
1.44	2047.37 20.4737
1.45	2047.38 20.4738
1.46	2047.39 20.4739
1.47	2047.40 20.4740
1.48	2047.41 20.4741
1.49	2047.42 20.4742
1.50	2047.43 20.4743
1.51	2047.44 20.4744
1.52	2047.45 20.4745
1.53	2047.46 20.4746
1.54	2047.47 20.4747
1.55	2047.48 20.4748
1.56	2047.49 20.4749
1.57	2047.50 20.4750
1.58	2047.51 20.4751
1.59	2047.52 20.4752
1.60	2047.53 20.4753
1.61	2047.54 20.4754
1.62	2047.55 20.4755
1.63	2047.56 20.4756
1.64	2047.57 20.4757
1.65	2047.58 20.4758
1.66	2047.59 20.4759
1.67	2047.60 20.4760
1.68	2047.61 20.4761
1.69	2047.62 20.4762
1.70	2047.63 20.4763
1.71	2047.64 20.4764
1.72	2047.65 20.4765
1.73	2047.66 20.4766
1.74	2047.67 20.4767
1.75	2047.68 20.4768
1.76	2047.69 20.4769
1.77	2047.70 20.4770
1.78	2047.71 20.4771
1.79	2047.72 20.4772
1.80	2047.73 20.4773
1.81	2047.74 20.4774
1.82	2047.75 20.4775
1.83	2047.76 20.4776
1.84	2047.77 20.4777
1.85	2047.78 20.4778
1.86	2047.79 20.4779
1.87	2047.80 20.4780
1.88	2047.81 20.4781
1.89	2047.82 20.4782
1.90	2047.83 20.4783
1.91	2047.84 20.4784
1.92	2047.85 20.4785
1.93	2047.86 20.4786
1.94	2047.87 20.4787
1.95	2047.88 20.4788
1.96	2047.89 20.4789
1.97	2047.90 20.4790
1.98	2047.91 20.4791
1.99	2047.92 20.4792
2.00	2047.93 20.4793
2.01	2047.94 20.4794
2.02	2047.95 20.4795
2.03	2047.96 20.4796
2.04	2047.97 20.4797
2.05	2047.98 20.4798
2.06	2047.99 20.4799
2.07	2048.00 20.4800
2.08	2048.01 20.4801
2.09	2048.02 20.4802
2.10	2048.03 20.4803
2.11	2048.04 20.4804
2.12	2048.05 20.4805
2.13	2048.06 20.4806
2.14	2048.07 20.4807
2.15	2048.08 20.4808
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2.19	2048.12 20.4812
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2.31	2048.24 20.4824
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2.37	2048.30 20.4830
2.38	2048.31 20.4831
2.39	2048.32 20.4832
2.40	2048.33 20.4833
2.41	2048.34 20.4834
2.42	2048.35 20.4835
2.43	2048.36 20.4836
2.44	2048.37 20.4837
2.45	2048.38 20.4838
2.46	2048.39 20.4839
2.47	2048.40 20.4840
2.48	2048.41 20.4841
2.49	2048.42 20.4842
2.50	2048.43 20.4843
2.51	2048.44 20.4844
2.52	2048.45 20.4845
2.53	2048.46 20.4846
2.54	2048.47 20.4847
2.55	2048.48 20.4848
2.56	2048.49 20.4849
2.57	2048.50 20.4850
2.58	2048.51 20.4851
2.59	2048

[illegible][illegible][illegible]

BLEW & ASSOCIATES, PA					
CIVIL ENGINEERS AND LAND SURVEYORS					
3025 N. SHILOH DRIVE FAYETTEVILLE, AR 72703 OFFICE TEL: 479-484-1500 FAX: 479-862-1883 www.BLEWPA.com					
Certificate of Authorization No. 1514					
STATUS OF FIRM	TYPN	CERTIFICATION R.L.	J203	EXPIRATION DATE	19-03-2007
REGISTERED ADDRESS	BENTON COUNTY, ARKANSAS			PROJECT NO.	19-03-2007
1605 NW "S" St., Bentonville, AR 72712				PROJECT NAME	SV 4
ISSUED BY THE BOARD OF PROFESSIONAL ENGINEERING AND SURVEYING				RECOGNIZED DESIGN GROUP, LLC	

ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING A FINAL PLAT OF RED BARN TO THE
CITY OF BENTONVILLE, ARKANSAS (PROJECT NUMBER:
FP19-0002).**

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the final plat of Red Barn, to the City of Bentonville, Benton County, Arkansas, was submitted to the Bentonville Planning Commission on May 7, 2019; and,

WHEREAS, said final plat is attached hereto as Exhibit "A"; and,

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

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

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

Section 1: That the final plat of Red Barn 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 final plat by certifying said acceptance on the approved final plat.

PASSED AND APPROVED this _____ day of _____, 2019.

APPROVED:

ATTEST:

MAYOR

CITY CLERK



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

AGENDA FORM

CITY COUNCIL MEETING OF:

May 14, 2019

Submitted by:

Ellen Norvell

Department

Administration

Phone

271-3191

ACTION REQUIRED:

A reconciliation change order with Central Square Technologies for the TrakIt software, reducing the contract amount by \$12,280.00.

COST TO CITY:

Cost of this Request: (\$12,280)

Additional Budget Amount

☐ One time amount

☐ Continuing O and M

Previously Budgeted	\$	307,680
Funds Expended to Date		295,400
Remaining Budget		12,280
Budget Adjustment		
Remaining After Adjustment	\$	12,280

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: Mayor Stephanie Orman and Bentonville City Council
From: Ellen Norvell, Interim Community Development Director
CC Date: May 14, 2019
Re: Reconciliation Change Order for Trakit Software



The implementation of the Trakit Software is now complete. A reconciliation change order is needed to adjust the services in the contract with CentralSquare Technologies, the provider of Trakit.

The attached change order from CentralSquare Technologies identifies three services that the city deleted and one service added to address the new fees adopted last summer. The difference between the deleted services and the added service is -\$12,280.

Original contract amount:	\$307,680
Deleted contract items:	(\$17,400)
Added contract items:	<u>\$ 5,120</u>
New contract amount:	\$295,400

Reconciliation change order: (\$12,280)

Staff recommends that the Mayor and City Council approve the reconciliation change order to finalize the Trakit software project.

Please contact Annette Brightwell with any questions or concerns regarding the project or change order at 479-271-3125 or abrightwell@bentonvillear.com.



CENTRAL SQUARE

TECHNOLOGIES

CUSTOMER CHANGE ORDER FORM

The following form is to be used when a change has been requested to the contract or statement of work. The following will be prepared by the CentralSquare Technologies Project Manager and sent to the Customer for signatures. Completed form will be forwarded to CentralSquare Technologies Accounting. If required, an amendment will be drafted through Contract Services for delivery to Customer.

Contract Change Request

Customer:	Bentonville, AR	Customer Contact:	
CentralSquare Technologies Project Manager:	Joshua Twitchell	Name	Annette Brightwell
CentralSquare Technologies Account Executive:	Tracy Bierman	Title	Administrative Technician
		Address	305 SW A St Bentonville, Arkansas 72712
		Email	abrightwell@bentonvillear.com
		Phone	(479) - 271 - 6897
		Fax	(479) - 271 - 5906

PRODUCTS/SERVICES DELETED:

The following have been requested to be terminated or deleted. An amendment will be required.

Qty	Item #	CentralSquare Technologies Applications, Hardware, 3rd Party Software, Services	Agreement/Quote #	Reason for Request	Date
37	9	Development 9 – When printing to email, default "TO" to a defined contact	160314	Client requested as customization, but it ended up being a general release item.	02/05/2019
12	7	Development 7 – Quest's Imaging Link	160314	Client requested as customization, but it ended up being a general release item.	02/05/2019
38	8	Development 8 – AEC TRAK update out to linked contacts in active records	160314	Client requested as a customization but is going to be a general release item.	02/05/2019

PRODUCTS /SERVICES ADDED:

The following have been requested to be added: (please include Quote showing descriptions, pricing).
An Amendment, Add-Quote or Supplement will be required.

Qty	Item #	CentralSquare Technologies Applications, Hardware, 3rd Party Software, Services	Agreement/Quote #	Reason for Request	Date
32	1	TRAKIT Community Consulting – 32 Hours of Fee Adjustments	160314	Client requested that we perform 32 hours of fee adjustments in lieu of one of the funded development items.	02/05/2019



CENTRAL SQUARE

TECHNOLOGIES

ALL CREDITS WILL BE APPLIED TO FUTURE LICENSED PROGRAMS ONLY.

For CentralSquare Technologies Finance Use Only: Finance Amendment Information Form (To be completed by Accounting for approvals)

Qty	Licensed Program(s)/ Services:	Billed	Paid	Recognized	Revenue Impact	Finance Contact

ADDITIONAL COMMENTS:

CentralSquare
Technologies
Approval

Director of Services

Accounting

Contracts Services

Authorization:

This Change Order is considered valid once both parties have signed this document. Its effective date shall be the most recent date of the two signatures.

Customer Authorized Signature			
CentralSquare Technologies Project Manager	Joshua Twitchell		02/05/2019
	Printed Name	Signature	Date



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

AGENDA FORM

CITY COUNCIL MEETING OF:

May 14, 2019

Submitted by:

Ellen Norvell

Department

Planning

Phone

271-3122

ACTION REQUIRED:

A budget adjustment in the amount of \$9,680.00 for the professional services agreement with Central Square Technologies for an on-site Business Process Review (BPR).

COST TO CITY:

Cost of this Request: \$9,680

Additional Budget Amount

☐ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	9,680
Remaining After Adjustment	\$ 9,680

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





Budget Adjustment #
(Assigned by Admin)

Department: Building Inspection

Date of Request: May 14, 2019

Acct Number	Account Name	Revenue + (-)	Expense + (-)	Fund Balance + (-)
010-2050-432-10	Professional Services		\$ 9,680.00	\$ (9,680.00)
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
	Totals	\$ -	\$ 9,680.00	\$ (9,680.00)

Justification:

For the agreement with Central Square Technologies for the Business Process Review (BPR).

FOR ACTING USE ONLY

Council Action: Approved Disapproved Other _____

Date: _____ Date entered: _____ By: _____

Revised 5/1/07

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

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PLEASE RECYCLE





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

AGENDA FORM

CITY COUNCIL MEETING OF:

May 14, 2019

Submitted by:

Ellen Norvell

Department

Engineering

Phone

271-3191

ACTION REQUIRED:

Public hearing and ordinance vacating a utility easement requested for Lot 2 of Straube Business Park, to the City of Bentonville, Arkansas, Benton County, Arkansas.

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.

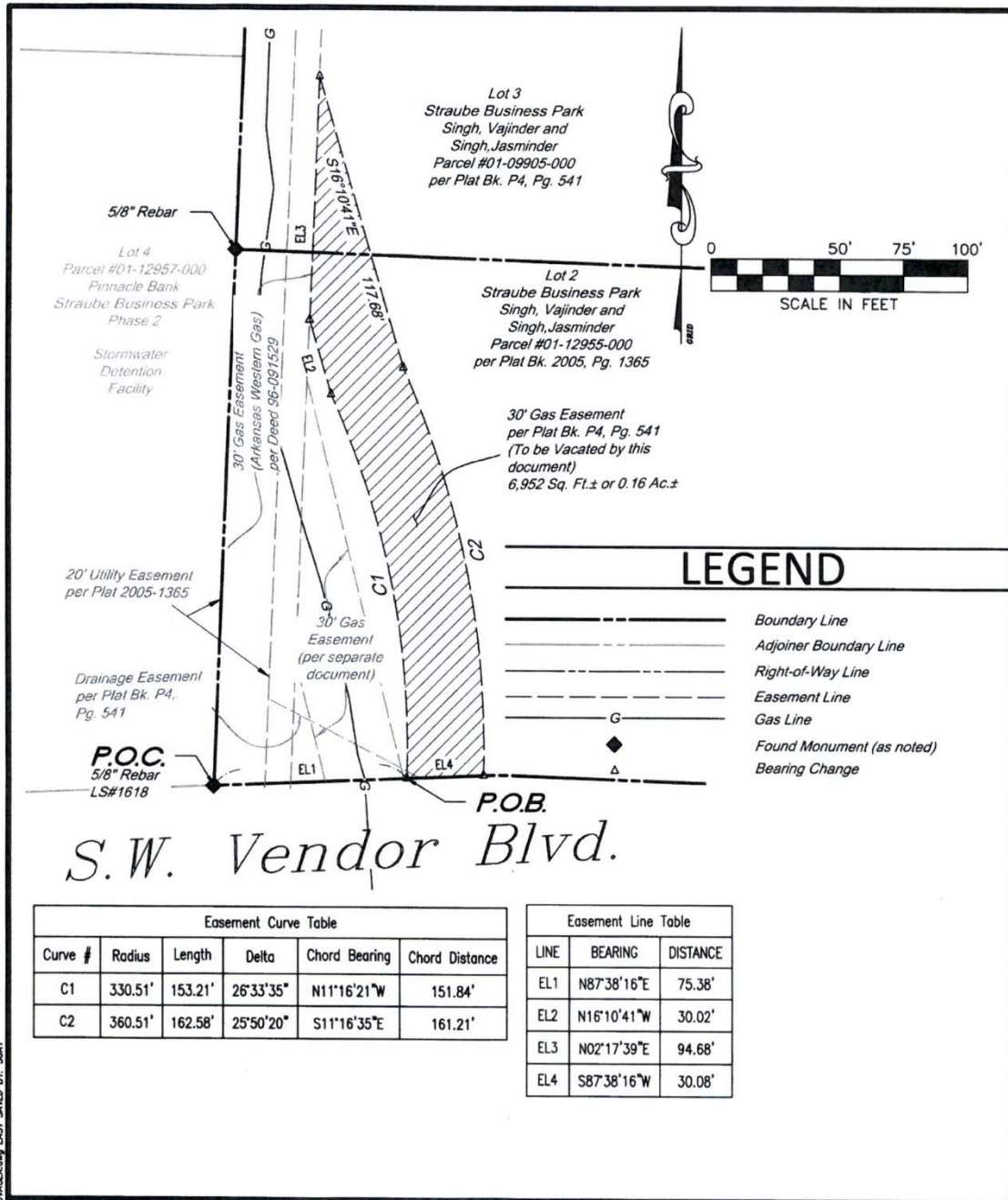
117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

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PLEASE RECYCLE





JOB # 30693 DRAWING: 30693.VACEXHIBIT.dwg LAST SAVED BY: SGAY



Engineering Associates, Inc.

ENGINEERS • PLANNERS • SURVEYORS
LANDSCAPE ARCHITECTS • ENVIRONMENTAL SCIENTISTS

3108 SW REGENCY PKWY
BENTONVILLE, AR 72712 (479) 273-9472
CORPORATE OFFICE TBPLS FIRM: #10194234

3030 LBJ FREEWAY
DALLAS, TX 75234 (972) 488-3737
DALLAS OFFICE TBPLS FIRM: #10031500

Vajinder Singh

30693	11-1-18	DRG	SWG	ELI	DRG
CEI PROJECT NO.	DATE	PLS	DRW	FLD	CHK'R

Vacation Exhibit
SW Vendor Blvd.
Bentonville, Benton County, Arkansas

REV DATE	SHEET NO.
11/1/18	1 OF 1
REV 0	

© 2018 CEI ENGINEERING ASSOCIATES, INC.

ORDINANCE NO. _____

**AN ORDINANCE VACATING A UTILITY EASEMENT LOCATED AT LOT 2
OF STRAUBE BUSINESS PARK TO THE CITY OF BENTONVILLE, ARKANSAS,
BENTON COUNTY ARKANSAS.**

WHEREAS, a petition was filed CEI Engineering with the City Council of the City of Bentonville, Arkansas, asking the City Council to vacate a utility easement located in the City of Bentonville, Benton County, Arkansas, which portion is more particularly described as follows:

A portion of a 30' Gas Easement recorded in Plat Book P4, Page 541 located in Lot 2 of Straube Business Park recorded in Plat Book 2005, Page 1365 and in Lot 3 Straube Business Park recorded in Plat Book P4, Page 541 is to be vacated being described as follows:

COMMENCING from a 5/8-inch rebar with a cap stamped LS #1618 being the Southwest corner of said Lot 2;

THENCE along the South line of said Lot 2, North 87°38'16 East a distance of 75.38 feet to the POINT OF BEGINNING;

THENCE leaving said South line along a curve to the left with a radius of 330.51 feet and having a length of 153.21 feet, with a chord bearing of North 11°16'21" West through a distance of 151.84 feet;

THENCE North 16°10'41" West a distance of 30.02 feet to the East line of a 30 foot gas easement recorded in Deed Book 96, Page 091529;

THENCE along said East line, North 02°17'39" East a distance of 94.68 feet;

THENCE leaving said East line, South 16°10'41" East a distance of 117.68 feet;

THENCE along a curve to the right with a radius of 360.51 feet and having a length of 162.58 feet, with a chord bearing of South 11°16'35" East through a distance of 161.21 feet to the South line of aforementioned Lot 2;

THENCE along said South line, South 87°38'16" West a distance of 30.08 feet to the POINT OF BEGINNING and containing 6,952 square feet or 0.16 acres, more or less.

WHEREAS, after due notice as required by law, the Council has at the time and place mentioned the notice, heard all persons desiring to be heard on the question; that all the owners of the property abutting the easement to be vacated have joined in the petition or consented to the granting of the petition; and the public interest and welfare will not be adversely affected by the abandonment of the above described utility easement.

NOW THEREFORE BE IT ORDAINED, by the City Council of the City of Bentonville, Arkansas:

Section 1: The City of Bentonville Arkansas releases, vacates and abandons all of its rights together with the rights of the public generally, in and to a utility easement designated as follows:

A portion of a 30' Gas Easement recorded in Plat Book P4, Page 541 located in Lot 2 of Straube Business Park recorded in Plat Book 2005, Page 1365 and in Lot 3 Straube Business Park recorded in Plat Book P4, Page 541 is to be vacated being described as follows:

COMMENCING from a 5/8-inch rebar with a cap stamped LS #1618 being the Southwest corner of said Lot 2;
THENCE along the South line of said Lot 2, North 87°38'16 East a distance of 75.38 feet to the POINT OF BEGINNING;
THENCE leaving said South line along a curve to the left with a radius of 330.51 feet and having a length of 153.21 feet, with a chord bearing of North 11°16'21" West through a distance of 151.84 feet;
THENCE North 16°10'41" West a distance of 30.02 feet to the East line of a 30 foot gas easement recorded in Deed Book 96, Page 091529;
THENCE along said East line, North 02°17'39" East a distance of 94.68 feet;
THENCE leaving said East line, South 16°10'41" East a distance of 117.68 feet;
THENCE along a curve to the right with a radius of 360.51 feet and having a length of 162.58 feet, with a chord bearing of South 11°16'35" East through a distance of 161.21 feet to the South line of aforementioned Lot 2;
THENCE along said South line, South 87°38'16" West a distance of 30.08 feet to the POINT OF BEGINNING and containing 6,952 square feet or 0.16 acres, more or less.

Section 2: A copy of this Ordinance and Exhibit A, duly certified by the City Clerk, shall be filed in the Office of the Recorder of Benton County, Arkansas and recorded in the deed records of the County.

Section 3: This Ordinance shall take effect and be in force from and after its passage. The above and foregoing Ordinance was passed, approved, and adopted the _____ day of _____, 2019 at a regular meeting of the City Council of the City of Bentonville, Arkansas.

**LINDA SPENCE, City Clerk and
Recorder for the City of Bentonville,
Arkansas**

**STEPHANIE ORMAN, Mayor
City of Bentonville, Arkansas**



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

AGENDA FORM

CITY COUNCIL MEETING OF:

May 14, 2019

Submitted by:

Ellen Norvell

Department

Engineering

Phone

271-3191

ACTION REQUIRED:

Public hearing and ordinance vacating a utility easement requested for Lot 7 of Straube Business Park, to the City of Bentonville, Arkansas, Benton County, Arkansas.

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.

