BENTONVILLE CITY COUNCIL AGENDA

Note – Due to health concerns related to COVID-19, some of all of the members of the City Council, as well as City staff members, may attend this meeting by phone or other remote means. Those who attend should observe the CDC recommendations concerning hygiene, the use of masks or other facial coverings, and social distancing (keeping at least 6 feet away from other persons present at the meeting). No one should attend this meeting if they are experiencing any type of illness involving a fever, sneezing or coughing, or shortness of breath. Those attending the meeting in person may be screened before being allowed to enter by having their temperature taken and by being asked a series of questions focusing on possible exposure to COVID-19. Those wishing to make public comments who cannot or do not want to attend the meeting may do so by email submitted to cc.comments@bentonvillear.com by at least 4:00 p.m. on the day of the meeting and those comments will be communicated to the members of the Council and the Mayor. Accommodation has also been made to allow Bentonville citizens to make "live" public comments orally in the event they cannot or do not feel comfortable attending the meeting in person. To do so, please send an email indicating a desire to make public comments remotely to cc.comments@bentonvillear.com by at least 1:00 p.m. on the day of the meeting and a reply email will be sent with instructions about how your comments can be made. Making comments will require you to register with your name, address, phone number and email address. The pre-existing limitations (3 minutes) and procedures with respect to oral public comments will still apply.

Regular City Council Meeting **Tuesday, March 9, 2021 6:00 p.m.**
Bentonville Community Center **1101 Southwest Citizens Circle**
BCC Community Rooms

***If the public would like to attend virtually, please register at the following link by 4:00 p.m. on March 9, 2021:**
https://us02web.zoom.us/webinar/register/WN_pfnJoE1cTjWTv3FNuNk_IQ

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: February 23, 2021

AGENDA

1. Presentation of Short Term Rental Study. **(Pages 7-20)**

2. An Ordinance accepting the annexation of certain territory to the City of Bentonville, Arkansas, and making same a part of the City of Bentonville, and assigning same to wards. (Kalaiselvan (Pagan) Annexation) **(Pages 21-43)**

3. Planning:

3a. **Ordinance accepting a lot split of Lot 1 of 7 Brew Subdivision, Clearwater Investments, Inc., 2811 & 2813 SW 14th Street, C-2, General Commercial.**

(Pages 48-50)

The Planning Commission voted 6-0, recommending approval.

A lot split of previously unplatted land creating new Lot 1 (+/- 1.67 acres) of 7 Brew Subdivision. The plat dedicates additional utility easements along SW Stagecoach Road and SW 14th Street.

3b. **Ordinance accepting a lot split of Lots 1-4 of Allen Subdivision South, Bentonville/Bella Vista Trailblazers Association, SW 8th Street, A-1, Agricultural.**

(Pages 51-53)

The Planning Commission voted 6-0, recommending approval.

A lot split of existing Lot 19 of Hardcastle Estates and Tract 8 of Allen Subdivision eating new Lot 1 (+/-17.51 acres), Lot 2 (+/- 15.16 acres), Lot 3 (+/- 6.26 acres) & Lot 4 (4.79 acres) of Allen Subdivision South. Per the requirements of the Master Street Plan, right-of-way is adequate along both SW 8th Street and Melissa Drive. The plat dedicates utility easements to serve the lot with public utilities.

3c. **Ordinance accepting a property line adjustment of Lots 17-18, Block 19 of Deming's 2nd Addition, Stephan & Catherine Roche & Clifford & Lori Vanderpool, 601 & 605 NW B Street, R-1, Single Family Residential.**

(Pages 54-56)

The Planning Commission voted 6-0, recommending approval.

A property line adjustment of Lots 13, 14, and 15, Block 19 of Deming's 2nd Addition, creating new Lots 17 (+/- 0.168 acres) and 18 (+/- 0.198 acres). The plat dedicates a ten-foot utility easement along NW B Street.

3d. **Ordinance accepting a property line adjustment of Lot 44 of Oakwood Heights, Calcon, Inc., 2104 Almand Drive, R-1, Single Family Residential.**

(Pages 57-59)

The Planning Commission voted 6-0, recommending approval.