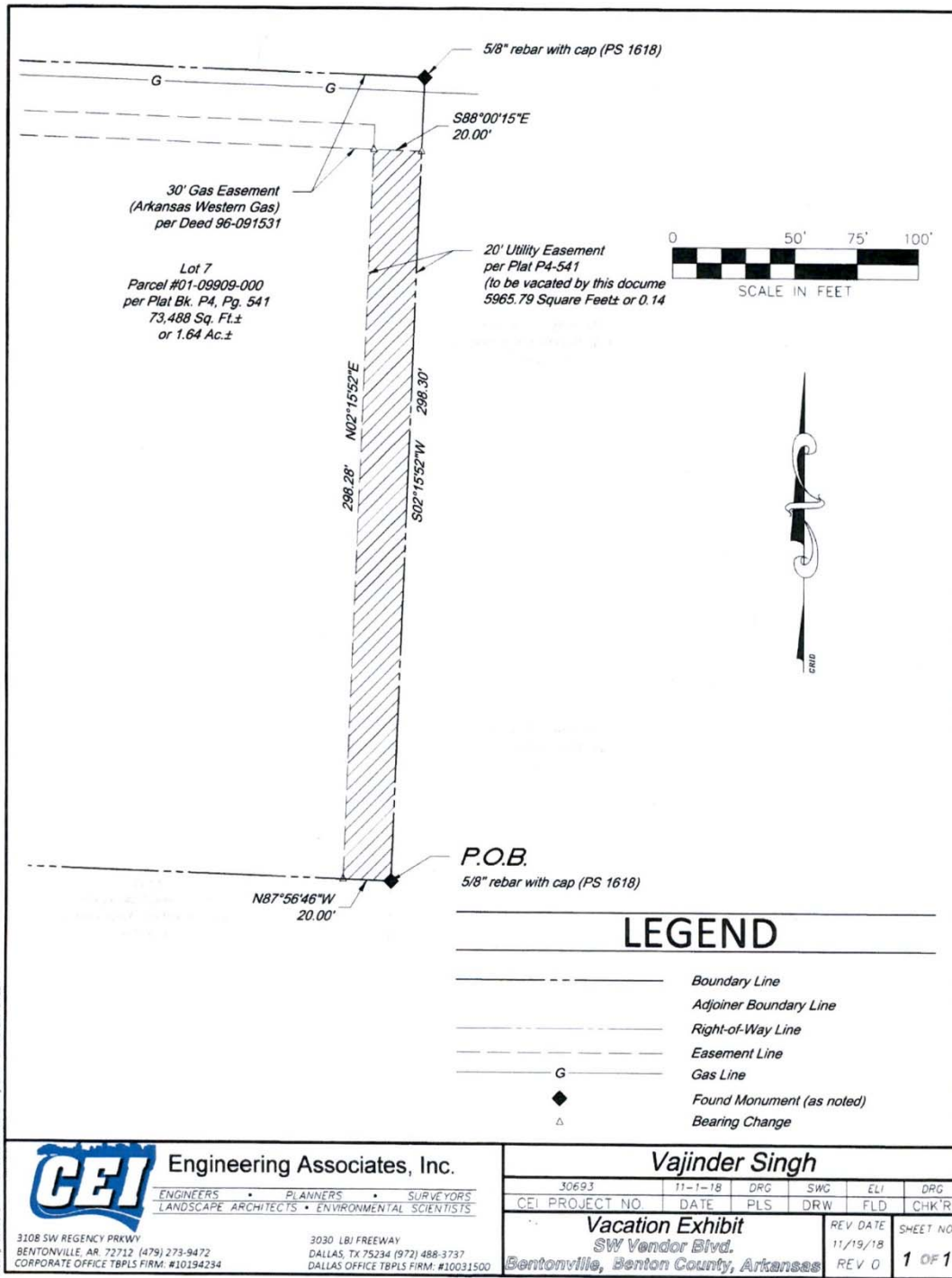
117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE





ORDINANCE NO _____

**AN ORDINANCE VACATING A UTILITY EASEMENT LOCATED AT LOT 7
OF STRAUBE BUSINESS PARK TO THE CITY OF BENTONVILLE, ARKANSAS,
BENTON COUNTY ARKANSAS.**

WHEREAS, a petition was filed by CEI Engineering with the City Council of the City of Bentonville, Arkansas, asking the City Council to vacate a utility easement located in the City of Bentonville, Benton County, Arkansas, which portion is more particularly described as follows:

A portion of a 20' wide utility easement, being located in Lot 7 of Straube Business Park as per Plat Book P4, Page 541 of the records of Benton County, Arkansas, the portion to be vacated is more particularly described as follows:

BEGINNING from a 5/8-inch rebar with cap (PS 1618) at the Southeast corner of said Lot 7;
THENCE along the South line of said Lot 7, North 87°56'46" West, a distance of 20.00 feet to the West line of herein vacated easement;
THENCE along said West line, North 02°15'52" East, a distance of 298.28 feet to the South line of a 30' gas easement per deed 96-091531;
THENCE along said South line, South 88°00'15" East a distance of 20.00 feet to the East line of said Lot 7;
THENCE along said East line, South 02°15'52" West a distance of 298.30 feet to the POINT OF BEGINNING containing 5965 Square Feet or 0.14 Acres, more or less.
Basis of Bearings: State Plane Arkansas Coordinate System of 1983, North Zone, Based on CEI base

WHEREAS, after due notice as required by law, the Council has at the time and place mentioned the notice, heard all persons desiring to be heard on the question; that all the owners of the property abutting the easement to be vacated have joined in the petition or consented to the granting of the petition; and the public interest and welfare will not be adversely affected by the abandonment of the above described utility easement.

NOW THEREFORE BE IT ORDAINED, by the City Council of the City of Bentonville, Arkansas:

Section 1: The City of Bentonville Arkansas releases, vacates and abandons all of its rights together with the rights of the public generally, in and to a utility easement designated as follows:

A portion of a 20' wide utility easement, being located in Lot 7 of Straube Business Park as per Plat Book P4, Page 541 of the records of Benton County, Arkansas, the portion to be vacated is more particularly described as follows:

BEGINNING from a 5/8-inch rebar with cap (PS 1618) at the Southeast corner of said Lot 7;
THENCE along the South line of said Lot 7, North 87°56'46" West, a distance of 20.00 feet to the West line of herein vacated easement;

THENCE along said West line, North 02°15'52" East, a distance of 298.28 feet to the South line of a 30' gas easement per deed 96-091531;

THENCE along said South line, South 88°00'15" East a distance of 20.00 feet to the East line of said Lot 7;

THENCE along said East line, South 02°15'52" West a distance of 298.30 feet to the POINT OF BEGINNING containing 5965 Square Feet or 0.14 Acres, more or less.

Basis of Bearings: State Plane Arkansas Coordinate System of 1983, North Zone, Based on CEI base

Section 2: A copy of this Ordinance and Exhibit A, duly certified by the City Clerk, shall be filed in the Office of the Recorder of Benton County, Arkansas and recorded in the deed records of the County.

Section 3: This Ordinance shall take effect and be in force from and after its passage. The above and foregoing Ordinance was passed, approved, and adopted the _____ day of _____, 2019 at a regular meeting of the City Council of the City of Bentonville, Arkansas.

**LINDA SPENCE, City Clerk and
Recorder for the City of Bentonville,
Arkansas**

**STEPHANIE ORMAN, Mayor
City of Bentonville, Arkansas**



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

AGENDA FORM

CITY COUNCIL MEETING OF:

May 14, 2019

Submitted by:

Ellen Norvell

Department

Engineering

Phone

271-3191

ACTION REQUIRED:

Public hearing and ordinance vacating an Alley Right of Way Vacation between Lot 149 and Lot 158 of Bentonville Original (307 & 401 W Central).

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



Print Form



Easement / Alley Vacation Application & Checklist

Fee: \$50⁰⁰

125⁰⁰

7-1-18

2018-36

Please fill out this form completely, supplying all necessary information and documentation to support your request. **Your application will not be placed on the City Council agenda until the application is completed and required information provided.**

Property Information	Address 307 W. CENTRAL AVE	Select the property type being vacated: ☒ Alley R-O-W ☐ Drainage Easement ☐ Street R-O-W ☐ Public Access Easement ☐ Utility Easement ☐ Other
	Attach legal description of property to this application. May be found on warranty deed or current survey of property.	

Owner	Name CRAIG IHLE	Phone 919-280-1652	☒ Select if this is the primary contact
	Address 307 W. CENTRAL AVE	Fax	
	City, State, Zip BENTONVILLE, AR 72712	E-mail craig.ihle@gmail.com	

Applicant / Representative	Name	Phone	☐ Select if this is the primary contact
	Address	Fax	
	City, State, Zip	E-mail	

Applicant/Representative: I certify that the foregoing statements and answers herein made all data, information and evidence herewith submitted are in all respects, to the best of my knowledge and belief, true and correct. I understand that submittal of incorrect or false information is grounds for invalidation of application completeness, determination or approval. I understand that the City might not approve what I am applying for, or might set conditions on approval.

Date 8/23/18

Property Owner/Authorized Agent: I certify that I am the owner of the property that is the subject of this application and that I have read this application and consent to its filing. (If signed by the authorized agent, a letter from the property owner must be provided indicating that the agent is authorized to act on his/her behalf).

Date 8/23/18

Staff Use Only	Date Application Submitted 8/23/18	HTE Project No.	CC Meeting Date 9-11-18
	Date Accepted as Complete	Atlas page	Zone

REV: May 2014

UTILITY RELEASE FORM

General Utility Easement, Drainage Easement, Public Access Easement, Alley, Street, R.O.W.

Utility Company

AT&T

Date

9/13/17

Requested Vacation

Alley Right-of-way

I have been notified of the petition to vacate the following described as follows:

Alley Right-of-way

Legal
Description

The gravel alley is between 307 West Central Avenue (The West 114 feet of Lot 149, Original Town Bentonville, Benton County, Arkansas as shown on plat record "S" at pages 75 and 76) and 401 West Central Avenue (The east half of Lot 158 in the original town of Bentonville West Central Avenue in Bentonville, Arkansas). 307 is on the east side of the gravel alley and 401 is on the west side of the alley. The gravel alley is a one-way alley with the entrance on the north side from West Central Avenue. The gravel alley exits on the south side on SW 2nd Street.

UTILITY COMPANY COMMENTS (Send release form to the applicant's provided address).

- ☐ No objections to the vacation(s) described above.
- ☒ No objections to the vacation(s) described above, provided the following described easements are retained.
- ☐ Objects to the vacation(s) described above, reason described below.

Describe
reasons for
objection or
easements to be
retained

Please provide an easement where our existing
cable is in this alley

Signature of Utility Company Representative

Title

UTILITY RELEASE FORM

General Utility Easement, Drainage Easement, Public Access Easement, Alley, Street, R.O.W.

Utility Company

Black Hills Energy

Date

9/26/17

Requested Vacation

Alley Right-of-way

I have been notified of the petition to vacate the following described as follows:

Alley Right-of-way

Legal
Description

The gravel alley is between 307 West Central Avenue (The West 114 feet of Lot 149, Original Town Bentonville, Benton County, Arkansas as shown on plat record "S" at pages 75 and 76) and 401 West Central Avenue (The east half of Lot 158 in the original town of Bentonville West Central Avenue in Bentonville, Arkansas). 307 is on the east side of the gravel alley and 401 is on the west side of the alley. The gravel alley is a one-way alley with the entrance on the north side from West Central Avenue. The gravel alley exits on the south side on SW 2nd Street.

UTILITY COMPANY COMMENTS (Send release form to the applicant's provided address).

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided the following described easements are retained.
- ☐ Objects to the vacation(s) described above, reason described below.

Describe
reasons for
objection or
easements to be
retained

Signature of Utility Company Representative

Title

UTILITY RELEASE FORM

General Utility Easement, Drainage Easement, Public Access Easement, Alley, Street, R.O.W.

Utility Company Cox Communication Date 9-25-17

Requested Vacation Alley Right-of-way

I have been notified of the petition to vacate the following described as follows: Alley Right-of-way

Legal
Description

The gravel alley is between 307 West Central Avenue (The West 114 feet of Lot 149, Original Town Bentonville, Benton County, Arkansas as shown on plat record "S" at pages 75 and 76) and 401 West Central Avenue (The east half of Lot 158 in the original town of Bentonville West Central Avenue in Bentonville, Arkansas). 307 is on the east side of the gravel alley and 401 is on the west side of the alley. The gravel alley is a one-way alley with the entrance on the north side from West Central Avenue. The gravel alley exits on the south side on SW 2nd Street.

UTILITY COMPANY COMMENTS (Send release form to the applicant's provided address).

- ☐ No objections to the vacation(s) described above.
- ☒ No objections to the vacation(s) described above, provided the following described easements are retained.
- ☐ Objects to the vacation(s) described above, reason described below.

Describe
reasons for
objection or
easements to be
retained

As long AS Cox Communication still keeps the easement that we are in and still able to get our trucks in the area to work.

Signature of Utility Company Representative

Title

PETITION TO VACATE

which is described as follows:

PETITION TO VACATE AN
LOCATED AT
CITY OF BENTONVILLE, ARKANSAS.

TO: The Bentonville City Council

We, the undersigned, being all the owners of the real estate of or adjacent to the
to be vacated hereinafter sought to be abandoned and vacated, lying in Bentonville, Arkansas, a municipal corporation,
petition to vacate an which is described as follows:

The gravel alley between 307 W. Central Ave and 401 W. Central Ave.

Legal
Description
of area to
be vacated

That the real estate affected by said abandonment of the
located at

to the City of Bentonville, Arkansas, a certified copy of the original plat located in the Circuit Clerk's Office for the County of Benton, State of Arkansas, is attached hereto, and made a part hereof as though set out herein word for word.

Petitioners state that the above described real estate will not adversely affect the public interest and welfare and would also not be adversely affected by the abandonment of the above described

The petitioners recommend that the City of Bentonville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

WHEREFORE, the undersigned petitioners respectfully recommend that the governing body of the City of Bentonville, Arkansas, abandon and vacate the above described real estate, subject to said utility easements and as to that particular land the owner be free from the easements of the public for the use of said real property.

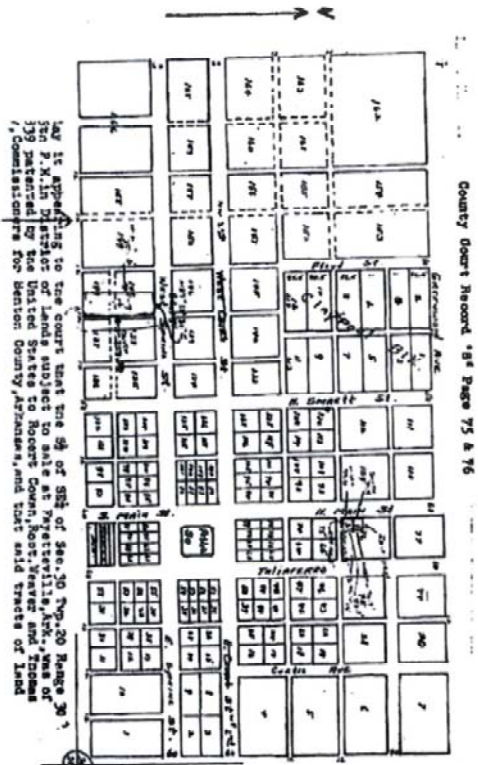
Dated this day of , 20

Craig M. Ihle
Printed Name

Signature

Printed Name

Signature



grace
 11/11/11

[illegible]

ADJACENT PROPERTY OWNER NOTIFICATION FORM

General Utility Easement, Drainage Easement, Public Access Easement, Alley, Street, R.O.W.

Address of Vacation

Adjacent Property Address

Lot Block Subdivision

Requested Vacation:

I have been notified of the petition to vacate the following: 
described as follows:

Legal
Description:

see attachment for description:

***Attach exhibit and/or vicinity map of what is being vacated.**

ADJACENT PROPERTY OWNERS COMMENTS:

☒ I do not object to the requested vacation(s) described above.

☐ I do object to the requested vacation(s) described above because:


Signature of Property Owner

Date

August 19, 2018



**Alley Vacation
307/401 W. Central Ave**

1 inch = 101 feet



ORDINANCE NO _____

**AN ORDINANCE VACATING AN ALLEY RIGHT OF WAY LOCATED BETWEEN LOT 149
AND LOT 158 OF BENTONVILLE ORGINIAL (307 & 401 WEST CENTRAL).**

WHEREAS, a petition was filed by Craig Ihle with the City Council of the City of Bentonville, Arkansas, asking the City Council to vacate an alley right of way located in the City of Bentonville, Benton County, Arkansas, which portion is more particularly described as follows:

A PLATTED ALLEY RUNNING NORTH AND SOUTH BETWEEN THE WEST 114 FEET OF LOT 149, BENTONVILLE ORIGINAL, BENTONVILLE, BENTON COUNTY, ARKANSAS AS SHOWN ON PLAT RECORD S AT PAGES 75 AND 76 AND THE EAST HALF OF LOT 158, BENTONVILLE ORIGINAL, BENTONVILLE, BENTON COUNTY, ARKANSAS AS SHOWN ON PLAT RECORD S AT PAGES 75 AND 76.

WHEREAS, after due notice as required by law, the Council has at the time and place mentioned the notice, heard all persons desiring to be heard on the question; that all the owners of the property abutting the easement to be vacated have joined in the petition or consented to the granting of the petition; and the public interest and welfare will not be adversely affected by the abandonment of the above described alley right of way easement.

NOW THEREFORE BE IT ORDAINED, by the City Council of the City of Bentonville, Arkansas:

Section 1: The City of Bentonville, Arkansas releases, vacates and abandons all of its rights together with the rights of the public generally, in and to an alley right of way designated as follows:

A PLATTED ALLEY RUNNING NORTH AND SOUTH BETWEEN THE WEST 114 FEET OF LOT 149, BENTONVILLE ORIGINAL, BENTONVILLE, BENTON COUNTY, ARKANSAS AS SHOWN ON PLAT RECORD S AT PAGES 75 AND 76 AND THE EAST HALF OF LOT 158, BENTONVILLE ORIGINAL, BENTONVILLE, BENTON COUNTY, ARKANSAS AS SHOWN ON PLAT RECORD S AT PAGES 75 AND 76.

Section 2: A copy of this Ordinance, duly certified by the City Clerk, shall be filed in the Office of the Recorder of Benton County, Arkansas, and recorded in the deed records of the County.

Section 3: This Ordinance shall take effect and be in force from and after its passage. The above and foregoing Ordinance was passed, approved, and adopted the _____ day of _____, 2019, at a regular meeting of the City Council of the City of Bentonville, Arkansas.

LINDA SPENCE, City Clerk and
Recorder for the City of Bentonville,
Arkansas

STEPHANIE ORMAN, Mayor
City of Bentonville, Arkansas



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

AGENDA FORM

CITY COUNCIL MEETING OF:

May 14, 2019

Submitted by:

Charles Chadwick

Department

Airport

Phone

271-3168

ACTION REQUIRED:

A resolution authorizing the Mayor and City Clerk to enter into a Bentonville Municipal Airport Land Lease Agreement with BBT Investments, LLC.

COST TO CITY:

Cost of this Request:

Additional Budget Amount

☐ One time amount

☐ Continuing O and M

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

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

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE



MEMORANDUM RELATING TO THE BENTONVILLE MUNICIPAL AIRPORT
LAND LEASE AGREEMENT WITH BBT INVESTMENTS, LLC.

MEMORANDUM TO: Bentonville City Council

MEMORANDUM FROM: Charles "Chuck" Chadwick, Airport Manager

DATE: May 6, 2019

This is a request for a Resolution Authorizing the Mayor and City Clerk to enter into a Land Lease Agreement with BBT Investments, LLC, concerning property located on the Bentonville Municipal Airport.

BBT Investments, LLC, seeks to construct two hangars on the east side of the Bentonville Municipal Airport, located in that area where the existing "Parnell Hangar" is constructed. I have negotiated this contract (with input from City Staff) with Kurt Blackaby, one of the Managing Members of BBT Investments, LLC.

I am familiar with the purpose and effect of the Lease Document as it relates to the interest of the City of Bentonville and more specifically the Bentonville Municipal Airport. I believe the Lease Agreement is in the best interest of the City of Bentonville and the Bentonville Municipal Airport. I ask for approval of the associated Resolution.

BENTONVILLE MUNICIPAL AIRPORT
LAND LEASE AGREEMENT

THIS LEASE AGREEMENT entered into this _____ day of _____, 2019; with an effective date of _____, 2019 the City of Bentonville, hereinafter referred to as "Lessor," and BBT INVESTMENTS, LLC, an Arkansas Limited Liability Corporation, hereinafter referred to as "Lessee."

WHEREAS, the Lessor does intend to lease certain real property consisting of approximately 16,000 square feet identified as:

See Legal Description attached as Exhibit A or as may be reflected in an appropriate Addendum.

NOW, THEREFORE, the Parties hereto agree as follows:

1. **LEASEHOLD.** The Lessor does hereby grant, demise and lease unto Lessee certain premises as set out in the attached **Exhibit A** (the Leased Premises) situated in Benton County, Arkansas, within the boundaries of the Bentonville Municipal Airport, said property being described more particularly as the "footprint" described on **Exhibit A** under a portion of a Building to be constructed on the Leased Premises and property adjacent to the Leased Premises owned by Lessee (Lessee Property). The Leased Premises is defined as the real property described on **Exhibit A** located underneath and including the hangar buildings located thereon, which Lessee proposes to erect.

1.1 **ADDENDUM FOR CLARIFYING LEGAL DESCRIPTION AND CORRECTED SQUARE FOOTAGE.** The parties hereto acknowledge as of the execution of this Lease Agreement that a specific meets and bounds legal description has not been obtained. The parties understand and recognize the general area which will be utilized to build the hangars. However, they further recognize that there is a high likelihood that this Lease Agreement shall need to be modified by an Addendum for the purpose of clarifying the legal description and corrected square footage of the Leased Premises. In that regard, the parties hereto agree that any Addendum for the purpose of clarifying the legal description and corrected square footage of the Leased Premises, may be done by written agreement between the Lessee and by the Mayor and attested to by the City Clerk on behalf of the Lessor, without bringing said Addendum before the City Council for additional approval.

2. **TERMS AND CONDITIONS.** Lessee agrees to comply with and abide by all terms and conditions set forth in this original Agreement of Lease.

3. **TERM.**

3.1 This lease's term is for an initial term of thirty-five (35) years beginning on the 1st day of _____, 2019, and ending at Midnight, _____, 20____, unless sooner terminated as herein provided. Lessee shall also have two (2) consecutive five (5) year options to and extend the Lease. Lessee shall comply with the terms set forth in paragraph 3.2 hereafter to be entitled to exercise the extension.

3.2 **TERMS CONCERNING OPTIONS TO EXTEND.** Lessee shall be entitled to extend this Lease Agreement pursuant to paragraph 3.1 above upon compliance with the following terms and conditions:

3.2.1 a) Lessee's compliance with all terms and conditions set forth in this Land Lease Agreement;

b) Lessee shall provide Lessor with written notice of Lessee's intent to exercise said option(s) at least six (6) months, but no greater than twelve (12) months prior to the expiration of the initial thirty-five (35) year term and each subsequent option period thereafter.

c) BUILDING MATERIALS AND METHODS.

Lessee agrees to use high quality materials in the construction of the hangar buildings and the improvements therein, including but not limited to a minimum of 26 gauge metal sheeting for roof and walls. Additionally, the hangar buildings will be insulated with four-inch vinyl reinforced insulation. The hangar doors on the larger hangar will be an aircraft quality, bottom rolling hangar door with motorized assistance. To protect the long-term integrity of the building, the hangar door will be properly weather-stripped to protect against rain, snow, sand, birds and other animals. The hangar door on the smaller hangar will be horizontally bi-fold door with electric motor assist with cables and/or straps. To protect the long-term integrity of the building, the hangar door will be properly weather-stripped to protect against rain, snow, sand, birds and other animals.

Lessee shall install in both hangars, R-panel style liner panels along the bottom 6-foot of the interior of all exterior walls. This addition will help protect against insulation deterioration and damage, allowing for longer life of the product.

The larger hangar will have a conference room and restroom. All materials for those rooms will be of high quality standard building materials and with the highest quality of craftsmanship. The smaller hangar will have a full bathroom with shower and probable conference room. Both hangars will have polished concrete or epoxy coating for the flooring materials.

The exterior of the hangars will include landscaping and parking on the street side.

d) MAINTENANCE UPKEEP AND INSPECTION.

For the first 10 years of the life of the hangars, on at least a bi-annual basis, the Lessee shall perform a complete and thorough building inspection and needed repair, including, but not limited to the roof, the exterior walls, doors, hangar floor, interior improvements and all mechanical fixtures such as HVAC, heater, water heater, door motors and door hardware, with appropriate check lists and repair list for review by Lessor at Lessor's request. For the remaining years of the life of the hangars, said inspection and repair shall be on at least an annual basis, with all other requirements set forth in this paragraph applying.

4. LEASE PAYMENT. Lessee shall pay to the City of Bentonville the annual rental based on the square foot of total leased ground space. The rate charged per foot shall be \$.21 per square foot. Leased ground space totals sixteen thousand square feet (subject to addendum as set forth above and as may be needed once specific plans are completed). Said rental is to be paid in advance in yearly installments on the 1st business day of each year. If the initial calendar year of the lease is less than 12 months the Lessee will pay a pro-rata payment to cover the first partial year at the time of signing this lease. For each subsequent year during the initial term, or any extension thereof, the rent shall be increased annually in accordance with changes in the Consumer Price Index (CPI) published each April as compared to the previous April, provided, however, that no single annual increase shall exceed two percent (2%). The Consumer Price Index refers to the Consumer Price Index for all urban consumers (CPI-U), U.S. City Average All Items Index.

4.1 TAXES. Lessee shall pay all ad valorem taxes and assessments upon the Leased Premises and upon all personal property located upon the Leased Premises, which are assessed during the lease term. Lessee acknowledges that it is anticipated that the ad valorem taxes and assessments will come in the name of the City of Bentonville, or some City entity such as the Bentonville Municipal Airport. That from time to time the Leased Property and improvements thereon may be reassessed and the taxes and special assessments associated with the Lease Property may increase or decreased accordingly. The Lessee is aware that certain procedures/laws/ordinances are in place whereby the taxpayer may appeal an assessment or reassessment. Lessee understands and agrees that the Lessor is under no duty to give notice to Lessee

of such action nor to protect Lessee in anyway associated with such assessment or reassessment, that the burden is fully on the Lessee to make itself aware of all matters associated therewith and to protect itself as may be necessary from time to time. Accordingly, Lessee shall have the right to contest by appropriate proceedings the amount or validity of any tax or assessment which Lessee is obligated to pay in accordance with the provisions hereof.

4.2 ASSIGNMENTS & SUB-LEASES. This agreement, in whole or any part thereof may not be assigned or transferred by Lessee unless such action receives prior approval by the Lessor, which such approval cannot be unreasonably withheld.

5. INSURANCE. Lessee shall obtain & maintain property insurance coverage for the repair or replacement of the leasehold, the Building and any adjacent improvements. The City of Bentonville will be listed as an additional insured on the policy and as a "Loss Payee" as its interest may appear on the policy, giving consideration of Lessor's residual interest in any and all improvements thereon, with any proceeds received by Lessor to be utilized as provided in paragraph 10.1. The Lessee will provide proof of this insurance upon request and keep the policy in effect during the term of the lease. Lessee acknowledges that it is the Lessee's sole responsibility to maintain insurance on any personal property if desired.

6. USE OF THE LEASED PREMISES.

6.1 The development and/or use of any Leased Premises located within the current or future boundaries of the Bentonville Municipal Airport shall be consistent with the most recent Airport Master Plan and Airport Minimum Standards and any future amendments or additions thereto, if any. Lessee agrees that all uses of the Leased Premises must be approved by the Lessor and shall be predominantly for aviation use. All future structure additions shall be subject to prior approval by Lessor. In the event that Lessee uses the property for purposes other than the purposes stated above, then Lessee shall be deemed to be in default of this agreement.

6.2 The Lessee, within four (4) months of the date of execution of this Lease Agreement by Lessor ("Effective Date"), shall submit to City Staff or the Airport Advisory Board a conceptual plan with elevations of the proposed building project. Said conceptual plan shall include a minimum of two hangar buildings, one shall be in the approximate size of 11,250 square feet +/- 10%, and the other shall be in 3,600-4,200 square feet +/- 10%. Additionally, Lessee agrees to construct and improve that portion of the Airport property located between the proposed hangar buildings and the west border of Airport Road. Said improvements shall include sufficient paved parking as may be required by the City of Bentonville planning department or otherwise sufficient to provide adequate parking to the hangar facilities to be built thereon. No later than six (6) months from the Effective Date, the Lessee shall submit conceptual plans of sufficient nature as is required by the City of Bentonville planning department.

No later than twelve (12) months from the Effective Date, the Lessee shall commence the demolition process and within sixty (60) days thereafter begin the site preparation and construction of the required hangar buildings as set forth herein. Lessee further agrees to use due diligence to complete the construction on all phases of the improvements thereon.

6.3 Demolition. The parties agree that there presently exists, on the Leased Property, certain city owned enclosed t-hangers (commonly referred to as the "Parnell Hangars"). Lessee agrees that all costs and expense associated with the demolition and removal of the debris from said t-hangers shall be the responsibility of the Lessee. So as to allow the Lessor sufficient time to give notice to the tenants of the "Parnell Hangars", Lessee shall give Lessor no less than sixty (60) days notice as to when Lessee plans to begin the demolition of the "Parnell Hangars". Lessee shall provide, at its expense, to Lessor a surety bond by its corporate officers in an amount of not less than One Hundred Thousand Dollars (\$100,000.00) to guarantee and indemnify the Lessor for loss of the "Parnell Hangars" in the event said hangars are demolished and the Lessee thereafter fails to build the two (2) hangars as required hereinabove. Until the "Parnell Hangars" are demolished, the Lessor is entitled to receive all rent payments on the t-hangers as they become due/paid from the tenants of said t-hangers without discount nor payment to Lessee herein. Following the removal of the tenants of the "Parnell Hangars", if Lessee fails to timely demolish the

"Parnell Hangars", the Lessee shall pay to the Lessor an additional monthly sum of Six Hundred Dollars (\$600) representing an agreed upon liquidated amount of loss of rental income that would otherwise be enjoyed by the Lessor, until such time as the hangars are re-rented, the Lessor having the burden of due diligence to re-rent the hangars.

6.4 Activity on Leased Premises. Lessee agrees not to conduct or permit to be conducted any activity on the Leased Premises which would interfere with or be a hazard to flight of aircraft either to or from the Airport, or interfere with the ground movement of aircraft at the Airport, or interfere with air navigation and communication facilities serving the Airport. Lessee agrees that no structure will be erected or natural objects created on the Leased Premises which would constitute a hazard to air navigation.

6.5 Mechanic's or Materialmen's Liens. The Lessee agrees that during the Term of this Lease no mechanic's or materialmen's liens affecting the Leased Premises or any improvements thereon shall be suffered to arise, and that in the event any such lien does arise, the Lessee shall promptly discharge or bond over same, and if default in the payment thereof shall continue for forty-five (45) days after receipt of written notice of such lien and demand for its discharge or the posting of a bond given to the Lessor by Lessee, then the Lessor shall have the right and privilege, at its option, to pay the same, and the amount so paid, including expenses, shall at the option of the Lessor be additional rental due from the Lessee at the next succeeding rental payment with interest thereon at the rate of eight percent (8%) per annum from the date on which such payment was made; provided, however, that if the Lessee denies the validity or amount of any asserted mechanic's or materialmen's lien on the Leased Premises or any improvement thereon, the Lessee, at its expense, shall have a reasonable opportunity to contest such validity by appropriate legal proceedings and Lessor shall assist Lessee in prosecuting such contest, including but not limited to, providing necessary information, including necessary documents, and permitting Lessee to contest in the name of Lessor if required by any existing or hereinafter enacted law, regulation or procedure. It is agreed by the parties hereto that as between the parties hereto, in the event of such contest the Lessee shall be responsible for all litigation costs including court fees and costs, attorney fees, discovery costs, travel costs, and any and all other costs whatsoever, with Lessee holding Lessor harmless thereon.

6.6 THIS SECTION INTENTIONALLY LEFT BLANK.

6.7 UTILITIES. Lessee shall be responsible for utilities to the leasehold. Initial utility service to the Leased Premises will be the responsibility of the Lessee and negotiations for terms of utility provision are a matter between the lessee and each individual service provider including the City of Bentonville. Lessee shall pay all initial tie-in costs and all monthly ongoing fees for such utilities.

6.8 REPAIRS, MAINTENANCE AND APPEARANCE.

- (a) Except as otherwise provided in this Lease, Lessee shall at all times during the term of this lease agreement, at Lessee's expense, keep and maintain in good repair and safe condition the Leased Premises and its equipment and appurtenances, both inside and outside, structural and non-structural, extraordinary and ordinary, whether or not necessitated by wear, tear, obsolescence or defects, latent or otherwise. When used herein, the term "repairs" shall include all necessary replacements, renewals, alterations, additions and betterment's. Lessee will at all times keep the leasehold free and clean of all trash, refuse and any unsightly conditions or fire hazards.
- (b) The necessity for and adequacy of repairs to the Leased Premises, pursuant to subparagraph (a) hereof, shall be measured by the standard which is appropriate for improvements of similar construction and also shall meet the requirements and standards set out and promulgated by the City of Bentonville through its Airport Advisory Board and other governmental agency or entity pursuant to the primary lease referred to above.
- (c) Lessee agrees to reimburse Lessor for all sums and expenses incurred in the repairs or maintenance required or caused to be made pursuant to the regulations and rules of the governing authority mentioned in subparagraph (b) above as a result of failure by Lessee to maintain or repair the Leased Premises as required.

- (d) Section 6.8 shall be in addition to and be deemed to be interpreted in such a manner along with Section 3.2.1.d, so as to be in the best interest of the Lessor. Said requirements and actions so required are substantial reasons to allow for the

6.9 ALTERATIONS AND IMPROVEMENTS. Lessee shall be entitled to make alterations, additions and improvements to the Leased Premises necessary and desirable for the operation of the Leased Premises. Lessee shall not be entitled to make any significant or material alterations, additions or changes to the exterior of the Leased Premises without Lessor's prior written consent. Lessee acknowledges and agrees that all such alterations, additions and improvements, shall become the property of the City of Bentonville, Arkansas, upon the expiration and/or termination of the lease agreement, subject to the provisions of Paragraph 9, the DEFAULT paragraph below.

7. **WAIVER.** The waiving of any one or more breaches of the terms or provisions contained herein by the Lessor or Bentonville Airport Advisory Board shall not be deemed a waiver of any other breaches of the terms of provisions.

8. **TIME OF THE ESSENCE.** It is understood that time is of the essence of this lease agreement.

9. **DEFAULT.** In the event the Lessee defaults under the terms of the agreement, this lease may be terminated by the Bentonville City Council pursuant to the following:

9.1 Lessor shall give written notice by certified mail, return receipt requested, of default simultaneously to Lessee as well as any assignee, any mortgagee or beneficiary of Lessee's leasehold interest in the Leased Premises and improvements thereon who are known to the Lessor.

9.2 No default shall be deemed to exist unless Lessee fails to cure said default within thirty (30) days after receipt of written notice thereof, provided, however, that if Lessee fails to cure same within said thirty (30) days, the mortgagee or beneficiary of Lessee's said leasehold interest shall have an additional twenty (20) days after the end of said thirty (30) days period within which to cure same. As to any curing of a default (other than payment of rent) which would reasonably require a greater period of time for curing than is provided for above, if the Lessee shall, within the time stipulated, commence such curing and diligently pursue same, then, the above time period shall be extended to allow Lessee reasonable opportunity to do so.

9.3 Lessee shall have the right to contest, in good faith, the existence of any default alleged to have occurred or alleged to exist, and in the event Lessee so elects, the time period for curing any such alleged default shall be extended until thirty (30) days after a final judgment has been entered in a court having jurisdiction over such contest.

9.4 Following the period for curing or contesting a default provided above, the Bentonville City Council may give written notice by certified mail, return receipt requested, of Lessor's exercise of its right to declare this lease forfeited, terminated, null, and void. Upon such notice, subject to the provisions of paragraph 9.5 below, Lessee agrees to vacate the Leased Premises immediately and to forfeit any and all claims, rights, and property interest in this lease agreement, the Leased Premises property and all improvements thereon. Should it become necessary for Lessor to resort to judicial process to enforce the terms of this agreement, or reclaim possession of the Leased Premises, Lessee agrees to pay a reasonable attorney's fee, court costs and any and all costs of litigation including but not limited to costs of depositions, exhibits, witness fees and all other reasonable expenses incurred by the Lessor.

9.5 Unless mutually agreed otherwise, in the event of a termination of this lease pursuant to a default (or other events described in the lease) Lessee shall comply as follows: Lessee shall relinquish the Leased Premises and improvements thereon to Lessor such that Lessor shall become the owner of the entire Building and Lessee's Property.

10. **REVERSION.** It is covenanted and agreed that all of Lessee's right, title and interest in any buildings and improvements remaining on the Leased Premises at the expiration of the Term of this Lease or termination of this Lease, as set forth herein, shall at such time be and become the property of Lessor. Until such expiration or termination of this Lease, all right, title and interest in any buildings and improvements on the Leased Premises shall reside in Lessee; provided, however, that during the Term of this Lease for purposes of Paragraphs 5, 10.1, 11 and condemnation awards, Lessor shall be deemed to have at the applicable time an undivided residual interest in the fair market value of any buildings and improvements on the Leased Premises equal to the sum of one-forty-fifth (1/45) of the fair market value for each year of the Term of the Lease, but this provision shall in no way affect Lessee's or any mortgagee's rights to receive any proceeds or other consideration on the sale, sublease or other transfer of the Leased Premises.

10.1 **Use of Insurance Proceeds.** In the event of damage or destruction to the Leased Premises or improvements thereon by fire or other insured casualty or otherwise, proceeds from such insurance, subject to the prior rights of mortgagees and/or other security holders, if any, shall be used toward restoring the Leased Premises and improvements thereto, but if Lessee does not rebuild in the event of substantial damage or destruction, to pay the Lessor sufficient sums as to make Lessor whole pursuant to the Lessor's undivided accrued residual interest in the fair market value of any buildings and/or improvements so damaged or destroyed, unless Lessor and Lessee mutually agree to some other use or distribution of the proceeds.

11. **TERMINATION OF USE.** In the event that the Bentonville Airport facility and property are no longer used for aviation purposes, the City of Bentonville or its assigns may purchase the remaining leasehold interest from Lessee at fair market value or as may otherwise be agreed upon by the parties at that time.

12. **MORTGAGING OF LEASEHOLD.** Lessee is hereby given the absolute right without the Lessor's consent to mortgage its interest in the Leased Premises, provided that no such mortgage shall extend to or affect the fee, the reversionary interest, or the estate of Lessor in and to the land and improvements erected thereon.

12.1 **Notification.** Upon the execution and recordation of any such leasehold mortgage or deed of trust, the Lessor shall be notified in writing by Lessee that such leasehold mortgage or deed of trust has been so given and executed by the Lessee, and Lessor shall also be furnished with the address to which Lessee desires copies of notices to be mailed; and Lessor hereby agrees that it will thereafter mail to such assignee of this Lease, guarantor of any indebtedness secured by this Lease, mortgagee or beneficiary under a leasehold mortgage or deed of trust or other security agreement, a duplicate copy of any and all notices in writing which the Lessor may from time to time give to or serve upon the Lessee under and pursuant to the terms and provisions of this Lease.

13. **GOVERNMENTAL REQUIREMENTS GENERALLY.** Lessee shall comply with all governmental requirements applicable to Lessee's use and operation of the Leased Premises. Further Lessor and Lessee agree that this Lease is made subject to, all rules and requirements of the FAA. Lessee agrees to observe and obey any and all reasonable uniformly applied rules and regulations adopted by Lessor with respect to use of the Airport, and all applicable federal, state and local governmental rules, regulations, advisory circulars and opinions.

14. **INDEMNITY.** Lessor shall not be liable for any personal injury to the Lessee or to its officers, agents, employees, invitees, licensees or to any other occupant of any part of the Leased Premises, or for any damage to any property of Lessee or of any other occupant of any part of the Leased Premises, irrespective of how such injury or damage may be caused, whether from action of the elements or occupants of adjacent properties. In the event an action, claim or suit is commenced against Lessor as a result of any such personal injury or damage occurring on the Leased Premises, Lessee agrees to hold Lessor harmless from any liability or responsibility therefor, including attorney's fees and all litigation costs of the action.

15. **NOTICES.** Whenever by the terms of this Lease, notice shall or may be given either to the Lessor or to the Lessee, such notice shall be in writing and shall be sent by United States registered or certified mail, return receipt requested, with adequate prepaid postage.