A property line adjustment of Lots 23 and 24 of Oakwood Heights, creating new Lot 44 (+/- 0.526 acres). The plat dedicates additional right-of-way along Almand Drive.

3e **Ordinance changing real estate from A-1, Agricultural to C-3, Mixed-Use Commercial, Crystal Bridges Museum of American Art, 600 Museum Way.**

(Pages 60-68)

The Planning Commission voted 6-0, recommending approval.

The Future Land Use Plan currently depicts this property as Public/Semi-public. Public/Semi-public land uses include government offices, community facilities, and museums that are open to the public and provide community services and amenities. The current land use of Crystal Bridges is in line with this land-use category.

The Future Land Use Plan and the definition of the C-3 zoning district provide support for the rezoning request. Staff recommends approval of the rezoning request.

3f. **Ordinance changing real estate from A-1, Agricultural to C-1, Neighborhood Commercial & C-2, General Commercial, Vaishno Group, LLC, SW 14th Street.**

(Pages 69-80)

The Planning Commission voted 6-0, recommending approval.

The property is within Priority Area 3, Edge Growth, as identified in Chapter 4 of the Land Use Plan. This area focuses on development in areas proximate to existing infrastructure to capitalize on municipal investments that have already taken place. (p. 44). Also, this area is noted for its potential to support mixed-use development.

The Future Land Use Plan depicts this property as Residential Estate. These areas include large, detached single-family residential properties at least one acre in size. These areas may also include public uses that support residents. The Future Land Use designation of Residential Estate is not consistent with development patterns that have occurred in this area of the city.

Planning staff has reviewed this rezoning request. While it is not consistent with the Future Land Use Plan, it is consistent with the development patterns that have taken place in the surrounding area. Staff recommends approval of the proposed rezoning.

3g. **Ordinance changing real estate from R-1, Single Family Residential to DE, Downtown Edge, Mark & Lisa Hufford, 302 NW A Street.**

(Pages 81-90)

The Planning Commission voted 6-0, recommending approval.

The Bentonville Community Plan, Downtown Bentonville Subarea Plan, depicts this property within the Downtown Transition character area (p. 122). The transition area is meant to serve as a transition in scale and intensity from Downtown development and surrounding residential uses. The character area recommends supporting a mix of residential and local commerce uses. At the intersection of NW 3rd and NW A Street, a mix of uses can be observed, with townhomes, a religious facility, and this single-family home coexisting.

The Future Land Use Plan currently depicts this property as High-Density Residential. High-Density Residential areas typically include apartments, condominium buildings, and resident-oriented commercial uses.

The Downtown Bentonville Subarea Plan and the intent of the DE Zoning District lend support to the rezoning request. Staff recommends approval of the rezoning request.

3h. **Ordinance changing real estate from C-2, General Commercial to C-3, Mixed-Use Commercial, LaRose Development, LLC, S Walton Boulevard.**

(Pages 91-98)

The Planning Commission voted 6-0, recommending approval.

The Future Land Use Plan depicts this property as General Commercial. These areas include uses that serve both nearby residents and those coming from other parts of the city or region. Appropriate uses in these areas include retail, restaurants, services and offices, Vertical mixed-use developments are encouraged, but are not as high priority as in mixed-use or downtown commercial areas. General commercial uses should balance access between pedestrians and vehicles, though the impacts of parking should be minimized through site design and landscaping.

The request is consistent with the Future Land Use Plan. Staff recommends approval of the rezoning request due to its compatibility with the surrounding commercial uses and the potential to provide a variety of housing types and other services near the downtown core and along a major arterial road that traverses the entire city.

3i. **Ordinance changing real estate from R-2, Duplex & Patio Home Residential to DN-2, Downtown Medium-Density Residential, Wayne Alexander Trust, 406 SW Glover Street.**

(Pages 99-104)

The Planning Commission voted 6-0, recommending approval.

The Future Land Use Plan depicts this property as Medium Density Residential. These areas include townhouse or duplex residential properties with a typical density of 8-12 units per acre. These areas are found both near Downtown and in some recent growth areas. These areas may also include local amenities for residents, including neighborhood parks, places of worship, etc.

The request is consistent with the Future Land Use Plan. Staff recommends approval of the rezoning request due to its compatibility with the surrounding zoning designations and residential uses in this quadrant of the downtown area.

4. Appeal to a Planning Commission decision for a rezoning request by the Allen and Veda Kinyon Trustees of land located at 403 SW E Street. A rezoning request from R-1, Single-Family Residential to DN-2, Downtown Medium-Density Residential. The Planning Commission voted 7-0 to recommend to the City Council that the petition be denied and that said property not be rezoned from its present classification of R-1, Single Family Residential to DN-2, Downtown Medium-Density Residential. **(Pages 105-109)**

5. Appeal to a Planning Commission decision for a rezoning request by the Allen and Veda Kinyon Trustees of land located at 342 SW D Street. A rezoning request from R-1, Single-Family Residential to DN-2, Downtown Medium-Density Residential. The Planning Commission voted 7-0 to recommend to the City Council that the petition be denied and that said property not be rezoned from its present classification of R-1, Single Family Residential to DN-2, Downtown Medium-Density Residential. **(Pages 110-114)**

6. Appeal to a Planning Commission decision for a rezoning request by the Pinnacle Villas, LLC of land located at 301 SW E Street. A rezoning request from R-1, Single-Family Residential to DN-2, Downtown Medium-Density Residential. The Planning Commission voted 7-0 to recommend to the City Council that the petition be denied and that said property not be rezoned from its present classification of R-1, Single Family Residential to DN-2, Downtown Medium-Density Residential. **(Pages 115-131)**

7. A resolution to support the installation of artwork titled "Mull it Over" by artist Nina Chanel Abney on the Razorback Greenway behind 700 SE 5th Street. The artwork was commissioned by OzArt which will fund the installation. There is no cost to the city. Memo and proposal attached. **(Pages 132-140)**

8. Utility Board:

8a. Resolution authorizing the Mayor and City Clerk to enter into Addendum #4 to the Wal-Mart Master Development Agreement to perform procurement and construction for the electric upgrades required for the WMT Campus Development for $49,666,401.40. This will be paid for by the developer and was approved by the Utility Board 4-0. **(Pages 141-156)**

8b. Budget adjustment to recognize $49,666,401.40 from Wal-Mart to cover the cost of the procurement and construction of the electric upgrades associated with the WMT Campus project. This was approved by the Utility Board 4-0. **(Pages 157-158)**

8c. Resolution authorizing the Mayor and City Clerk to enter into a agreement with Ampirical to perform equipment procurement and construction for the electric upgrades required for the WMT Campus Development for $59,294,471.00. This will be paid for by the 2 different sources. $49,666,401.40, from WMT, $9,628,069.60 from the Walton Family Foundation. This was approved by the Utility Board 4-0. **(Pages 159-223)**

8d. A resolution to enter into an agreement with Futura Systems, Inc. for Field Pro Staking software which is Phase 2 of the overall software installation for $36,725.00. This is a 2021 budgeted item and was approved by the Utility Board 4-0. **(Pages 224-230)**

8e. Bid award for the construction of Phase 1 of the fiber infrastructure to Source Power, LLC for $475,745.86. This is a 2021 budgeted item and was approved by the Utility Board 4-0. **(Pages 231-237)**

8f. Bid award for pole mount transformers for January through June in 2021 to the second lowest bidder as shown on the attached bid tabulation in the amount of $340,061.00. Items will be ordered on 'as needed' basis and was approved by the Utility Board 4-0. **(Pages 238-241)**

8g. Bid award for single phase transformers for January through June in 2021 to the second lowest bidder as shown on the attached bid tabulation in the amount of $712,504.00. Items will be ordered on 'as needed' basis and was approved by the Utility Board 4-0. **(Pages 242-245)**

8h. Bid award for 3PH phase transformers for January through June in 2021 to the second lowest bidder as shown on the attached bid tabulation in the amount of $1,819,176.30. Items will be ordered on 'as needed' basis and was approved by the Utility Board 4-0. **(Pages 246-249)**