If intended for the Lessor, addressed to:

City of Bentonville, Attn: Mayor
117 West Central
Bentonville, AR 72712

With a Copy To:
City of Bentonville, Attn: Staff Attorney
117 West Central
Bentonville, AR 72712

If intended for the Lessee, addressed to:

Kurt Blackaby
2802 East Battlefield Blvd.
Bentonville, AR 72712

Or to such address or addresses as may from time to time hereafter be designated by like notice from either party to the other. The time of giving of such notice when sent by U.S. mail shall be deemed to be the time when the same is received or delivery refused as shown by the return receipt.

16. GRAMMATICAL USAGE. Whenever used herein: The singular number shall include the plural, the plural the singular, and any gender all genders in any place in which the context so requires.

17. ENTIRE AGREEMENT. Unless modified or supplemented in writing and signed by the party or parties to be charged, this lease constitutes the entire agreement between the parties. Except as aforesaid, any other understandings, agreements or negotiations are deemed merged herein and shall be interpreted in accordance with the law of the State of Arkansas.

18. JURISDICTION AND VENUE. Jurisdiction and Venue for any and all litigation concerning this lease agreement shall be Benton County, Arkansas.

WITNESS the execution hereof, by the parties hereto, in any number of counterpart copies each of which counterpart copies shall be deemed as an original for all purposes, as of the effective day and year first above written.

LESSOR: CITY OF BENTONVILLE,

ATTEST:

By: _____
Stephanie Orman, Mayor

Linda Spence, City Clerk

APPROVED:

BENTONVILLE AIRPORT ADVISORY BOARD

By: _____
Chairman, Richard Ham

LESSEE:

Signature: _____
Printed Name: Eldon Blackaby
Title: Manager

Signature: _____
Printed Name: Kurt Blackaby
Title: Manager

ACKNOWLEDGMENT

State of Arkansas)
) ss.
County of Benton)

On this day before me, a Notary Public, duly commissioned, qualified and acting within and for the County and State aforesaid, personally appeared the within named Eldon Blackaby, to me well known, who acknowledged himself to be the Manager of BBT INVESTMENTS, LLC, the Lessee in the above and foregoing Lease Agreement, and that he, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of said limited liability company by himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of April, 2019.

My Commission Expires:

Notary Public

ACKNOWLEDGMENT

State of Arkansas)
) ss.
County of Benton)

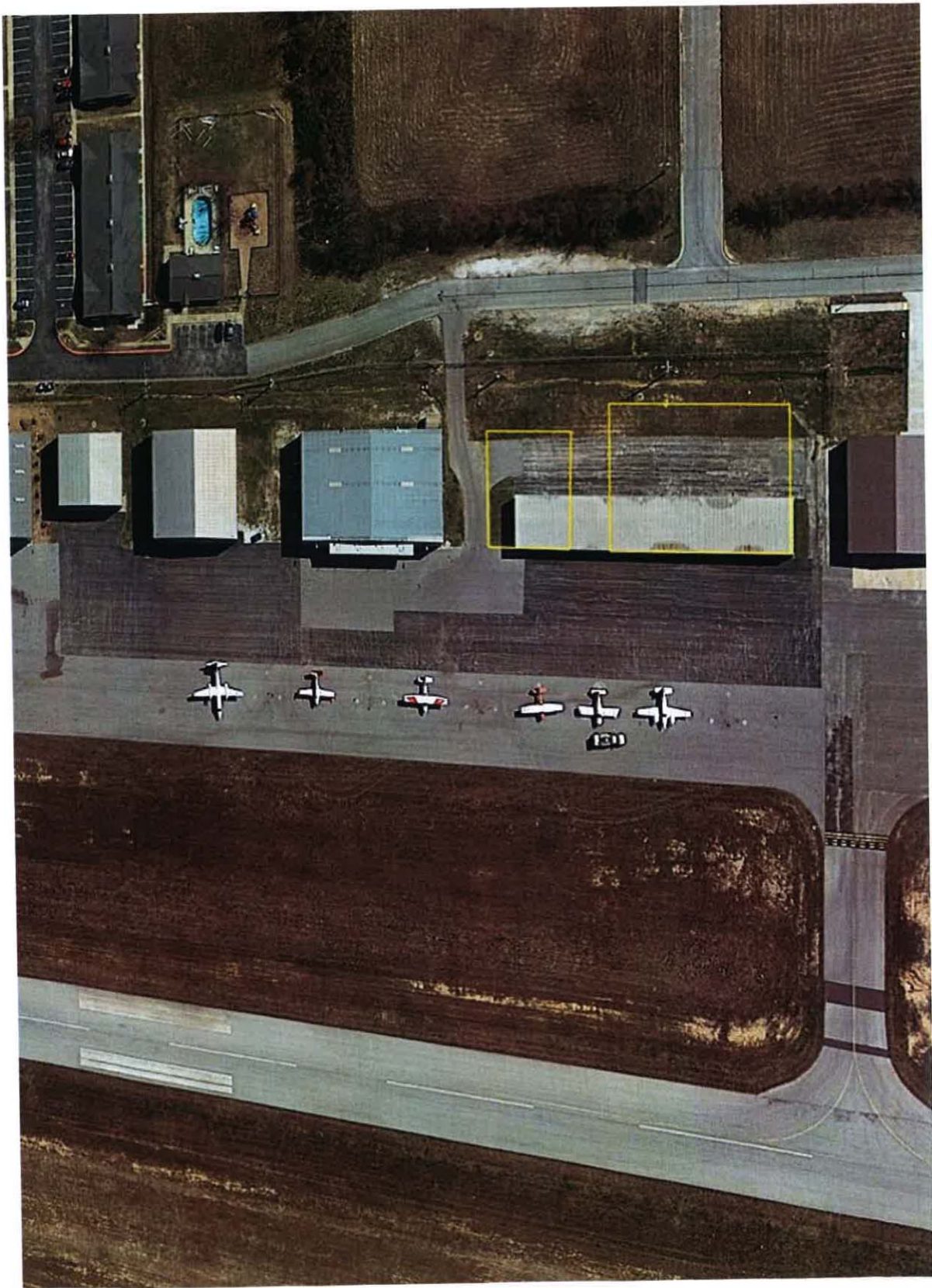
On this day before me, a Notary Public, duly commissioned, qualified and acting within and for the County and State aforesaid, personally appeared the within named Kurt Blackaby, to me well known, who acknowledged himself to be the Manager of BBT INVESTMENTS, LLC, the Lessee in the above and foregoing Lease Agreement, and that he, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of said limited liability company by himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of April, 2019.

My Commission Expires:

Notary Public

EXHIBIT A



RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY
CLERK TO ENTER INTO A BENTONVILLE MUNICIPAL
AIRPORT LAND LEASE AGREEMENT WITH BBT
INVESTMENTS, LLC.**

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

Section 1: That the Mayor and City Clerk be and are hereby authorized to enter into a Bentonville Municipal Airport Land Lease Agreement with BBT INVESTMENTS, LLC; as outlined in the agreement attached hereto as Exhibit "A".

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

PASSED and APPROVED this _____ day of _____, 2019.

APPROVED:

Stephanie Orman, Mayor

ATTEST:

Linda Spence, City Clerk



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

AGENDA FORM

CITY COUNCIL MEETING OF:

May 14, 2019

Submitted by:

Dennis Birge

Department

Transportation

Phone

271-6840

ACTION REQUIRED:

Resolution approval to authorize the Mayor and City Clerk to enter into an amendment of the Master agreement with Garver, LLC, for the Stormwater Pollution Prevention Plan and permit application to ADEQ for work to be performed on the Bentonville Municipal Airport.

COST TO CITY:

Cost of this Request: \$3,300

Additional Budget Amount

☒ One time amount

☐ Continuing O and M

Previously Budgeted	\$	70,000
Funds Expended to Date		20,000
Remaining Budget		50,000
Budget Adjustment		
Remaining After Adjustment	\$	50,000

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



Memorandum



To: City Council, Mayor Orman
From: Dennis Birge, Transportation Engineer
Date: Wednesday, May 08, 2019
Re: Acceptance of Work Order No. 7 – VBT SWPPP Amendment

Staff recommends City Council approve a resolution allowing the Mayor to enter into an amendment to the 2016 Bentonville Municipal Airport (VBT) Master Agreement for Professional Services. This amendment will allow Garver to develop a Stormwater Pollution Prevention Plan (SWPPP) specific for the removal of the existing dirt stockpile on the West side of the Airport. It will also allow Garver to prepare the necessary permit application for submittal.

This amendment is for a payment of \$3,300 to Garver for the professional services. The funds will come from the airport 2019 legal and professional services budget (010-1650-430.32-10). No budget adjust required for this amendment.

Please contact me at 479-271-5964 or dbirge@bentonvillear.com if you have any questions or concerns.

Thank you for your consideration of this request.



**WORK ORDER NO. 7
City of Bentonville
VBT SWPPP Amendment
Garver Project No. 19A13197**

This WORK ORDER is made by and between the **City of Bentonville** hereinafter referred to as "Owner," and **GARVER, LLC**, hereinafter referred to as "GARVER", in accordance with the provisions of the MASTER AGREEMENT FOR PROFESSIONAL SERVICES executed on October 28, 2016.

Under this Work Order, the Owner intends to make the following improvements at Bentonville Municipal Airport.

Remove an existing soil stockpile from a site on the Bentonville Municipal Airport located between SW "I" Street and Taxiway A.

GARVER will provide professional services related to these improvements as described herein.

SECTION 1 - SCOPE OF SERVICES

Garver will complete the following under this Work Order:

1. Update the approved West Taxiway SWPPP Document with the new acreages associated with the soil stockpile and other necessary changes based on the additional work items.
2. Generate a new SWPPP Site Plan showing the proposed area and the BMPs required to control erosion. This would require a quick site visit as our survey didn't cover the majority of the berm.
3. Fill out the permit modification request to be signed by the Owner.

The following items are not included under this agreement:

1. Payment to the ADEQ for the \$200 SWPPP modification fee. The Owner will pay the fee.
2. Submittals or deliverables in addition to those listed herein.

SECTION 2 – PAYMENT

For the work described under SECTION 1 - SCOPE OF SERVICES, the Owner will pay GARVER on a lump sum amount of \$3,300. The Owner represents that funding sources are in place with the available funds necessary to pay GARVER. The Owner will pay GARVER on a monthly basis, based upon statements submitted by GARVER to the Owner indicating the estimated proportion of the work accomplished. Payments not received within 60 days of invoice date will be subject to a one percent monthly simple interest charge.

Additional Services (Extra Work). For work not described or included in Section 1 – Scope of Services but requested by the Owner in writing shall be completed under a separate Work Order.



This Agreement may be executed in two (2) or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Approval and acceptance of this Work Order, including attachments listed in SECTION 3 – APPENDICES AND EXHIBITS, shall incorporate this document as part of the Agreement. Garver is authorized to begin performance upon receipt of a copy of this Work Order signed by the Owner. The effective date of this Work Order shall be the last date written below.

CITY OF BENTONVILLE

GARVER, LLC

Digitally signed

By: _____
Signature

By: _____
Signature Date: 2019.05.01
16:56:18-05'00'

Name: _____
Printed Name

Name: Michael J. Griffin
Printed Name

Title: _____

Title: Senior Vice President

Date: _____

Attest: _____
adam
17:04:56-05'00'

Attest: _____

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO ENTER INTO AN AMENDMENT FOR THE MASTER AGREEMENT WITH GARVER, LLC, FOR THE STORMWATER POLLUTION PREVENTION PLAN AND PERMIT APPLICATION TO ADEQ FOR WORK TO BE PERFORMED ON THE BENTONVILLE MUNICIPAL AIRPORT.

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

Section 1: That the City Of Bentonville be and is hereby authorized to enter into an amendment for the master agreement with Garver, LLC, for the Stormwater Pollution Prevention Plan and permit application to ADEQ for work to be performed on the Bentonville Municipal Airport; in an amount of \$3,300.00, as per the agreement attached hereto as Exhibit "A".

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

PASSED and APPROVED this _____ day of _____, 2019.

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:

May 14, 2019

Submitted by:

Dennis Birge

Department

Transportation

Phone

271-6840

ACTION REQUIRED:

Resolution to authorize Change Order #43 to the ArDOT Project #090376, 8th Street Widening Project. This is for required gates at electrical service boxes.

COST TO CITY:

Cost of this Request: \$2,483

Additional Budget Amount

☒ One time amount

☐ Continuing O and M

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

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

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE



Memorandum



To: City Council, Mayor Orman
From: Dennis Birge, Transportation Engineer
Date: Friday, May 03, 2019
Re: Approval of Resolution to accept CO# 43 for ArDOT project #090376

Staff recommends City Council approve a resolution for the acceptance of Change Order #43 to the ArDOT project #090376. This change would add required gates for access to electrical service boxes.

This request will cost \$2,482.65 and would be funded through the 8th Street Construction account.

Please contact me at 479-271-5964 or dbirge@bentonvillear.com if you have any questions or concerns.

Thank you for your consideration of this request.

ARKANSAS STATE HIGHWAY COMMISSION

CHANGE ORDER

Job Name Hwy.62/102 Intchnng.Impvts.&8Th Street Widening (Bentonville) **Route & Section** 49, Section 29

Job No. 090376 **FAP No** HPP2-9036(20) **County** Benton

Changes located 1060+00, 1061+00 & 1062+58 LT Ramp 3 - 8th Street **Change Order No.** 43

DESCRIPTION OF CHANGE:

Add and establish to the Contract the item "16' Steel Gate".

REASON FOR CHANGE:

The City of Bentonville requires gates at the referenced locations for access to their electrical service boxes.

ATTACHMENTS:

Letter from Contractor agreeing to price

SUMMARY

Item No.	Item	Unit	Unit Price	PRESENT		REVISED	
				Quantity	Amount	Quantity	Amount
619	16' Steel Gates	EACH	827.55	0.00	0.00	3.00	2,482.65
					0.00		2,482.65
				Overrun			<u>\$2,482.65</u>

Authorized _____

Requested _____

Steve Lawrence, District Engineer

David Bushey, Resident Engineer

Approved _____
Stephanie Orman, Mayor
City of Bentonville

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO
ENTER INTO AN AGREEMENT WITH THE ARKANSAS
DEPARTEMENT OF TRANSPORTATION FOR THE ADDITION OF
STEEL ACCESS GATES ALONG SE 8TH STREET.**

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

Section 1: That the City Of Bentonville be and is hereby authorized to enter into an agreement with the Arkansas Department of Transportation for the addition of Steel Access Gates for electrical service boxes along SE 8th Street in connection with project 090376; in an amount of \$2,482.65, as per the agreement attached hereto as Exhibit "A".

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

PASSED and APPROVED this _____ day of _____, 2019.

APPROVED:

Mayor

ATTEST:

City Clerk



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

AGENDA FORM

CITY COUNCIL MEETING OF:

May 14, 2019

Submitted by:

Dennis Birge

Department

Transportation

Phone

271-6840

ACTION REQUIRED:

Approval of Budget Adjustment for Change Order #43 to the ArDOT Project #090376, 8th Street Widening Project. This is for required gates at electrical service boxes.

COST TO CITY:

Cost of this Request: \$2,483

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

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PLEASE RECYCLE





Memorandum



To: City Council, Mayor Orman
From: Dennis Birge, Transportation Engineer
Date: Monday, May 06, 2019
Re: Approval Budget Adjustment for CO# 43 for ArDOT project #090376

Staff recommends City Council approve a budget adjustment for Change Order #43 to the ArDOT project #090376. This change would add required gates for access to electrical service boxes.

This request will cost \$2,482.65 and would be funded through the 8th Street Construction account 73-81.

Please contact me at 479-271-5964 or dbirge@bentonvillear.com if you have any questions or concerns.

Thank you for your consideration of this request.



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

AGENDA FORM

CITY COUNCIL MEETING OF:

May 14, 2019

Submitted by:

Dennis Birge

Department

Transportation

Phone

271-6840

ACTION REQUIRED:

Resolution approval to authorize the Mayor and City Clerk to enter into an agreement for the professional services of O.R. Colan Associates, LLC,. ORC has been selected to acquire City right of way for the Water Tower widening/8th Street Extension construction project.

COST TO CITY:

Cost of this Request: \$160,590

Additional Budget Amount

☒ One time amount

☐ Continuing O and M

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

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

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE



Memorandum



To: City Council, Mayor Orman
From: Dennis Birge, Transportation Engineer
Date: Wednesday, May 08, 2019
Re: Acceptance of O.R. Colan agreement for Water Tower Road

Staff recommends City Council approve a resolution allowing the Mayor to enter into an agreement for Professional Services with O.R. Colan Associates, LLC. This agreement will allow O.R. Colan to conduct Right of Way acquisition for the Water Tower Road widening / 8th Street extension project.

This agreement is for a payment of \$160,590 to O.R. Colan Associates, LLC, for the professional services. The funds will come from the Street Bond funds (030-3810-430.73-80). No budget adjust required for this agreement.

Please contact me at 479-271-5964 or dbirge@bentonvillear.com if you have any questions or concerns.

Thank you for your consideration of this request.

AGREEMENT FOR PROFESSIONAL SERVICES

Water Tower Road and 8th Street Extension SE 14th Street (Hwy 102) and SE 6th Street Benton County

PREAMBLE

THIS AGREEMENT, entered into this ____ day of _____, 2019 ("Effective Date"), by and between the City of Bentonville, Arkansas, a municipal corporation organized pursuant to the laws of the state of Arkansas ("City" or "Owner"), and O. R. Colan Associates, LLC ("Consultant"), a corporation existing under the laws of the State of North Carolina, with principal offices at 7005 Shannon Willow Road, Suite 100, Charlotte, NC 28226.

WITNESSETH:

WHEREAS, the City is planning to acquire right of way for 19 parcels for the roadway improvements and,

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

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

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

1. PRELIMINARY MATTERS

- 1.1. "Consultant's Representative" shall be Donna Roche, until written notice is provided to the Owner designating a new representative.
- 1.2. "Contract Ceiling Price." The Contract Ceiling Price for this Agreement is \$160,590.00. The Contract Ceiling Price is the maximum aggregate amount of all payments that the City may become obligated to make under this Agreement. In no event, unless modified in writing by both parties and prior approved by the City Council if required, shall total payments by the City under this Agreement exceed the Contract Ceiling Price. The Consultant shall not be entitled to receive adjustment, reimbursement, or payment for, nor shall the City, its officers, agents, employees, or representatives, incur any liability for, any invoice, fee, or cost exceeding the Contract Ceiling Price.
- 1.3. "'Transportation Engineer" means the Manager of the Transportation Division of the City of Bentonville.
- 1.4. "Fee." As used herein, the term means the specific rates of compensation set forth in the schedule in Subsection 3.1.1. The Fee includes compensation for all cost and profit. There shall be no reimbursement of costs incurred by the Consultant in the performance of this Agreement.

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

1.6. "Owner" means, collectively, the City of Bentonville, Arkansas.

2. TYPE OF AGREEMENT

2.1. This Agreement is a specific rate of compensation contract. The Consultant is being hired to perform professional services in connection with the Project as set forth herein. In consideration for the professional services rendered by the Consultant, the Owner shall pay to the Consultant a Fee not to exceed the Contract Ceiling Price as set forth above, to be determined according to the labor and activity rates as set forth in Section 3, Fees and Payment. The Fee includes compensation for any cost to be incurred by the Consultant, and the Consultant shall not be reimbursed for costs incurred. The Consultant shall bear the costs, and resulting risks of performing this Agreement.

3. FEES AND PAYMENT

3.1. *Fee.* The justification for the fees and the use of the specific rate of compensation method of payment is contained in Appendix A, the scope of services, and the description of the Project as provided herein. The Owner shall pay Consultant a Fee not to exceed the Contract Ceiling Price as set forth above and determined by the hourly or other unit rate shown in the following schedule. Partial hours and units shall be pro-rated. Under no circumstances shall Fee payments exceed the Contract Ceiling Price.

3.1.1. SCHEDULE RATES

See Appendix A

3.1.2. The foregoing paragraph does not authorize or permit the Consultant to perform services at the overtime rates shown, but only establishes the appropriate rates in the event that the Owner subsequently authorizes overtime. Payment of the Fee at overtime rates is expressly contingent upon the written approval by the Owner *before* the Consultant, its employees, or its agents begin the work for which the overtime rate will be requested. Regardless whether Owner authorizes and pays the overtime rates set forth above, the Consultant shall comply with all state and federal wage and hour laws and regulations.