8i. Resolution requested by Staff for City Council approval authorizing the Mayor and City Clerk to enter into an agreement with Mueller Systems, LLC in an amount not to exceed $293,563.00 for material and labor to provide and install AMI network infrastructure. Funding will be from the Water Utility reserves. Payment to be made after system meets acceptance of operating at 98.5%. This item was approved by the Utility Board 3-1. **(Pages 250-289)**

8j. Budget Adjustment requested by Staff in the amount of $293,563.00 to cover costs associated with the Mueller Systems, LLC agreement for material and labor to provide and install AMI network infrastructure. Funding will be from the Water Utility reserves. This item was approved by the Utility Board 4-0. **(Pages 290-291)**

8k. Resolution recommended by Staff for City Council approval to amend the Republic Services contract to extend it for an additional 3 years. Please see attached memo. Approved at Utility Board 4-0. **(Pages 292-295)**

9. A public hearing and ordinance vacating multiple Drainage and Utility Easements requested for Walmart Layout Center Subdivision by Walmart (VAC20-0036). **(Pages 296-323)**

10. A public hearing and ordinance vacating a Street Right of Way and establishing a Utility Easement requested for 700 SW 16th Street, Lot 6 of Northwest Prairie Add. (VAC20-0031). **(Pages 324-335)**

11. Ordinance allowing the approval of an agreement with Ozark Regional Transit Service in the amount of $144,063.00 to provide transit service to Bentonville citizens in calendar year 2021 and waiving the requirement of competitive bidding. **(Pages 336-340)**

12. Resolution authorizing Mayor Stephanie Orman, Jessica Thurman (Assistant Finance Director) and Jake Harper (Director of Finance and Administration) to be named as Responsible Parties in regards to operating brokerage accounts with Arvest Wealth Management. The purpose of the brokerage account will be to allow the receipt and liquation of stock gifts to the City from donors after approval of the gift from City Council. Funds would be transferred to City bank accounts after liquidation. Please see attached letter from Arvest. **(Pages 341-344)**

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Planning**
Submitted by	**Shelli Kerr**
Phone	**(479)271-6822**

Item Type: (*Check All That Apply*)

☐ Budget Adjustment	☐ Change Order	☑ Informational	☐ Ordinance	☐ Resolution	☐ Bid Award

Recommendation/Suggested Action *(Enter recommendation in space below):*

Presentation of Short Term Rental Study.

Estimated Cost	**0**
Is this Item Budgeted?	☐ Yes ☑ No

If no, please explain how item will be funded *(briefly explain in space below)* **:**

Short-term Residential Study Report

City Council Date: 3/09/2021

Preparer: Shelli Kerr, AICP, Comprehensive Planning Manager

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1. Introduction

In the last year, Staff began receiving questions and comments concerning short-term rentals (STRs) in Bentonville. Some inquiries were from people wanting to operate short-term rentals to ensure they are meeting local regulations, of which there are none specific to that use. Others are concerned about the impact of short-term rentals on the long-term character of residential neighborhoods, particularly oversaturation in downtown neighborhoods.

City Council approved a resolution No. 10-27-20B On October 27, 2020 requesting staff to conduct a study of short-term rentals in Bentonville.

The study consisted of looking at research reports, other Arkansas statutes, Arkansas city ordinances, comparative city ordinances, studies and research reports, a local focus group discussion, and other resources. This report identifies key issues related to short term rentals and is presented to provide City Council with information to determine if any action is needed.

- Short-term rental definitions
- Positive and negative impacts of STR's
- Options for regulations
- Options for management and enforcement of regulations/permitting.

2. Short-Rental Defined

Short-term rentals are housing units or rooms within housing units that are rented for a short-period of time, typically less than 30 days. The rooms are typically rented on a nightly or weekly basis. Comparatively, long-term rentals are rented for more than 30 days and typically provide residency for people engaged in the local community through work or school.

Owners of STRs list their rentals and availability on short-term rental websites. There are more than 100 short-term rental website in the U.S. The more common ones are: Airbnb, Booking.com, couchsurfing.com, craigslist.com, HomeAway.com, Rentalspot.com, Vacationrentals.com, and VRBO.