3.2. *Invoices and Partial Payments.* Partial payments of the Fee shall be made as follows, unless modified by the written agreement of both parties:

3.2.1. Not more often than once per month, the Consultant shall submit to the Owner, in such form and detail as the Owner may require, an invoice or voucher stating the hourly rates and hours for each category of personnel, the unit rates and units for the activities performed, and the amount of the Fee due for the time period covered by the invoice along with a monthly progress report.

3.2.2. Accompanying the invoice, the Consultant shall also submit an estimate of the amount and value of the work accomplished under this Agreement for the period of time covered by the invoice, along with any supporting data required by the Owner. The Consultant shall include in the invoice and estimate only that work which meets the standards of quality established under this Agreement. At a minimum, the

supporting data shall include progress reports in the form and number required by the Owner.

3.2.3. Upon approval of the invoice and estimate by the Owner, payment upon properly executed vouchers shall be made to the Consultant, as soon as practicable.

3.3. *Final payment.*

3.3.1. The Consultant shall submit a completion invoice or voucher, designated as such, promptly upon completion of the work, but no later than forty-five (45) days (or longer, as the Owner may approve in writing) after the completion date. Upon approval of the completion invoice or voucher, and upon the Consultant's compliance with all terms of this Agreement, the Owner shall promptly pay any balance of that part of the Fee (if any) earned and approved but not previously paid.

3.3.2. Before final payment under this Agreement, the Consultant and each assignee whose assignment is in effect at the time of final payment shall execute and deliver a release of all claims discharging the Owner, its officers, agents, and employees from all liabilities, obligations, and claims which were known or could reasonably have been known to exist arising out of or under this Agreement.

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

4. RECORDS & AUDITS

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

4.2. *Examination.* The Consultant shall maintain, and the Owner, and Owner's authorized representatives shall have the right to examine and audit all records and other evidence sufficient to document all work performed, all costs and fees claimed or anticipated to be incurred and earned during the performance of this Agreement, any request for modification or amendment of this Agreement, and any claim or dispute. This right of examination shall also include examination and audit of any records considered, relied upon, or relating to the determination that a specific rate of compensation type of agreement is justified, including any CPA audit. This right of examination shall also include inspection at all reasonable times of the Consultant's offices and facilities, or parts of them, engaged in performing the Agreement.

4.3. *Supporting Data.* If the Consultant has been required to submit data in connection with any action relating to this Agreement, including the negotiation of the Fee, request for an adjustment, or assertion of a claim, the Owner and Owner's authorized representatives, in order to evaluate the accuracy, completeness, and accuracy of the data, shall have the right to examine and audit all of the Consultant's records, including computations and projections, related to;

- Any proposal for the Agreement, subcontract, or modification;

- Discussions conducted on the proposal(s), including those related to negotiating;
- Fees or costs under the Agreement, subcontract, or modification;
- Performance of the Agreement, subcontract or modification; or,
- The amount and basis of any claim or dispute.

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

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

4.6. *Availability.* The Consultant shall retain and make available at its office at all reasonable times the records, materials, and other evidence described in this Section and Section 27, Disputes and Claims, for examination, audit, or reproduction, until five (5) years after final payment under this Agreement, or for any longer period required by statute or by other clauses of this Agreement. In addition:

4.6.1. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be retained and made available for five (5) years after the termination; and,

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

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

5. DESCRIPTION OF THE PROJECT

Right of Way services for nineteen (19) property(ies) for road improvements in accordance with State laws and regulations and City of Bentonville Right of Way policies and procedures. The general scope for this contract includes, but is not limited to the following:

- 5.1. Public Meeting Attendance
- 5.2. Title Reports
- 5.3. Appraisal Reports
- 5.4. Waiver Valuation Calculations
- 5.5. Negotiations
- 5.6. Closing Services

6. INFORMATION AND SERVICES TO BE PROVIDED BY CONSULTANT

The general scope for this contract includes the services below. Detailed Information can be found in Appendix E-Project Work Plan.

- 6.1. Attend Public Meetings
- 6.2. Title Reports
- 6.3. Market Study for comparable sales
- 6.4. Appraisal Reports, 2nd Appraisals, Updated Appraisals
- 6.5. Preparation of Waiver Valuations for property valuation
- 6.6. Negotiation Services for the acquisition of right of way
- 6.7. Closing by final ownership check and deed recording
- 6.8. Provide condemnation documentation, as required
- 6.9. Maintain Project File through Project Close Out

7. INFORMATION TO BE PROVIDED BY THE OWNER

The general scope for this contract includes the services below. Detailed Information can be found in Appendix E-Project Work Plan.

- 7.1. Provide right of way and construction plans
- 7.2. Provide legal descriptions of the property to be acquired and current ownership and title certificate
- 7.3. Provide timely reviews and approval of submissions
- 7.4. Provide final approval for all payments
- 7.5. Issue warrants for payment of all claims

8. TITLE II SERVICES TO BE PROVIDED BY CONSULTANT

N/A

9. COORDINATION WITH OWNER

- 9.1. Throughout the Project, the Consultant shall hold conferences as needed in Bentonville, Arkansas, or such other location as designated by the Owner, with representatives of the Owner so that as the Project progresses, the Consultant shall have full benefit of the Owner's knowledge of existing needs and facilities and be consistent with the Owner's current policies and practices. The extent and character of the work to be done by the Consultant shall be subject to the general oversight and approval of the Owner.

10. OFFICE LOCATION FOR REVIEW OF WORK

- 10.1. Review of the work as it progresses and all files and documents produced under this Agreement may be made by representatives of the Owner at the Consultant's Arkansas office located at 2311 Biscayne Drive, Suite 201, Little Rock, AR 72227.

11. ACCESS TO PROPERTY

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

12. DELIVERABLES

Consultant shall provide Right of Way Services for **nineteen (19)** real estate property(ies) along Water Tower Rd as shown on the Right of Way Map provided.

12.1. TITLE REPORTS:

- 12.2. **WAIVER VALUATION CALCULATIONS:** Consultant will complete a market study to determine current land value and calculate the fair market value for the parcel assigned.

12.3. APPRAISAL REPORTS:

- 12.4. **NEGOTIATIONS:** Consultant shall provide document preparation and negotiation services for each parcel by personal contact when possible. Owners not located in project area will be contacted by certified mail or overnight delivery.

- 12.5. **CLOSING:** Consultant shall provide closing services for each parcel.

- 12.6. **RECORDING:** Recording of easement for each parcel.

- 12.7. **QUALITY ASSURANCE:** Consultant shall provide quality assurance for each task on each tract to ensure all work is completed in accordance with all policies and procedure of the Owner.

- 12.8. **SAFETY:** Consultant shall provide all services in a safe manner.

13. SUBCONTRACTING

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

- 13.2. Unless the consent or approval specifically provides otherwise, neither consent by the Owner to any subcontract nor approval of the Consultant's purchasing system shall constitute a determination (1) of the acceptability of any subcontract terms or conditions, (2) of the acceptability of any subcontract price or of any amount paid under any

subcontract, or (3) to relieve the Consultant of any responsibility, obligation, or duty under this Agreement.

13.3. No subcontract placed under this Agreement shall provide for payment on a cost-plus-a-percentage-of-cost basis.

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

- make payments directly to the subcontractor and offset such payments, along with any administrative costs incurred by the Owner, against reimbursements or payments otherwise due the Consultant;
- notify any sureties;
- withhold any or all reimbursements or payments otherwise due to the Consultant until the Consultant ensures that the subcontractors have been and will be promptly paid for work performed.

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

14. RESPONSIBILITY OF THE CONSULTANT

14.1. Notwithstanding any review, approval, acceptance or payment by the Owner, the Consultant shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Consultant under this Agreement. The Consultant shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services.

14.2. The Consultant shall demonstrate to the Owner's Representative the presence and implementation of quality assurance in the performance of the Consultant's work. The Consultant shall identify individual(s) responsible, as well as methods used to determine the completeness and accuracy of drawings, specifications, cost estimates, and other services provided.

14.3. The Owner shall have the right at any time and in its sole discretion to submit for review all or any portion of the Consultant's work to consulting professionals engaged by the Owner for that purpose. The Consultant shall fully cooperate with any such review.

14.4. The Consultant and any subcontractor shall employ qualified and competent personnel to perform the work under this Agreement.

14.5. Neither the Owner's review, approval or acceptance of, nor payment for, the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, or of any cause of action arising out of the performance of this Agreement. The Consultant shall be and remain liable to the Owner for all damages to the Owner caused by the Consultant's negligent performance of any of the services furnished under this Agreement.

- 14.6. The rights and remedies of the Owner provided for under this Agreement are in addition to any other rights and remedies provided by law.
- 14.7. If the Consultant is comprised of more than one (1) legal entity, each such entity shall be jointly and severally liable hereunder.

15. WARRANTY OF SERVICES

- 15.1. *Definitions. Acceptance*, as used in this Agreement, means the act of an authorized representative of the Owner by which the Owner approves specific services, as partial or complete performance of the Agreement. *Correction*, as used in this Agreement, means the elimination of a defect.
- 15.2. Notwithstanding inspection and acceptance by the Owner or any provision concerning the conclusiveness thereof, the Consultant warrants that all services performed and work product under this Agreement will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this Agreement.
- 15.3. If the Consultant is required to correct or re-perform, it shall be at no cost to the Owner, and any services corrected or re-performed by the Consultant shall be subject to this section to the same extent as work initially performed. If the Consultant fails or refuses to correct or re-perform, the Owner may, by contract or otherwise, correct or replace with similar services and charge to the Consultant the cost occasioned to the Owner thereby, or make an equitable adjustment in the Fee.
- 15.4. If the Owner does not require correction or re-performance, the Owner shall make an equitable adjustment in the Fee.
- 15.5. Nothing within this section shall constitute a waiver or exclusion of any other right or remedy that the Owner may possess at law or under this Agreement.

16. TERM, COMMENCEMENT, AND COMPLETION

- 16.1. This Agreement shall commence on the Effective Date set forth above and remain in effect until the completion date as stated in APPENDIX D, unless extended or terminated by the Owner in accordance with this Agreement.
- 16.2. The Consultant shall begin work under the terms of this Agreement within ten (10) days of receiving a written notice to proceed. [If services are to be performed in subsequent phases, then each phase shall be commenced upon the Owner's approval of the previous phase. The Consultant shall not be entitled to any compensation or reimbursement for services performed in a phase unless and until it has received written approval from the Owner to proceed with such services.]

It is further agreed that time is of the essence in performance of this Agreement. The Consultant shall complete the work, or each phase, as scheduled, and the Owner shall provide any required approval of the work or phase meeting the requirements contained herein in a reasonable and timely manner. The Project shall be completed as follows: See Appendix D for Project Schedule

17. TERMINATION

- 17.1. The Owner may terminate this Agreement in whole or, from time to time, in part, for the Owner's convenience or because of the Default of the Consultant.

- 17.2. The Owner shall terminate this Agreement by delivering to the Consultant written notice of the termination.
- 17.3. Upon receipt of the notice, the Consultant shall:
- Immediately discontinue all services affected (unless the notice directs otherwise).
 - Deliver to the Owner all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Agreement, whether completed or in process.
 - Terminate all subcontracts to the extent they relate to the work terminated.
 - In the sole discretion and option of the Owner, and if and only if requested to do so, assign to the Owner all right, title, and interest of the Consultant under the subcontracts terminated, in which case the Owner shall have the right to settle any claim or dispute arising out of those subcontracts without waiver of any right or claim the Owner may possess against the Consultant.
 - With approval or ratification by the Owner, settle all outstanding liabilities arising from the termination of subcontracts, the cost of which would be allowable in whole or in part, under this Agreement.
 - Complete performance of the work not terminated.
 - Take any action that may be necessary, or that the Owner may direct, for the protection and preservation of the property related to this Agreement that is in the possession of the Consultant and in which the Owner has or may acquire an interest.
- 17.4. If the termination is for the convenience of the Owner, the Owner shall make an equitable adjustment in the Fee, subject to the Ceiling Prices and Funding Limitations / Non-Appropriation provisions of this Agreement, *but shall allow no anticipated Fee or profit on unperformed services.*
- 17.5. If the termination is for the Consultant's Default, the Owner may complete the work by contract or otherwise and the Consultant shall be liable for any reasonable and necessary additional cost incurred by the Owner to the extent caused by Consultant's default.
- 17.6. Disputes and claims arising from termination of this Agreement shall be governed by Section 27, Disputes and Claims.
- 17.7. The rights and remedies of the Owner provided in this section are in addition to any other rights and remedies provided by law or under this Agreement, and shall not constitute a waiver of any other such right or remedy.

18. STOP WORK ORDERS

- 18.1. The Owner may, at any time, by written order to the Consultant, require the Consultant to stop all, or any part, of the work called for by this Agreement for a period of up to ninety (90) days after the order is delivered to the Consultant, and for any further period to which the parties may agree. Upon receipt of the order, the Consultant shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) days after a stop work order is delivered to the Consultant, or within any extension of that period to which the parties shall have agreed, the Owner shall either:

18.1.1. Cancel the stop work order; or,

18.1.2. Terminate the work pursuant to Section 17, Termination.

18.2. If a stop work order issued under this section is canceled or the period of the order or any extension thereof expires, the Consultant shall resume work. The Owner shall make an equitable adjustment in the delivery schedule or Fee, or both, and the Agreement shall be modified, in writing, accordingly, if:

- The stop work order was not issued because of Consultant's Default in its performance of its obligations under any part of this Agreement;
- The stop work order results in an increase in the time required for, or in the Consultant's cost properly allocable to, the performance of any part of this Agreement; and,
- The Consultant provides Notice of Potential Claim pursuant to Section 27, Disputes and Claims.

19. CHANGES

19.1. The Owner may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this Agreement, including but not limited to: (1) drawings, designs, or specifications; (2) time of performance (i.e., hours of the day, days of the week, etc.); and (3) places of inspection, delivery, or acceptance.

19.2. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this Agreement, whether or not changed by the order, the Owner shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fee; and (3) other affected terms.

Notwithstanding the above, in no event, unless modified in writing by both parties, shall total payments by the City under this Agreement exceed the Contract Ceiling Price.

19.3. All claims and disputes shall be governed by Section 27, Disputes and Claims. As provided in Section 27, the Consultant must provide written notice of its intention to make a claim for additional compensation before beginning the work on which the claim is based. If such notice is not given, the Consultant hereby agrees to waive any claim for such additional compensation.

19.4. Failure to agree to any adjustment shall be a dispute under Section 27, Disputes and Claims. *However, nothing in this section or any other provision of this Agreement shall excuse the Consultant from proceeding with the Agreement as changed.*

20. OWNERSHIP OF DOCUMENTS & DATA

20.1. All project documents and data, regardless of form and including but not limited to original drawings, disks of CADD drawings, cross-sections, estimates, files, field notes, and data, shall be the property of the Owner. The Consultant shall further provide all documents and data to the Owner upon the Owner's request. The Consultant may retain reproduced copies of drawings and other documents. In the event that any patent rights or copyrights are created in any of the documents, data compilations, or any other work product, the Owner shall have an irrevocable license to use such documents, or data compilations, or work product.

21. PATENT AND COPYRIGHT INFRINGEMENT

- 21.1. The Consultant shall report to the Owner, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Agreement of which the Consultant has knowledge.
- 21.2. In the event of any claim or suit against the Owner on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any supplies furnished or work or services performed under this Agreement, the Consultant shall furnish to the Owner, when requested by the Owner, all evidence and information in possession of the Consultant pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Consultant.
- 21.3. The Consultant agrees to include, and require inclusion of, the provisions of this section in all subcontracts at any tier for supplies or services.
- 21.4. The Consultant shall indemnify the Owner and its officers, agents, and employees against liability, including costs and attorneys' fees, for infringement of any United States patent or copyright arising from the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property under this Agreement, or out of the use or disposal by or for the account of the Owner of such supplies or construction work.
- 21.5. This indemnity shall not apply unless the Consultant shall have been informed within ten (10) business days following the Owner's receipt of legal notice of any suit alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further, this indemnity shall not apply to (1) an infringement resulting from compliance with specific written instructions of the Owner directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the Agreement not normally used by the Consultant, (2) an infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance, or (3) a claimed infringement that is unreasonably settled without the consent of the Consultant, unless required by final decree of a court of competent jurisdiction.

22. BANKRUPTCY

- 22.1. In the event the Consultant enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Consultant agrees to furnish, by certified mail, written notice of the bankruptcy to the Owner. This notice shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notice shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of City job numbers for all contracts with Owner against which final payment has not been made. This obligation remains in effect until final payment under this Agreement.

23. FUNDING LIMITATIONS

- 23.1. The Owner's obligations under this Agreement are contingent upon the availability of appropriated funds from which payments under the terms of this Agreement can be made in this and each subsequent fiscal year for the duration of the Agreement. No legal liability on the part of the Owner of any kind whatsoever under this Agreement shall arise until funds are made available to the Owner for performance of this Agreement, including those to be appropriated by the State of Arkansas and those to be provided by the United States.

24. SUCCESSORS AND ASSIGNS

- 24.1. This Agreement shall be binding upon the parties and their successors and assigns, and except as expressly set forth herein, neither the Owner nor the Consultant may assign, delegate, or transfer any benefit or obligation under this Agreement without the express written consent of the other party. Nothing herein shall be construed as a waiver of any immunity or as creating any personal liability on the part of any officer or agent of the Owner or any other governmental entity either made a party to, or possessing any interest in, this Agreement.

25. INDEMNITY AND RESPONSIBILITY FOR CLAIMS AND LIABILITY

- 25.1. *Indemnity.* The Consultant shall hold harmless and indemnify the Owner, Owner's officers, employees, and agents, and all other governmental agencies from and for all claims and liabilities stemming from any wrongful (whether negligent, reckless, or intentional) acts or omissions on the part of the Consultant and its subcontractors, and their agents and employees.
- 25.2. *No Personal Liability.* No director, officer, manager, employee, agent, assign, or representative of the Owner shall be liable to the Consultant in a personal or individual capacity under any term of this Agreement, because of any breach thereof, or for any act or omission in its execution or performance.
- 25.3. *Independent Contractor Relationship.* The parties intend that the Consultant shall be an independent contractor of the Owner and that the Consultant shall be solely liable for any act or omission of the Consultant or its agents, employees, or subcontractors arising under or occurring during the performance of this Agreement. No act or direction of the Owner shall be deemed to be an exercise of supervision or control of the Consultant's performance.

26. INSURANCE

- 26.1. *Professional Liability Insurance Coverage.* The Consultant shall maintain at all times during the performance of services under this Agreement professional liability insurance coverage for errors, omissions, and negligent acts arising out of the performance of this Agreement in an amount per claim of \$1,000,000. Such insurance shall extend to the Consultant and to its legal representatives in the event of death, dissolution, or bankruptcy, and shall cover the errors, omissions, or negligent acts of the Consultant's subcontractors, agents, and employees. Such insurance shall extend to any errors, omissions, and negligent acts in the performance of services under this Agreement committed by the Consultant or alleged to have been committed by the Consultant or any person for whom the Consultant is legally responsible.
- 26.2. *Deductible.* The Consultant may maintain a professional liability insurance policy with a deductible clause in an amount approved by the Owner if, in the sole judgment and opinion of the Owner, the Consultant's financial resources are sufficient to adequately cover possible liability in the amount of the deductible. The Consultant shall submit promptly to the Owner, upon request as often as quarterly, detailed financial statements and any other information requested by the Owner to reasonably determine whether or not the Consultant's financial resources are sufficient to adequately cover possible liability in the amount of the deductible.
- 26.3. *Worker's Compensation Insurance.* The Consultant shall at all times during the Term of this Agreement maintain Worker's Compensation and Employers Liability Insurance as required under Arkansas law.
- 26.4. *General Liability Insurance.* The Consultant shall at all times during the term of this

Agreement maintain comprehensive general liability insurance coverage for bodily injury and property damage in the combined single limit of \$1,000,000, and comprehensive automobile liability insurance coverage for bodily injury and property damage in the combined single limit of \$1,000,000, which shall cover all owned, hired, and non-owned vehicles. The Consultant's insurance coverage shall also cover restoration of plans, drawings, field notes, and other documents in the event of their loss or destruction while in the custody of the Consultant.