Short-term rentals may be for the entire residential unit, a room within a unit, or dwelling unit accessory to the primary structure. They may also be occupied by the owner most of the time, part of the time, or not at all. Here's some examples of the various types of short-term rental situations.

Examples of Short-term Rental Types		
	Owner-Occupied	**Non-Owner Occupied**
Entire Homes	Example: An owner living in their residence most of the time but renting out the entire home for a few days or weeks (up to consecutive 30 days) per year.	Example: An absentee-owner who rents out his/her property in increments of less than 30 days one or more times per year.
Accessory Dwellings	Example: An owner who rents out a garage apartment or back cottage on the same property as their primary home for short periods of time.	Example: An absentee-owner who rents out an accessory dwelling on his/her non-primary residence in increments of less than 30 days one or more times per year.
Rooms	Example: An owner who rents out one or more rooms in his/her primary residence in increments of less than 31 days.	Example: An absentee-owner who rents out one or more rooms in his/her non-primary residence in increments of less than 30 days one or more times per year.

Source: Granicus

3. Positive and Negative Impacts of STRs

STR's can contribute to the community, particularly in regards to the local economy. But, they can also create some negative impacts to the community. Here's a list of the most common impacts.

Community Impacts of STRs	
Positive Impacts	**Negative Impacts**
• Provide residents an opportunity to earn money, increasing community wealth. • Contribute to the local tourism economy. • Contribute to lodging tax collections if properly collected. • May allow some residents to stay in their homes by providing additional income. • Create jobs for property management services, housekeepers, landscapers, maintenance technicians, pest control, etc.	• Take long-term rental or ownership units off of the market. • Creates competition with local hotels. • Could reduce hotel tax revenues if not properly collected. • Parking and noise issues incompatible with residential neighborhoods. • Reduce the sense of community with a higher number of transient occupants. • May reduce amount of affordable housing.

4. STRs in Bentonville

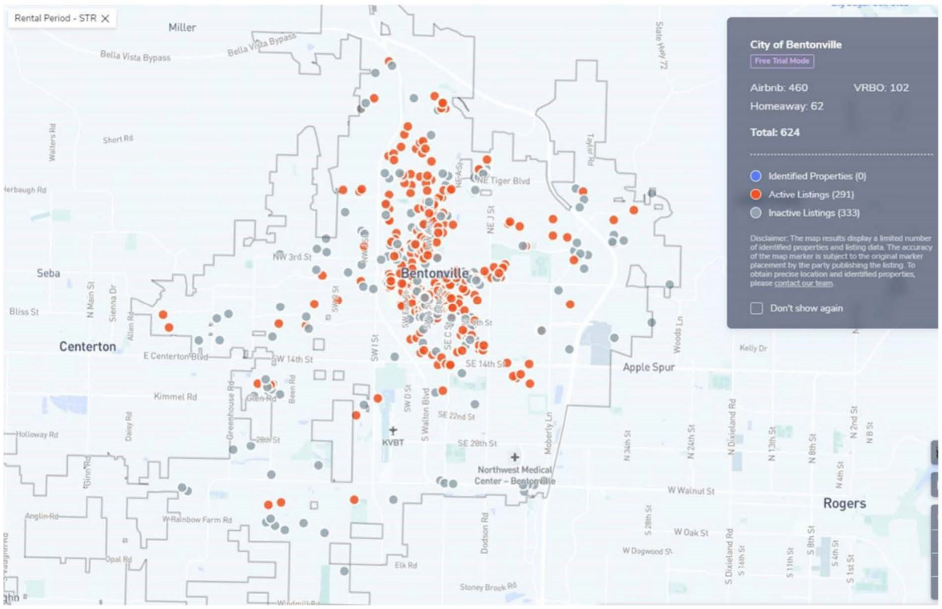
A. STR Listings

According to information provided by Deckard Technologies, as of January 22, 2020, there were 290 active listing for the next 30 days and a total of 484 listings over the past year. Based on the city's total number of housing units (24,254 as of 12/20), 1.2% of the housing stock is actively listed as an STR and 2.0% has been listed in the past year.

The map below shows the location of listings with a concentration in the downtown area. Downtown is that area contained within the boundaries of Tiger Blvd. to the north, NE J St to the east, SW 14th St to the south and N Walton Blvd to the west.

The primary platform being used by owners is Airbnb with 398 listings. The next two most popular platforms used are VRB0 (88 listings) and HomeAway (54 listings).

Listings as of 02/22/21
Provided by Deckard Technologies

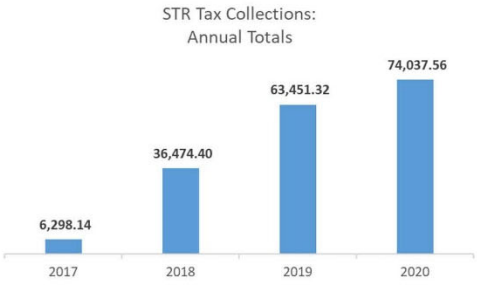


B. Tax Collections

The combined tax rate for STRs in Arkansas is **8.15%**.

- **Arkansas Sales and Use Tax:** 6.5% of the listing price including any cleaning fee for reservations 29 nights and shorter.
- **Arkansas Tourism Tax:** 2% of the listing price including any cleaning fee for reservations 29 nights and shorter.
- **Short Term Rental Tax:** 1% of the listing price including any cleaning fee for reservations 29 nights and shorter.

The City of Bentonville has an additional 2% hospitality tax on the portion of the gross receipts or gross proceeds received from the renting, leasing or otherwise furnishing of hotel, motel, or short-term rental accommodations for stays of less than 30 days. Visit Bentonville started monitoring the collection of lodging taxes for STRs in September 2017. Since then, $180,261.42 has been collected in lodging taxes from STRs, 40% of that collected in 2020 alone. The average monthly collections has steadily increased from 2017, with an average monthly collection in 2020 of $6,169.80. This is an increase of 17% from 2019, despite two months of no tax collections in March and April when travel halted due to the Covid-19 pandemic.





C. Focus Group Findings

The Focus Group session held virtually on February 2, 2021 showed similar positive and negative impacts discussed above. Members mentioned the desire to maintain the private property right to rent property while others expressed safety concerns about nearby STRs and their transient occupants. There seems to be some consensus that any regulations need to be sure they are not over-reaching or overly cumbersome for the STR owners or the city.

See Appendix A for detailed comments from the Focus Group meeting.

5. Regulatory Review

A. Why cities choose to regulate short-term rentals.

Municipalities choose to establish short-term rental regulations to balance the positive and negative impacts of STRs mentioned earlier.

Before considering regulations, municipalities must identify what the concerns are about short-terms rentals and what issues need to be addressed so that regulation are adopted that address those issues. Here's a few issues identified by cities that do regulate short term rentals and how those issues are addressed in Bentonville.

- Ensure tax revenue collection.
  - At this time, Air BnB collects the local taxes from its users on behalf of the property owners. However, this appears to be the only platform that does this voluntarily. Other home-renting platforms rely on the property owner to pay the taxes.
  - To ensure all STRs in Bentonville are paying applicable taxes, the city would need to have a list of those STRs. Getting that list would likely require a company to harvest that information off of all of the short-term rental listing websites.
- Reduce noise, parking, traffic and trash issues in neighborhoods.
  - The City of Bentonville has a noise ordinance (Ord. 2006-69, May 9, 2006, amended with Ord. 2020-39 on Feb. 11 2020) enforced by the Police Department.
  - The city has a Property Maintenance Code enforced by the code enforcement officers.
  - Because obtaining a list of addresses for short-term rentals is challenging, we have been unable to determine if there are code enforcement cases or to document police calls to short-term rental properties, to determine if they cause any more nuisance than owner-occupied properties.
- Ensure building safety.
  - The city has building codes and occupancy requirements adopted and enforced by the Building Safety Division.
  - Some cities have established an annual inspection program. To do so, Bentonville would have to establish an inspection program in addition to the existing inspections, significantly impacting staffing and resource needs.
- Preserve neighborhood residential character.
  - Some cities establish a cap on the number of housing units that can be used as short-term rentals within the city or by census tract. They may also limit the number of units within a multifamily structure.
- Ensure short-term rentals are not reducing the amount of affordable housing options.