- 26.5. *Insurance Policies and Certificates.* The Consultant shall provide the Owner upon request copies of its insurance policies and evidence satisfactory to the Owner concerning the effectiveness and the specific terms of the insurance. The Consultant's failure to provide and continue in force and effect any insurance required under this Article shall be deemed a Default for which Owner, in its sole discretion, may terminate this Agreement immediately or on such other terms as it sees fit.
- 26.6. *Additional Insurance Requirements.* All insurance maintained by the Consultant pursuant to this Section shall be written by insurance companies licensed to do business in Arkansas, in form and substance satisfactory to the Owner, and shall provide that the insurance will not be subject to cancellation, termination, or change during its term except upon thirty (30) days prior written notice to the Owner.
- 26.7. *Duration of Insurance Obligations.* The Consultant shall maintain its professional insurance coverage required under this Agreement in force and effect for a period not less than five (5) years after the final acceptance of the Project or the completion of the Consultant's services under this Agreement, whichever comes later. Comprehensive General Liability Insurance Coverage required under this Agreement shall be in full force and effect until the final acceptance or the completion of the Consultant's services, whichever comes later. All other insurance shall be maintained in full force and effect until final acceptance of the project or completion of the Consultant's services, whichever comes first.
- 26.8. *Consultant's Insurance Primary.* All insurance policies maintained by the Consultant pursuant to this Agreement shall provide that insurance as applying to the Owner shall be primary and the Owner's own insurance shall be non-contributing.
- 26.9. *Additional Insured.* All liability insurance policies, except the professional liability policy, maintained by the Consultant pursuant to this Agreement shall be endorsed to include the Owner, its officers, directors, managers, employees, agents, assigns and representatives, individually and collectively, as additional insured, and all property damage insurance shall be endorsed with a waiver of subrogation by the insurer as to the Owner.

27. DISPUTES AND CLAIMS

- 27.1. *Notice of Potential Claim.* Whenever the Consultant deems that any additional compensation is due, the Consultant shall notify the City's Project Manager in writing of its intention to make a claim for additional compensation ("Notice of Potential Claim") ***before beginning the work that gives rise to the claim.***
- 27.2. *Time & Manner for Submitting Claim.* All disputes and claims shall first be submitted in writing to the City's Project Manager within forty-five (45) calendar days after the completion or termination date. ***The Consultant hereby agrees that the failure to submit the dispute or claim to the City's Project Manager prior to forty-five (45) calendar days after the completion or termination date shall constitute a waiver of the dispute or claim.***

- 27.3. *Form.* All disputes and claims must be submitted in writing and in sufficient detail to permit the Owner to determine the basis for entitlement and the actual allowable costs incurred. Each claim must contain:
- A detailed factual statement of the claim providing all necessary dates, locations, and items of work affected by the claim;
 - The date the actions resulting in the claim occurred or conditions resulting in the claim became evident;
 - A copy of the "Notice of Potential Claim";
 - The name, title, and activity of each employee of the Owner or the Arkansas State Highway and Transportation Department knowledgeable about facts that gave rise to such claim;
 - The name, title, and activity of each Department employee knowledgeable about facts that gave rise to such claim;
 - The name, title, and activity of each Consultant, Subcontractor, or employee knowledgeable about the facts that gave rise to the claim;
 - The specific provisions of the Agreement that support the claim and a statement why such provisions support the claim;
 - The identification and substance of any relevant documents, things, or oral communications related to the claim;
 - A statement whether the claim is based on provisions of the Agreement or an alleged breach of the Agreement;
 - If an extension of time is sought, the specific number of days sought and the basis for the extension;
 - The amount of additional compensation sought and a specific cost breakdown of the amount claimed; and,
 - Any other information or documents that are relevant to the claim.
- 27.4. *Decision and Appeal.* If an adverse decision is rendered by the City's Project Manager, the Consultant shall submit the claim or dispute in writing to the the Mayor within sixty (60) days from the date of the decision from the Project Manager. The decision of the Mayor shall be final and conclusive.
- 27.5. *Continued Performance.* Pending final resolution of a dispute or claim, unless the Owner has terminated this Agreement pursuant to Section 17 or issued a stop work order pursuant to Section 18, the Consultant shall proceed diligently with the performance of this Agreement in accordance with the Project Manager and Mayor's decisions.
- 27.6. *Nonexclusive Remedies.* The rights and remedies of the Owner provided in this section are in addition to any other rights and remedies provided by law or under this Agreement, and shall not constitute a waiver of any other such right or remedy. If the Owner decides the facts justify the action, the Owner may, at its sole option and discretion, receive and act upon a proposal, dispute, or claim submitted at any time before final payment under this Agreement.

28. COVENANT AGAINST CONTINGENCY FEES

- 28.1. The Consultant warrants that no person or agency has been employed or retained to solicit or obtain this Agreement upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Owner shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Fee or consideration, or otherwise recover, the full amount of the contingent fee.
- 28.2. *Bona fide agency*, as used in this section, means an established commercial or selling agency, maintained by the Consultant for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds itself out as being able to obtain any government contract or contracts through improper influence.
- 28.3. *Bona fide employee*, as used in this section, means a person, employed by the Consultant and subject to the Consultant's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds out as being able to obtain any government contract or contracts through improper influence.
- 28.4. *Contingent fee*, as used in this section, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a government contract.
- 28.5. *Improper influence*, as used in this section, means any influence that induces or tends to induce a government employee or officer to give consideration or to act regarding a government contract on any basis other than the merits of the matter.

29. NONDISCRIMINATION

During the performance of this Agreement, the Consultant, for itself, successors, and assigns, certifies and agrees as follows:

- 29.1. *Nondiscrimination*. The Consultant, with regard to the work performed by it during the term of this Agreement, shall not discriminate on the basis of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment.
- 29.2. *Solicitations for Subcontracts, Including Procurements of Materials & Equipment*. In all solicitations, either by competitive bidding or negotiation, made by the Consultant or for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, nation origin, sex, age, or disability.
- 29.3. *Sanctions for Noncompliance*. In the event of the Consultant's noncompliance with the nondiscrimination provisions of this Agreement, the Owner shall impose such contract sanctions as it may determine to be appropriate, including but not limited to, withholding of payments to the Consultant under the Agreement until the Consultant complies with the provisions or cancellation, termination, or suspension of the Agreement, in whole or in part.
- 29.4. *Incorporation of Provisions*. The Consultant shall include the terms and conditions of this section in every subcontract including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The

Consultant shall take such action with respect to any subcontract or procurement as the Owner or USDOT and its Affiliated Modes may direct as a means of enforcing such provisions, including sanctions for noncompliance; *provided*, however that in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Consultant may request the Owner to enter into such litigation to protect the interests of the State and litigation to protect the interest of the United States.

30. DBE CLAUSE

30.1 The Consultant or subcontractor shall not discriminate on the basis of race, color, national origin, sex, age, religion, or disability in the performance of this Agreement. Failure by the Consultant to comply with or perform these requirements is a material breach of this Agreement, which may result in the cancellation, termination, or suspension of this Agreement in whole or in part, or such other remedy that the Owner may determine appropriate.

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

31. TITLE II OF THE AMERICANS WITH DISABILITIES ACT (NONDISCRIMINATION)

31.1. *As applicable*, the Consultant will comply with the provisions of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, Title VI of the Civil Rights Act of 1964, and any other applicable Federal, State, and local laws, rules and regulations.

31.2. The Consultant, during the term of this Agreement, shall not discriminate on the basis of race, color, sex, national origin, age, religion or disability, in admission or access to and treatment in programs and activities associated with this Agreement, or in the selection and retention of subcontractors, including procurement of material and leases of equipment.

31.3. *As applicable*, the Consultant shall provide the Owner's Notice of Nondiscrimination in any bulletins, announcements, handbooks, pamphlets, brochures, and any other publications associated with this Agreement that are made available to the public, program participants, applicants or employees.

32. MISCELLANEOUS

32.1. *General Compliance with Laws.* The Consultant shall comply with all Federal, State, and local laws, regulations, and ordinances applicable to the work, including but not limited to, the Americans with Disabilities Act and Occupational Safety and Health Act as amended.

32.2. *Licensed Appraisers.* All Appraisers and Review Appraisers shall have the appropriate appraisal license through the State of Arkansas.

32.3. *Choice of Law.* This Agreement shall be governed by the laws of the State of Arkansas without consideration of its choice of law provisions.

32.4. *Choice of Forum.* The Consultant agrees that any cause of action stemming from or related to this Agreement, including but not limited to disputes or claims arising under this Agreement, for acts or omissions in the performance, suspension, or termination of this Agreement, whether sounding in contract or tort, equity or law, may only be brought in the appropriate forum within State of Arkansas. The Consultant's sole remedy following the

decision of the City Manager shall be to a court of competent jurisdiction within the State of Arkansas.

- 32.5. *No Waiver of Immunity.* The Owner expressly does not waive any defense of immunity that it may possess under either federal or state law, and no provision in this Agreement shall be construed to constitute such a waiver in whole or in part.
- 32.6. *Conflicts Between Laws, Regulations, and Provisions.* In the event of conflicting provisions of law, the interpretation shall be governed by the following in this order, from most controlling to least: Federal law and regulations, State law and regulations, Department and FHWA Design Standards, and this Agreement.
- 32.7. *Severability.* If any term or condition of this Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, all remaining terms of this Agreement shall remain valid and enforceable unless one or both of the parties would be materially prejudiced.
- 32.8. *No-Waiver.* The failure of the Owner to strictly enforce any term of this Agreement shall not be construed as a waiver of the Owner's right to require the Consultant's subsequent performance of the same or similar obligation or duty.
- 32.9. *Modification and Merger.* This written Agreement and any provisions incorporated by reference reflect the entire agreement of the parties and may be modified only by the express written agreement of both parties.

33. CERTIFICATION OF AUTHORIZED REPRESENTATIVES

- 33.1. This Agreement and the certifications contained herein or attached hereto constitute the whole Agreement of the parties, and each party certifies that this Agreement and any attached certification have been executed by their duly authorized representatives.

34. NOTICE

34.1. All notices, approvals, requests, consents, or other communications required or permitted under this Agreement shall be addressed to either the City's Transportation Engineer or the Consultant's Representative, and mailed or hand-delivered to:

34.1.1. To the Owner:

Mayor Orman
City of Bentonville
117 W. Central Ave.
Bentonville, Arkansas 72712

34.1.2. To the Consultant:

Donna Roche
Senior Project Manager
O. R. Colan Associates, LLC
2311 Biscayne Drive, Suite 201
Little Rock, AR 72227

IN WITNESS WHEREOF, the parties execute this Agreement, to be effective upon the date set out above.

O. R. Colan Associates, LLC

City of Bentonville, Arkansas

BY: _____
Stephen Toth, President,

BY: _____
Stephanie Orman, Mayor

**Water Tower Road and 8th Street Extension
SE 14th Street (Hwy 102) and SE 6th Street
Benton County**

APPENDICES

APPENDIX A	JUSTIFICATION OF FEES AND COSTS Schedule of Rates (per Tract) Milestone Payment Schedule
APPENDIX B	SUBCONSULTANT LIST
APPENDIX C	STANDARD CERTIFICATIONS
APPENDIX D	PROJECT SCHEDULE
APPENDIX E	PROJECT WORK PLAN

APPENDIX A

**Water Tower Road and 8th Street Extension
SE 14th Street (Hwy 102) and SE 6th Street
Benton County**

SCHEDULE OF RATES

Service	No.	Unit Cost	Total Cost
Administrative Services			
Attendance at Public Meetings	2	\$2,520	\$5,040
Initial Appraisal Services			
Appraisal Reports – vacant land	17	\$2,400	\$40,800
Appraisal Reports – commercial	2	\$6,000	\$12,000
2nd Appraisals			
Appraisal Reports – vacant land	2	\$1,100	\$2,200
Appraisal Reports – commercial	2	\$2,750	\$5,500
Updated Appraisals			
Appraisal Reports – vacant land	2	\$550	\$1,100
Appraisal Reports – commercial	2	\$1,375	\$2,750
Negotiation Services	19	\$3,300	\$62,700
Title Services			
30 Yr Title Reports	19	\$700	\$13,300
Closing Services	19	\$800	\$15,200
Total			\$160,590

**Water Tower Road and 8th Street Extension
SE 14th Street (Hwy 102) and SE 6th Street
Benton County**

MILESTONE PAYMENT SCHEDULE

ITEM	SCHEDULE
Public Meetings	Monthly of Completed Service
Title Services	Monthly - Per Tract 100% of Title Fee for Title Certificates or Commitments completed in the previous month
Initial Waiver Valuation and Appraisal Services	Monthly - Per Tract 100% of the Fee for waivers and appraisals reviewed and approved in the previous month
Negotiation Services	Monthly – Per Tract 25% Upon Presentation of Offer 25% When Contract to Sell is signed or the Tract is recommended for condemnation 50% After the Contract to Sell has been accepted by the City or Condemnation proceedings have been approved and a fully documented acquisition file has been submitted
Closing Services	Monthly – Per Tract 100% After closing is completed and all original closing documents have been submitted to the City

APPENDIX B

**Water Tower Road and 8th Street Extension
SE 14th Street (Hwy 102) and SE 6th Street
Benton County**

Subconsultants:

ProLand Title
Reed & Associates

APPENDIX C

**Water Tower Road and 8th Street Extension
SE 14th Street (Hwy 102) and SE 6th Street
Benton County**

CERTIFICATION OF CONSULTANT

I hereby certify that I, Stephen Toth am the President, and duly authorized representative of the firm of O. R. Colan Associates, LLC whose headquarters address 7005 Shannon Willow Road, Suite 100, Charlotte, NC 28226, and that neither I nor the above firm I here represent has:

- (a) employed or retained for a commission, brokerage, contingent fee, or other considerations, any firm or person (other than a bona fide employee working solely for me) to solicit or secure this contract,
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or
- (c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me) any fee contribution, donation or consideration of any kind for, or in connection with, procuring or carrying out the contract;
- (d) included any costs which are not expressly allowable under the cost principles of the FAR of 48 CFR 31, whether direct or indirect. All known material transactions or events that have occurred affecting the firm's ownership, organization and indirect cost rates have been disclosed.

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Arkansas State Highway and Transportation Department and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

Furthermore, I certify and hereby agree to the conditions of Title VI Assurances as outlined in Section 30 of this Agreement and shall insert the Notice of Nondiscrimination Statement as shown below in all solicitation of work or procurement of materials or equipment.

NOTICE OF NONDISCRIMINATION STATEMENT

O. R. Colan Associates LLC ("Consultant"), complies with all civil rights provisions of federal statutes and related authorities that prohibited discrimination in programs and activities receiving federal financial assistance. Therefore, O. R. Colan Associates, LLC ("Consultant") does not discriminate on the basis of race, sex, color, age, national origin, or disability, in the admission, access to and treatment in Consultant's programs and activities, as well as the Consultant's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Consultant's nondiscrimination policies may be directed to John Shelton (ADA/504/Title VI Coordinator), 7005 Shannon Willow Road, Suite 100, Charlotte, NC, 28226; 704-944-1391, (Voice/TTY 711), or the following email address: jshelton@orcolan.com.

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

Authorized Firm Representative

Date

APPENDIX D

**Water Tower Road and 8th Street Extension
SE 14th Street (Hwy 102) and SE 6th Street
Benton County**

PROJECT SCHEDULE

Task	Start	Finish
Notice to Proceed		5/21/2019
Public Meetings	5/29/2019	2/27/2018
Title Services	5/24/2019	7/24/2019
Sales Data	5/24/2109	7/24/2019
Waiver Valuations	N/A	N/A
Initial Appraisals	7/25/2019	11/04/2019
2 nd Appraisals	TBD	Within 30 days of assignment
Updated Appraisals	TBD	Within 30 days of assignment
Negotiations	8/15/2019	12/15/2019
Closings	8/30/2019	2/14/2020
Project Completion		2/28/2020

Schedule is dependent on current ownership data, legal descriptions, and project plans being provided with Notice to Proceed. Property staking completed by 6/3/2019.

APPENDIX E

Water Tower Road and 8th Street Extension SE 14th Street (Hwy 102) and SE 6th Street Benton County

PROJECT WORK PLAN

Information and Services to be Provided by Consultant

1. Administrative Services:

- 1.1 Provide Monthly Progress reports to the City of Bentonville.
- 1.2 Attend meeting including the Consultant, the City of Bentonville, and others as scheduled at the sole discretion of the City Right of Way Division as to date, time, and location. The Consultant shall compile and distribute meeting minutes as required.
- 1.3 Maintain project records including, but not limited to, correspondence and documentation of contacts with property owners.
- 1.4 Overhead costs including salaries, travel, employee benefits, telephone, equipment, supplies, etc.
- 1.5 Prepare invoices for payment utilizing City of Bentonville standard invoicing procedures.
- 1.6 Attend Public Meetings to provide information regarding the right-of-way process to the Public.

2. Title Services:

- 2.1. Furnish title work, prepare detailed title certificates and maintain supporting documents.
- 2.2. Provide title commitments including thirty (30) year title searches in accordance with industry standards.
- 2.3. Be responsible for furnishing updates or revised information to the City of Bentonville when change of ownership occurs subsequent to the certificates obtained during right of way plan preparation.
- 2.4. Prepare proper instruments of conveyance and releases upon determination of title status.

3. Appraisal Services

- 3.1. Review the Design Consultant's right of way and construction plans.
- 3.2. Perform field inspection of the proposed project and collect limited market information in order to determine estimated land and improvement values.
- 3.3. Prepare scope of work, which is a written document between the City and the appraiser describing the appraiser's work and the assignment.
- 3.4. Contact property owners with invitation to accompany on inspection. This includes inviting the property owners, preferably in writing, to accompany the appraiser during the appraiser's inspection of the property, and maintain record of contact in file.
- 3.5. Prepare waiver valuations or appraisals in accordance with ARDOT Right of Way policies and procedures.

- 3.6. For on-premise signs, determine if cost to cure would be less than purchase and prepare waiver valuation or appraisal accordingly.
- 3.7. For off-premise signs, prepare appraisals utilizing forms provided by CITY in accordance with Federal regulations and CITY Right of Way policies and procedures.
- 3.8. Determine need for specialty report and advise CITY of recommendation. CITY will determine extent of report needed and most efficient and cost-effective method of preparation.
- 3.9. Obtain a listing of contaminated sites (petroleum, solid/hazardous waste) from the Arkansas Department of Environmental Quality (ADEQ).
- 3.10. Prepare written notification to the CITY of any environmental concerns associated with the acquisition that could require environmental remediation.
- 3.11. Assist on any appraisal problems or plan-in-hand inspections, right of way estimates and cost comparisons for public hearings and environmental programs as directed by the CITY.
- 3.12. Appear and testify as an Expert Witness in eminent domain proceedings and be available for pre-hearing or pre-trial meetings as directed by CITY.
- 3.13. The Appraiser and Review Appraiser, if applicable, cannot be employed by, or otherwise associated with, the same appraisal company or firm.

4. Waiver Valuations:

- 4.1. Notify property owner as soon as feasible of the City's interest in acquiring the real property, including the City's obligation to secure an appraisal.
- 4.2. Prepare waiver valuation in accordance with City Right of Way policies and procedures.
- 4.3. Review the City of Bentonville Right of Way and construction plans.
- 4.4. Perform field inspection of the proposed project and collect limited market information in order to determine estimated land and improvement values.

5. Negotiation Services:

- 5.1 Prepare the appropriate acquisition documents and assemble parcel packets.
- 5.2 Prepare an offer letter for signature by the appropriate City of Bentonville official stating the summary of the basis for the total amount offered.
- 5.3 Present offer letter to the property owner, discuss the offer amount and rationale for compensation and address any concerns. Advise the property owner of their full rights under the laws of eminent domain if no agreement can be reached and condemnation action is necessary.
- 5.4 Maintain a project log indicating, at a minimum, the dates of the following: waiver valuation or appraisal approved, initiation of negotiations, contract signed and recommendations for condemnation.
- 5.5 Maintain detailed records of all information pertinent to the job: ownership addresses, encumbrances, dated and signed negotiator notes, offer letters, and contracts. Negotiator notes should include a record of each contact, explanation of the plans, offers and counteroffers, property owner requests, opinions, proposed solutions and recommendations for condemnation.

- 5.6 As negotiations are completed, review parcel packets for completeness, prepare acceptance letters for City of Bentonville execution, and distribute parcel packets for further handling.
- 5.7 Submit counteroffers from the property owners to the City of Bentonville with recommendations for acceptance or rejection.