B. Regulations associated with STR ordinances:

- STR definition
- Host occupancy requirements
- Length of permit or license
- Application and permit submission requirements
- Permit fees and renewal details
- Insurance requirements
- Zoning restrictions
- Display of permit regulations
- Required inspections
- Occupancy limitations
- Fire safety and carbon monoxide requirements
- Emergency contact requirements
- Noise control
- Signage
- Parking regulations
- Trash and waste management
- Restrictions on events and parties
- Sleeping area requirements
- Neighbor notification
- Mandatory taxes, tax reporting and payments
- Administrative staffing
- Steering or advisory committees
- Fees generated from application
- Ordinance enforcement and sanctions for non-compliance
- Appeals processes
- Complaint procedures for neighbors
- Restrictions on architectural or site changes
- Density caps on number of STRs

C. Arkansas Regulations

State Statutes. The State of Arkansas does not have regulations regarding short-term rentals, except that that there are specific taxes applicable to such businesses.

Municipal Ordinances. Only two cities (Jonesboro and Bryant) have regulations for short-term rentals and one city is in the process of drafting regulations (Fayetteville). All of these requires some type of permitting or licensing, but they vary on the amount of regulations.

6. Recommendations

If City Council decides to proceed with permitting or regulations for short-term rentals, the following actions are needed.

1. Establish a short-term rental ordinance review committee.
2. Establish a timeline for adopting regulations and a schedule for roll-out.
3. Identify the department where permitting and administration will take place.
4. Conduct a fiscal impact study to determine appropriate staffing, one-time set up costs (computers, desk space, phones, etc.), software needs and ongoing costs to establish the fee structure, start-up and ongoing costs.
5. Establish a budget for enforcement.
6. Ensure the lodging tax ordinance includes STRs.
7. Seek proposals from companies that can assist with monitoring and enforcement.
8. Revise existing lodging zoning regulations to either include or exempt short-term rentals.

Appendix A:
FOCUS GROUP SUMMARY

The city hosted a virtual focus group on Feb. 2, 2021 to discuss short-term rentals. The group consisted of a council member, neighborhood representatives, home-builders, realtors and short-term rental owners.

Participants:

Victoria Mizner, Chapel Hill POA, Air BnB owner
Angie Bailey, Past Citizens Commission members
Shana Kasparek, NWA Homebuilders Association
Tim Robinson, City Councilman
Ben Booth, NWA Homebuilders Association, homebuilder
Kelsi Miller, Allencroft POA
Aaron Worth, NWA Homebuilders Association, homebuilder
Kalene Griffith, Visit Bentonville
Larry Kelly, Realtor, National Association of Realtors

Comments:

- Short-term rentals are very popular - both tourists and investors like them.
- Concerned about maintaining property rights – a homeowner has a right to rent their property.
- Need to determine what problems have been identified that need to be addressed and see if they can be addressed through existing regulations.
- Some have mentioned that the turnover of housing units from owner-occupied to short-term rental reduces the amount of affordable housing. This argument is difficult to make in Bentonville, since much of the short-term rental is located downtown, which is not an area with an abundance of affordable housing anyway.
- Some POA's have added regulations to prohibit short-term rental. While this may be one solution, it doesn't address short-term rentals in areas that don't have a POA or covenant, such as downtown. Those could collaborate to create a POA, but that falls into a legal agreement with every property owner. The city does not enforce neighborhood covenants.
- Pitfalls with establishing a POA is that it could infringe on property rights, it requires enforcement of those covenants, which often requires a lawsuit. Also, many people do not read the covenants before buying. And, it can impact a property owners ability to sell if there are restrictions on what they can do with their property.