6. Closing Services:

- 6.1. Recheck title for any ownership change prior to recording documents.
- 6.2. Deliver City warrants on negotiated settlements after obtaining proper execution of instruments of conveyance.
- 6.3. Record conveyance documents in appropriate county offices.

PROJECT WORK PLAN

City of Bentonville Responsibilities

City of Bentonville agrees to administer professional services for the right of way acquisition of properties as follows:

1. Provide right of way and construction plans.
2. Provide legal descriptions of the property to be acquired and current ownership title certificates.
3. Provide timely reviews and approval of submissions.
4. Approve standard forms and brochures provided by Consultant to be used in the acquisition process.
5. Process and issue all warrants for payments.
6. Provide final approval for all payments including, but not limited to, waiver valuations.
7. Initiate, coordinate, and administer environmental investigation surveys, as needed.
8. Process condemnation actions including legal document preparation, filing, settlement or trial actions.
9. Prepare exhibits used in court cases on condemned tracts as needed.
10. Provide legal opinions or recommendations that arise during the acquisition process, as needed. Consultant must notify the City of Bentonville if legal advice is needed.

PROJECT WORK PLAN

DELIVERABLES

1. Monthly Progress Reports
2. Minutes of meetings between the City, Consultant, and others
3. Project records including, but not limited to, correspondence and documentation of contacts with subcontractors, property owners, tenants, mortgage companies, photographs, documents, receipts, quotes, etc.
4. Project Log(s)
5. Right of Way Certification
6. Waiver Valuations
7. Sales Data
8. Approvals received of fair market value and recommendation of just compensation
9. Memorandums or documentation related to review of appraisals submitted by property owners
10. Requests for legal opinions received
11. Appropriate acquisition documents
12. Offer letters
13. Negotiation notes
14. Written communications with property owners
15. Complete tract packets
16. Documentation substantiating ownership and/or authority to act on behalf of owner(s), i.e., affidavits, resolutions, death certificates, corporation documents, etc.
17. Contracts to Sell for purchase of easements
18. Transmittal documents for tracts acquired or recommended for condemnation
19. Plan changes
20. Closing documentation, including notes and correspondence
21. Fully executed and filed releases and conveyance documents
22. Invoices and supporting documentation

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO ENTER INTO AN AGREEMENT WITH O.R. COLAN ASSOCIATES, LLC, FOR THE PROFESSIONAL SERVICES TO ACQUIRE RIGHT OF WAY FOR THE WATER TOWER ROAD PROJECT.

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

Section 1: That the City Of Bentonville be and is hereby authorized to enter into an agreement with O.R. Colan Associates, LLC, for the professional services to acquire Right of Way for the Water Tower Road widening project; in an amount of \$160,590.00, as per the agreement attached hereto as Exhibit "A".

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

PASSED and APPROVED this _____ day of _____, 2019.

APPROVED:

Mayor

ATTEST:

City Clerk



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

AGENDA FORM

CITY COUNCIL MEETING OF:

May 14, 2019

Submitted by:

Tony Davis

Department

Street

Phone

479-271-3130

ACTION REQUIRED:

Review of the Street Departments 2019 Overlay list. See Attachments.

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





Bentonville Street Department
501 SE Third Street
Bentonville, AR 72712
Phone: (479) 271-3130

MEMORANDUM

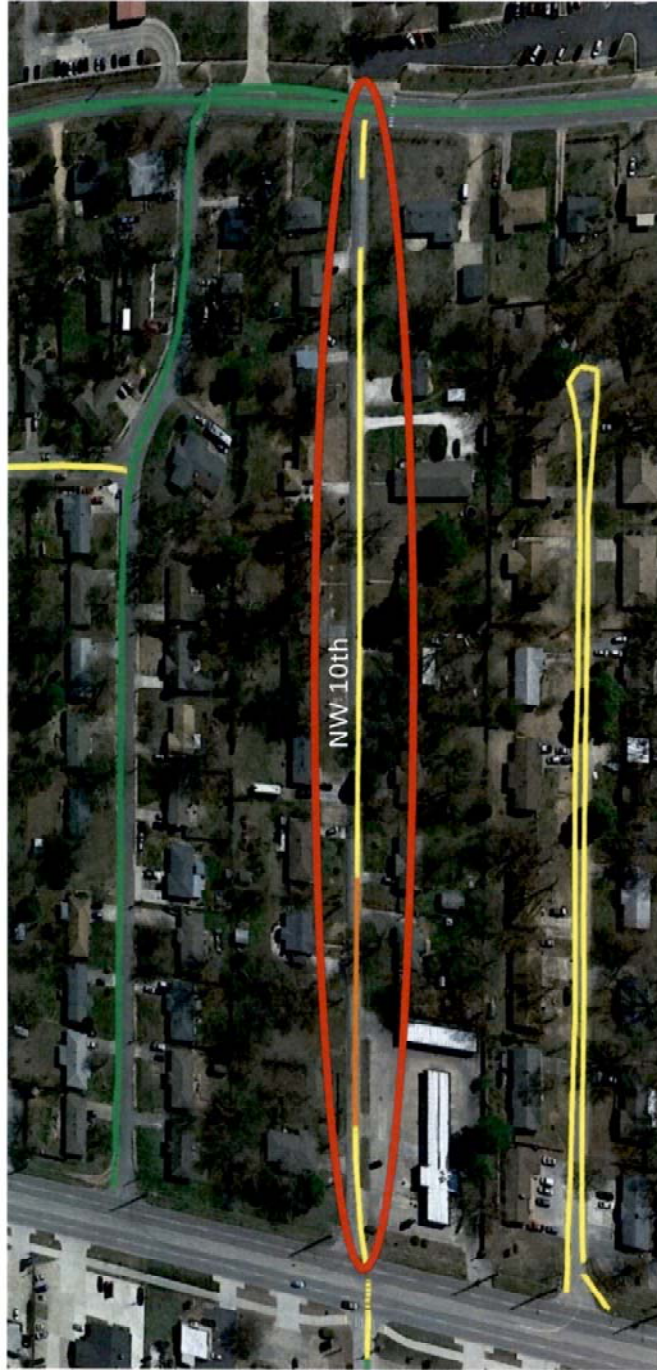
DATE: 4-30-2019
TO: City Council, Mayor Orman
FROM: Tony Davis, Street Manager
RE: 2019 Overlay List

Please review the attached list of streets that have been identified for the 2019 overlay program. Upon Council's approval, the list will be placed out for bids. Currently there is \$350,000.00 budgeted for this year's overlay.

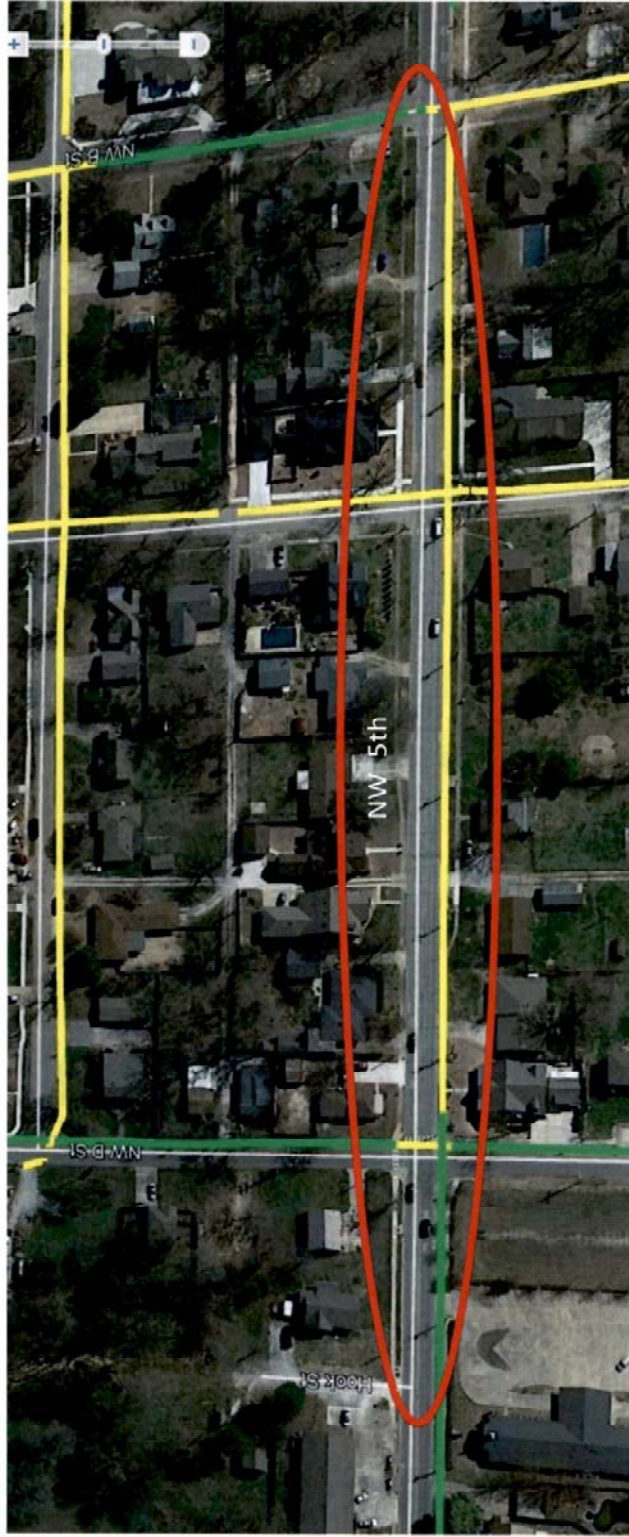
Sincerely,

Tony Davis
Street Manager

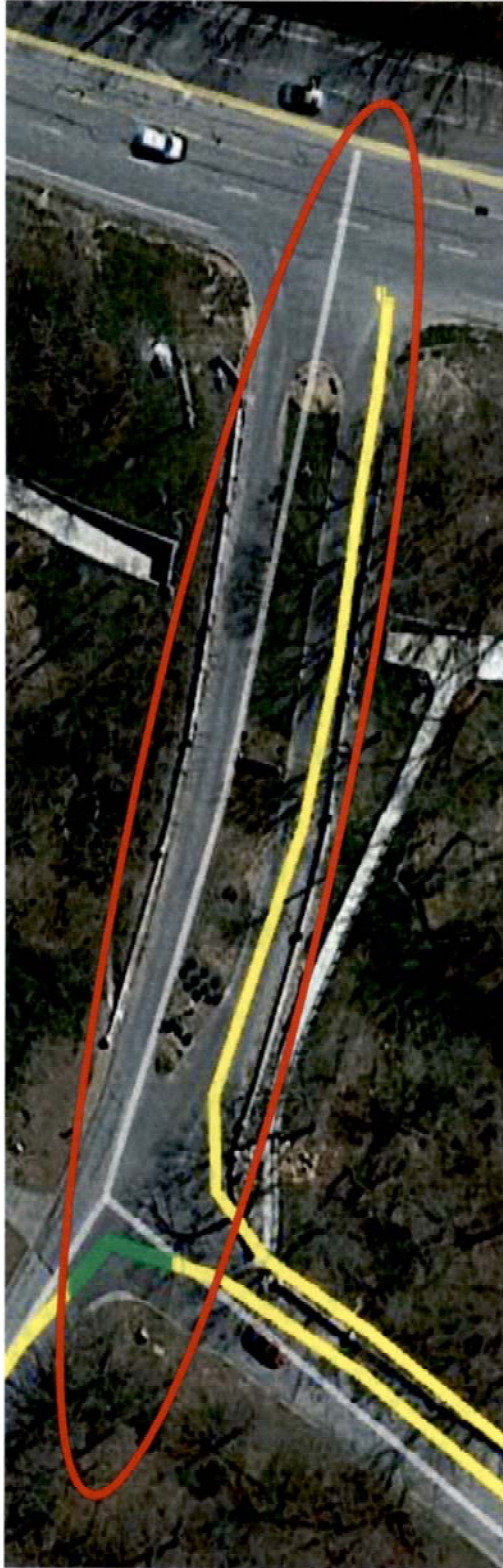
2019 STREET OVERLAY ESTIMATES								
	NAME	STARTING	ENDING	TONS	LENGTH (FT)	WIDTH (FT)	MILLING (SY)	
NW	NW 10th St	N. Walton Blvd	Bella Vista Rd	289	1155	18	2310	
NW	NW 5th St	NW "B" St	Hook St	477	1206	Varies	4015	
NW	Ridgefield	N Walton Blvd	Somerst	146	520	Varies	1007	
NE	NE 4th St	Jared St	3002 NE 4th St	153	370	26	1069	
NE	NE 6th St	Jared St	3003 NE 6th St	180	455	26	1315	
NE	Jared St	NE 4th St	NE 6th St	168	420	26	1398	
NE	Megan St	NE 4th St	NE 6th St	175	365	26	1277	
SW	SW 10th St	SW "A" St	End	486	1298	Varies	4097	
SE	SE "D" St	SE 14th St	SE 12th St	215	615	24	1640	
SE	SE 28th St	S Walton Blvd	SE "C" St	538	1175	35	15556	
SE	SE 11th St	Benton St	SE "C" St	164	460	23	1176	
	TOTAL			2991.08	8039		34860	
				1.52 Miles				



NW 10th - N Walton to Bella Vista Rd. -1,155 lf



NW 5th - NW B to Hook St. 1,206 lf



Ridgefield - N. Walton to Somerst - 520 lf



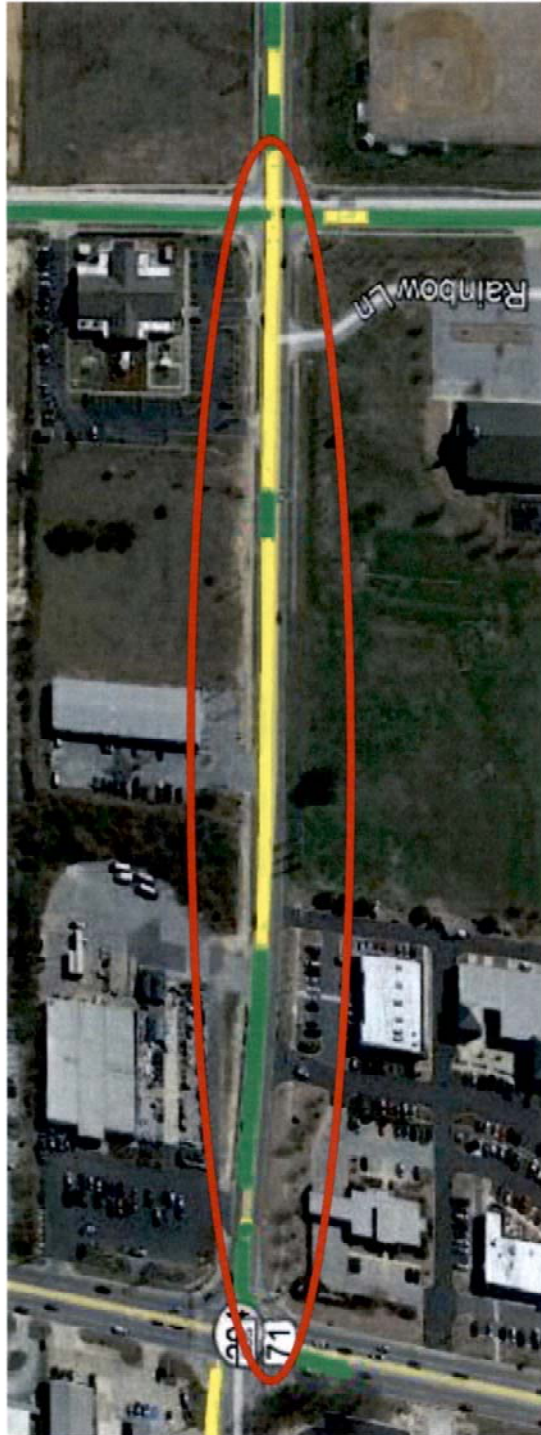
NE 4th – Jared to 3002 NE 4th – 370 If
 NE 6th – Jared to 3003 NE 6th - 455 If
 Jared – NE 4th to NE 6th – 420 If
 Megan – NE 4th to NE 6th – 365 If



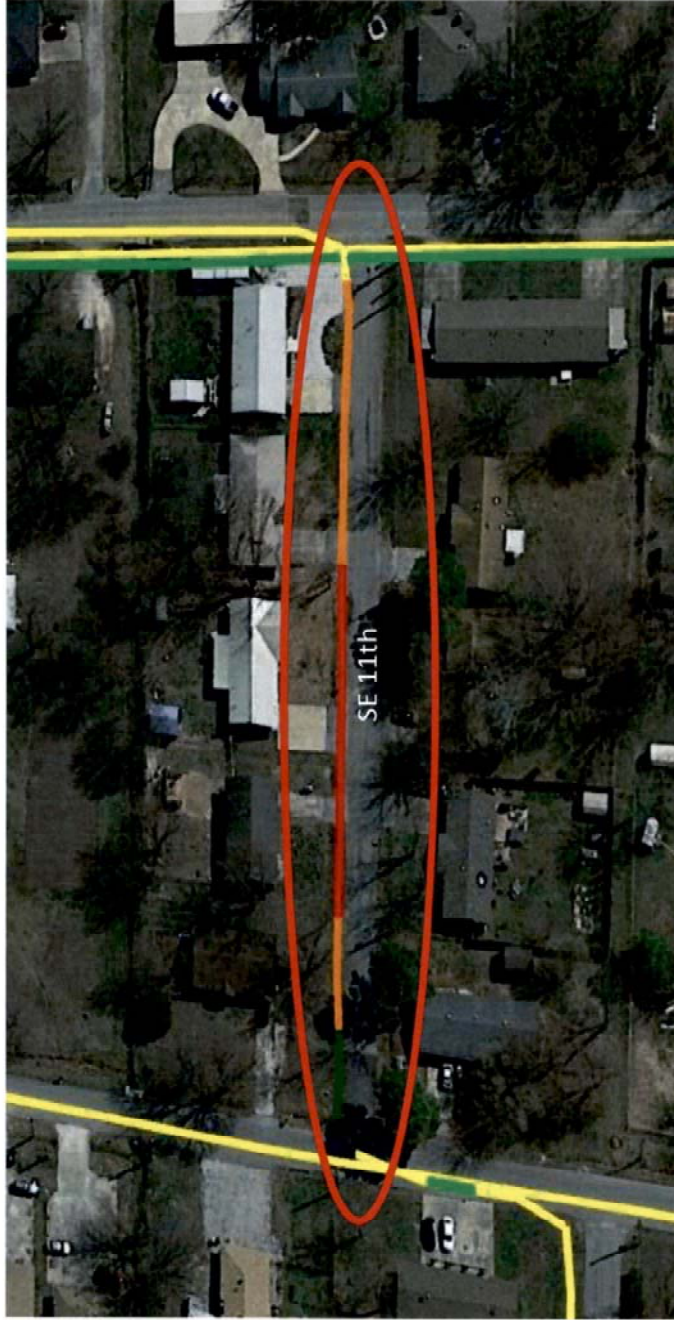
SW 10th – SW A to End – 1,298 lf



SE D – SE 14th to SE 12th – 615 If



SE 28th – S. Walton to SE C St. – 1,175 lf



SE 11th – Benton to SE C St. – 460 lf



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

AGENDA FORM

CITY COUNCIL MEETING OF:

May 14, 2019

Submitted by:

Travis Matlock

Department

Electric

Phone

271-5941

ACTION REQUIRED:

Resolution authorizing the Mayor and Clerk to enter into a contract with Arkansas Municipal Power Association (AMPA) to provide Mutual Aid Assistance to other public power entities during an emergency situation.

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



M E M O R A N D U M

DATE: May 14, 2019

TO: **City Council, Mayor Orman**

FROM: Travis Matlock, Electric Utility Director

RE: Resolution – AMPA Mutual Aid Assistance

The Electric Department recommends entering into an agreement with Arkansas Municipal Power Association (AMPA) to provide assistance during an emergency to other public power entities.

AMPA created a committee to update the Mutual Aid Assistance Agreement (originally approved by City Council in 2010) and distribute to the other 14 public power entities. This Agreement will set forth initial contact, hours of work, pay rates, etc. that will be used if there is a need for assistance in repairing of the electric system during a storm event.

The Agreement could also be modified if any other department had the need to respond to another city (water/sewer/fire/etc.).



ARKANSAS MUNICIPAL POWER ASSOCIATION
MUTUAL AID AND ASSISTANCE AGREEMENT

(Version: March 2019)

This Agreement ("Agreement") to be made effective the ____ Day of _____, _____, by and between the **City of Bentonville**, a Public Power Entity of the State of Arkansas, and any other Public Power Entity that may subsequently become a party to this Agreement by executing and delivering an identical Agreement to the Arkansas Municipal Power Association (AMPA) Mutual Aid Coordinator, for the purposes stated herein. This Agreement, by its nature, is executed in counterparts, each of which is deemed as original but all constitute one and the same instrument.

Recitals

WHEREAS, local government entities in Arkansas are directed by A.C.A. § 12-75-121 to utilize the services, equipment, supplies, and facilities of existing departments, offices and agencies of the state and the political subdivisions of the state to the maximum extent possible when recovering from Emergencies; and

WHEREAS, the Members are desirous of entering into an Agreement providing for the terms of Mutual Aid and Assistance in order to adequately prepare and plan for Emergencies that may arise from time-to-time; and

WHEREAS, the Members are authorized by Arkansas law including, without limitation, the Arkansas Interlocal Cooperation Act found at A.C.A. § 25-20-101, et seq., to cooperate for their mutual benefit and thereby best meet the needs of their respective local communities.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Members agree as follows:

ARTICLE I
PURPOSE

Recognizing that Emergencies (as defined below) may require assistance in the form of personnel, equipment and supplies from outside the area of impact, the signatory utilities establish this Agreement for Mutual Aid and Assistance. Through the Mutual Aid and Assistance Agreement, Members intend to coordinate response activities and share resources during Emergencies. This Agreement sets forth the procedures and standards for the administration of the interagency Mutual Aid and Assistance Agreement.



MUTUAL AID AND ASSISTANCE AGREEMENT

ARTICLE II **DEFINITIONS**

In addition to the terms defined elsewhere herein, the following terms used in this Agreement have the following meanings, applicable to both the singular and plural forms of the terms defined.

1. *Authorized Official* means the elected official or employee of a Member who is authorized by the Member's governing board or management to execute this agreement. The Authorized Official may also be the Utility Executive.
2. *Contract Crews* means workers and/or groups of workers (including their tools, equipment and vehicles) who are:
 - a. Not employees of any Member, but perform work under an independent contract with a Member;
 - b. Released from existing contractual obligations to work for a Requesting Member; and
 - c. Agree to work for a Requesting Member according to the terms of a new agreement.
3. *Emergency* means any tornado, storm, flood, high water, earthquake, drought, fire, radiological incident, air or surface-borne toxic or other hazardous material contamination, or other catastrophe, whether caused by natural forces, enemy attack, or any other means the response to which is, or is likely to be, beyond the capability of the services, personnel, equipment or facilities of a Member or such an event that due to the size or nature thereof is likely to result in significant delays in completion of the repairs necessary due to such Emergency.
4. *Member* means a Public Power Entity that has demonstrated its intention to participate in this Mutual Aid and Assistance Agreement by executing the same, until such time that the Agreement is terminated in accordance with Article X hereof. Membership in this Agreement does not convey, infer or imply membership in AMPA, nor does Membership in this Agreement require membership in AMPA.
5. *Mutual Aid and Assistance Policy* means a Responding Member's policy which, at a minimum, dictates pay rates, work hours and rest hours for the Responding Member's personnel during the Period of Assistance, as such policy may be amended, modified or replaced from time to time.
6. *Period of Assistance* means the specified period of time when a Responding Member assists a Requesting Member. The period commences when the Resources depart from a Responding



MUTUAL AID AND ASSISTANCE AGREEMENT

Member's facility and ends when the Resources return to their facility (portal to portal) or when the Resources should have reasonably returned to their facility. All protections identified in the Agreement apply during this period. The specified Period of Assistance may occur during response to, recovery from or training for an Emergency, as previously defined.

7. *Public Power Entity* means the governing body of any electric generation, transmission, or distribution system owned or operated by any city of the first class, city of the second class, or a town incorporated under the laws of the State of Arkansas or any commission, department, division, or agency thereof, including any municipally owned or municipally controlled corporation, improvement district, consolidated public or municipal utility system improvement district, or nonprofit corporation lessee of such an entity.

8. *Requesting Member* means a Member who requests assistance under this Mutual Aid and Assistance Agreement.

9. *Responding Member* means a Member that responds to a request for assistance under the Mutual Aid and Assistance Agreement.

10. *Resources* means personnel, equipment, or supplies.

11. *Utility Executive* means a senior employee of a Member or his or her designee who has been properly designated and duly authorized to act on behalf of the Member in an Emergency or throughout a Period of Assistance. Utility Executives are required to have signatory authority to contract on behalf of the Member and authority to request assistance or offer assistance under this Agreement. A Utility Executive may also be the Authorized Official.

12. *Utility Coordinator* means an employee of the Member who the Utility Executive has empowered to act on behalf of the Member in an Emergency or during the Period of Assistance. The Utility Coordinator and his alternates, if any, shall be named on the Member's Resource list. The Utility Executive may also be the Utility Coordinator.

ARTICLE III PARTICIPATION REQUIREMENTS

1. Members executing this Agreement shall comply with the requirements herein when requesting assistance, or responding to a request for assistance, from another Member. However, the execution of this Agreement shall not be interpreted to require any Member to request assistance, or respond to a request for assistance, from another Member.

2. Members executing this Agreement shall identify, designate and provide the following information to the AMPA Mutual Aid Coordinator:

- a. Authorized Official;



MUTUAL AID AND ASSISTANCE AGREEMENT

- b. Utility Executive;
- c. Utility Coordinator;
- d. Emergency Contact Information (24-hours/day);
- e. Information about Resources; and
- f. Such other information as may reasonably support the AMPA Mutual Aid and Assistance program.

3. *Requesting Assistance.* A Member's Utility Coordinator may request Mutual Aid and Assistance from one or more other Member(s) orally, electronically (via email) or in writing. When made orally, the request shall be reduced to electronic or written form as soon as practical. Requests for assistance shall be directed to the Utility Coordinator of the participating Member and contain the following minimum information:

- a. Resources sought;
- b. Requested arrival date/time;
- c. Estimated duration;
- d. Coordinating instructions; and
- e. Such additional information as may be considered useful.

4. *Responding to a request for Assistance:* After a Member receives a request for assistance, the Member's Utility Coordinator shall determine whether the requested Resources, or any portion thereof, are available to assist as requested and inform the Requesting Member of the determination as soon as possible. If responding, the Member shall provide the Requesting Member the following information in written or electronic form:

- a. The type of available Resources;
- b. The approximate time that Resources will arrive;
- c. A copy of the Responding Member's Mutual Aid and Assistance Policy; and
- d. Such additional information as may be considered useful.

ARTICLE IV **RESPONDING MEMBER PERSONNEL**

1. *Control.* Responding Member personnel shall remain under the direction and control of the Responding Member. The Requesting Member's Utility Coordinator or alternates shall coordinate response activities with the designated supervisor(s) of the Responding Member(s).



MUTUAL AID AND ASSISTANCE AGREEMENT

The Responding Member's designated supervisor(s) shall be responsible for administering the Responding Member's Mutual Aid and Assistance Policy including work and rest hours during the response activities and coordinating with the Requesting Member. Contract Crews released by Responding Member to the Requesting Member will be under direct contract with the Requesting Member.

2. *Food, Shelter and Laundry.* The Requesting Member shall supply reasonable food, shelter and laundry service for Responding Member personnel. If the Requesting Member fails to provide reasonable food, shelter and laundry services for Responding Member personnel, the Responding Member's designated supervisor is authorized to secure the resources necessary to meet the needs of its personnel and the Requesting Member shall be responsible for reimbursing the Responding Member for all costs so incurred. However, only the reasonable cost of these expenses shall be paid by the Requesting Member.

3. *Communication.* The Requesting Member shall provide Responding Member personnel with radio equipment or personnel with radio equipment, or other suitable equipment or method to facilitate communication. If practical, radio frequency information may be provided to program existing radios in order to facilitate communications between the Requesting Member and its employees as well as the Responding Member and its employees.

4. *Status.* Unless otherwise provided by law, the Responding Member's officers and employees retain the same privileges, immunities, rights, duties, and benefits as provided in their respective jurisdictions.

5. *Standards, Policies and Procedures.* Responding Member personnel shall perform work within Requesting Member's jurisdiction in accordance with Requesting Member's standards of construction. Responding Member personnel shall perform work in a safe and good workmanship like manner and in accordance with applicable local, State and Federal rules, regulations and laws.

6. *Right to Withdraw.* The Responding Member's Utility Coordinator retains the right to withdraw some or all of its Resources at any time. Notice of intention to withdraw shall be communicated to the Requesting Member's Utility Coordinator in written or electronic form as soon as possible.

ARTICLE V **COST REIMBURSEMENT**

Unless otherwise mutually agreed in whole or in part, a Requesting Member shall reimburse all Responding Members for all costs incurred while providing aid and assistance during the specified Period of Assistance according to the following categories:



MUTUAL AID AND ASSISTANCE AGREEMENT

1. *Personnel.* A Requesting Member shall reimburse all labor costs of Responding Members incurred through the provision of assistance under this Agreement according to the same terms provided in such Responding Member's Mutual Aid and Assistance Policy. No Requesting Member shall be liable for any Responding Member's labor costs occurring before or after the Period of Assistance. The Responding Member's designated supervisor(s) must keep accurate records of work performed by their personnel during the specified Period of Assistance. The Requesting Member reserves the right to, at its discretion, review and approve work records kept by the Responding Member. Requesting Member reimbursement to the Responding Member shall include all personnel costs, including salaries or hourly wages, costs for fringe benefits, and indirect costs.

a. When a Requesting Member receives assistance from one or more Responding Members **and receives no out-of-state aid**, the Requesting Member will pay for labor costs at one and one half (1 ½) times the Responding Members normal rate of pay, including travel time (portal to portal) for a minimum of twelve (12) hours, with a maximum hours as allowed per the American Public Power Association, Safety Manual, 16th Edition (or latest revision).

b. When a Requesting Member receives assistance from one of more Responding Members **and also receives out-of-state aid**, the Requesting Member will pay for labor costs at two (2) times the Responding Members normal rate of pay, including travel time (portal to portal) for a minimum of sixteen (16) hours each day, with a maximum hours as allowed per the American Public Power Association, Safety Manual, 16th Edition (or latest revision).

2. *Equipment.* The Requesting Member shall reimburse the Responding Member for the use of equipment during the Period of Assistance. Reimbursement for equipment used shall be based on the Federal Emergency Management Agency's (FEMA) Schedule of Equipment Rates. Reimbursement for equipment not referenced on the FEMA Schedule of Equipment Rates will be developed based on Responding Member's actual recovery of costs using FEMA criteria to determine eligible costs or as agreed to by Members.

3. *Materials and Supplies.* The Requesting Member shall reimburse the Responding Member in kind or at actual replacement cost for expendable or non-returnable supplies used while providing assistance. The Responding Member shall not charge direct fees or rental charges to the Requesting Member for supplies and reusable items that are returned to the Responding Member in a clean, damage-free condition. Reusable supplies that are returned to the Responding Member in an unclean or damaged condition shall be treated as expendable supplies for purposes of cost reimbursement. However, the Requesting Member shall be entitled to retain the expendable supplies if the Requesting Member pays the full replacement cost of such item(s).



MUTUAL AID AND ASSISTANCE AGREEMENT

4. *Tools and Chain Saw.* No charge will be made to Requesting Member for the use of tools and chain saws.

5. *Payment Period.* The Responding Member shall provide an itemized bill to the Requesting Member for all expenses it incurred as a result of providing assistance under this Agreement. The Responding Member must send the itemized bill not later than ninety (90) days following the end of the Period of Assistance. The Requesting Member shall pay the bill in full on or before the ninetieth (90th) day following the billing date.

ARTICLE VI PREPARATION, EDUCATION AND TRAINING

Members may participate in joint preparation, education or training events to prepare for Emergencies and other purposes as may be mutually beneficial to the Members. While these events may simulate a Request for Assistance, each participating Member will bear their own organizational costs, unless otherwise agreed. Shared costs will be distributed based upon each Member paying a proportion that is equal to the most recent annual peak of its system electric load (peak load) divided by the sum of all Members' peak loads participating in the preparation, education or training event, as customary within AMPA.

ARTICLE VII WORKER'S COMPENSATION CLAIMS

The Responding Member is responsible for providing worker's compensation benefits and administering worker's compensation for its employees.

ARTICLE VIII INSURANCE

Each Member shall bear the risk of its own actions, as it does with its day-to-day operations, and determine for itself if and what kinds of insurance, and in what amounts, it should carry.

ARTICLE IX INDEMNIFICATION

A Requesting Member receiving Mutual Aid and Assistance pursuant to this Agreement hereby agrees, to the fullest extent permitted by law, to release, indemnify, defend and hold harmless the Responding Member, and its officers, agents and employees from and against any and all loss, liabilities, claims, damages, fines, penalties, clean-up costs and other pollution-related damages, and all costs, fees (including attorneys' fees) and expenses related thereto, resulting or arising (directly or indirectly) out of, or in any way connected with the provision of Mutual Aid and Assistance to said Requesting Member hereunder, including, without limitation, those resulting or arising (directly or indirectly) from the acts or omissions of the Responding



MUTUAL AID AND ASSISTANCE AGREEMENT

Member or its officers, agents or employees, except those resulting solely from the willful acts or omissions of the Responding Member or its officers, agents or employees. This Agreement shall not be interpreted to constitute a waiver of immunity by any Requesting Member, any Responding Member, or any Member or group of Members whatsoever. The parties to this Agreement intend to preserve all immunities to the maximum extent allowed by law. Further, this Agreement shall not be construed to impose liability upon any Member based upon the existence or availability of insurance or other third-party indemnifier.

ARTICLE X **TERM**

The term of this Agreement shall commence upon the execution and delivery of this Agreement to the Arkansas Municipal Power Association Mutual Aid Coordinator and shall continue until terminated by the Member at any time by giving the AMPA President thirty (30) days prior written notice of its desire to so terminate this Agreement. Termination of this Agreement shall not affect the Member's accrued obligations or liabilities under this Agreement, including without limitation, the obligation of a Requesting Member to pay amounts due hereunder. The AMPA Board of Directors may terminate this Agreement in whole or in part upon the vote of the Board at a regular or called business meeting.

ARTICLE XI **COUNTERPARTS**

This Agreement may be executed in counterparts and each part will be deemed valid as if fully executed. An Agreement shall be deemed valid when a Member shall have executed and delivered to the Mutual Aid Coordinator an identical Agreement for Mutual Aid and Assistance. During the term of this Agreement, the Member shall be entitled to all the rights of a Member under this Agreement. The Member shall also be subject to all the provisions of, and liable for all obligations incurred by it as a Member under this Agreement and the termination hereof shall not affect any accrued obligation or liability of the Member hereunder.

ARTICLE XII **MODIFICATIONS**

This Agreement shall only be amended, modified, or otherwise changed by: (1) prior written consent of all the Members, who at that time have not terminated their Agreements for Mutual Aid and Assistance, or given notice of the termination thereof, or (2) approved by three-fourths of the voting members at a regularly scheduled AMPA meeting. No modification shall take effect prior to sixty (60) days' notice to all Members. Nothing in this Article XII shall be deemed or interpreted to restrict termination under Article X.



MUTUAL AID AND ASSISTANCE AGREEMENT

ARTICLE XIII PRIOR AGREEMENTS

This Agreement supersedes all prior Agreements between Members to the extent that such prior Agreements are inconsistent with this Agreement. This Agreement does not interfere with Agreements or arrangements that Members may now have or may enter into during the Term of this Agreement with other entities. Members may provide or receive Mutual Aid and Assistance under agreements with other entities without in any way affecting the validity of this Agreement and without the necessity of obtaining the assent of any other Member

ARTICLE XIV PROHIBITIONS ON THIRD PARTIES AND ASSIGNMENT OF RIGHTS/DUTIES

This Agreement is for the sole benefit of the Members and is not intended to create any third-party beneficiaries. Further, this Agreement shall not be assigned directly or by operation of law.

ARTICLE XV ADDITIONAL PARTIES

Subject to the terms and conditions of this Agreement, any eligible public power entity may become a Member under this Agreement by executing an identical Agreement and delivering said Agreement to the AMPA Mutual Aid Coordinator.

ARTICLE XVI CONFLICTS

Prior to any Member ("Aggrieved Member") filing litigation against any other Member or groups of Members ("Accused Member(s)") based, in whole or in part, upon this Agreement, the Authorized Official and Utility Executive of the Aggrieved Member shall submit a written offer to the Authorized Official and Utility Executive of the Accused Member(s) to meet and confer in a good faith attempt to resolve the dispute. Should the conflict remain unresolved for sixty (60) days after the written offer to meet and confer, the Aggrieved Member and Accused Member(s) shall attempt to mediate the conflict within ninety (90) days, with the Aggrieved Member and Accused Member(s) each paying a share of the costs of mediation equal to the most recent annual peak of its system electric load (peak load) divided by the sum of the Aggrieved Member and Accused Member(s)' peak loads. The requirements of this Article XVI constitute preconditions to litigation and no litigation shall be filed in violation herewith.

SIGNATURE PAGE FOLLOWS



MUTUAL AID AND ASSISTANCE AGREEMENT

IN WITNESS WHEREOF, the Member has executed and sealed this Agreement by the authority of its governing body duly given to be effective the day and year first above written.

MEMBER: _____

a Public Power Entity in the City of _____, Arkansas.

Authorized Official:

Printed Name: _____

Signature: _____

Title: _____

Address: _____

Utility Executive:

Printed Name: _____

Signature: _____

Title: _____

Address: _____

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION OF A MUTUAL AID AND ASSISTANCE AGREEMENT WITH OTHER MEMBERS OF THE ARKANSAS MUNICIPAL POWER ASSOCIATION; AND FOR OTHER PURPOSES.

WHEREAS, Ark. Code Ann. §§ 25-20-101 et seq. ("the Interlocal Cooperation Act") provides for Interlocal Cooperation Agreements between various political subdivisions of the State of Arkansas; and

WHEREAS, Section 104(h) of the Interlocal Cooperation Act allows cities, counties, and other units of government, including municipal power providers, to enter into informal cooperative agreements to share resources without burdensome procedural requirements; and

WHEREAS, emergency events or disasters (i.e. severe weather storms) can occur, causing substantial damage and destruction and that is beyond the capability of the personnel, equipment and facilities of an affected municipal power provider; and

WHEREAS, the Federal Emergency Management Agency ("FEMA") encourages planning and preparation before an emergency event or disaster, to include negotiation of contracts and agreements, and

WHEREAS; cooperative preparation for emergency events and disasters may include joint planning, training and education, in addition to understanding the capabilities of cooperative parties; and

WHEREAS, recognizing that emergency events or disasters may require assistance in the form of personnel, equipment and supplies from outside the area of impact, it is in the best interests of participating members of the Arkansas Municipal Power Association ("AMPA") that a Mutual Aid and Assistance Agreement be joined in order to coordinate response activities and share resources during such emergencies.

NOW, THEREFORE, BE IT RESOLVED BY the City of Bentonville:

SECTION 1: That the Mayor and Clerk of the City of Bentonville are hereby authorized to execute the AMPA Mutual Aid and Assistance Agreement, in substantially similar in form and content to the document attached as Exhibit "A" attached hereto, along with other AMPA members, which may include Benton Utilities; City of Bentonville, Arkansas; Clarksville Water & Light Company; Conway Corporation; Hope Water & Light Commission; City Water & Light Plant of the City of Jonesboro, Arkansas; City of North Little Rock; City of Osceola; Paragould Light and Water Commission; City of Prescott, Arkansas; City of Piggott, Arkansas; West Memphis Utilities Commission, Arkansas; City of Siloam Springs, Arkansas and City of Paris, Arkansas.

SECTION 2: That the Mayor and Clerk of the City of Bentonville are designated to serve as the Authorized Official and Utility Executive under the AMPA Mutual and Assistance Agreement and ensure compliance therewith. The Mayor and Clerk may delegate the duties of Utility Executive to a senior utility employee. The Mayor and Clerk may delegate the duties of Utility Coordinator to any utility employee.

SECTION 3: That this resolution shall be in full force and effect from and after its passage and approval.

PASSED and APPROVED this _____ day of _____, 2019.

APPROVED:

MAYOR

ATTEST:

CITY CLERK