- One POA even restricts the number of houses that can be used for long-term rental. Could this be an option, establish a percentage of housing that can be short-term rental? However, how do you determine that amount and who gets the benefit of being able to rent?
- Support private property rights and let the market dictate how many short-term rentals are supported by the demand.
- Concern over what happens if the market doesn't support the supply and end up with a large amount of vacant and deteriorating properties.
- Allowing residences to be used as short-term rentals may keep some from going into foreclosure, ultimately avoiding the vacancy and deterioration.
- One development sold 25% of their properties to investors, a mix of local and out-of-town owners. It didn't impact the quality of the neighborhood.
- Some don't allow a "for rent" sign in the yards.
- Concern about safety, knowing your neighbors and providing a sense of community. Short-term rentals have new people in all the time that you don't know. Feels uncomfortable having children playing outside not knowing who the neighbors are because they constantly change.
- Try to find a way to regulate that is not over-reaching.
- Bend, OR, Portland, OR and New Orleans have regulations that may be worth looking into. New Orleans works with Air BnB for enforcement.
- Park City, UT has a program that includes safety inspections. Homebuilders typically don't like the idea of additional inspections. Plus, that places a need for additional staff/resources to conduct those inspections.
- Most people are using Air BnB over VrBO because they have found VRBO doesn't work as well with local municipalities.
- Consider just requiring a permit, find them for non-compliance, that way you have a list and contact information. (See Portland) Might be support for something that is easy and low-cost.
- Still doesn't address the issues of a sense of safety and community.

Appendix B:
Short-term Rental Ordinances

Arkansas			
	Jonesboro	**Bryant**	**Fayetteville (draft)**
Definition	*Short-term residential rental* is defined as the renting of residential property for a period of 29 days or less per rental.	A single-family dwelling or accessory dwelling unit or any portion thereof occupied on short term basis for the purpose of temporary lodging.	A short term rental is a residential dwelling unit or portion of one used for lease or rental to a guess for a period less than 30 consecutive days
Licensing	Privilege license required, must be posted on all advertising.	Business license required.	Business License required for each rental unit
Owner-Occupancy	N/A	Property owner must maintain permanent residence on the premises.	Classified into Type 1: Owner Occupied and Type 2: Non-Owner Occupied
Max occupancy	N/A	Two guests per bedroom.	Two guests per bedroom, plus 2 guests, a maximum of 8 per unit.
Rental Limitations	N/A	120 days/yr., no more than 30 days consecutively, and no more than once/day.	N/A
Event Use	N/A	Restricted to lodging only… no special events or parties.	Special events, such as weddings, receptions, private parties, fundraisers, are not allowed in short-term rental.
Zoning	Allowed in residential districts.	Conditional use in residential districts	Allowed in all zoning districts where residential uses and hotel/motel uses are allowed by right. Conditional use for Type 2.
Local Agent	Yes	No	Yes
Inspection	Yes	No	Yes
Density Caps	No	No	Yes - Max of 2% of all dwelling units allowed as a Type 2. - Max of 2 units/multifamily structure allowed as Type 2. - Max of 1 unit per 2, 3 or 4 family structure allowed as Type 2.

Comparative Cities			
	Madison, WI	**Bend, OR**	**Austin, TX**
Definition	A short-term rental, or a rental for fewer than 30 nights of any partial or whole structure for sleeping accommodations, is called a Tourist Rooming House (TRH) in Wisconsin law.	Short Term Rentals (STR) are defined by the City of Bend as rentals of 29 days or fewer per tenant.	Properties, rooms and guest houses rented for less than 30 consecutive days.
Licensing	Yes - $100	Yes – Short term rental permit and a STR operating license	Yes – annual operating license - $567
Owner-Occupancy	If not owner-occupied, may only rent 30 days per licensing year.	Regulations based on occupancy type	Regulations based on occupancy and unit type: Type 1: any owner occupied Type 2: not owner-occupied (single and two-family) Type 3: not owner-occupied (multifamily)
Max occupancy	Lesser of twice the number of rooms or 12 (children under 12 not counted)	2 guest/ bedroom + 2 additional people.	2 guest/ bedroom + 2 additional people - HOWEVER, Court ruling does not allow them to enforce their occupancy requirements.
Event Use	N/A	Owner occupied can't have kitchen or wet bar in the room for an event.	No more than 6 people for outdoor assembly between 7 am and 10 pm.
Zoning	Allowed in all residential units.	Depends on type – Residential districts processed as a type 2 application,	Type 2 only allowed in Commercial and Mixed-use districts.
Local Agent	N/A	Yes	Yes
Inspection	Yes	Yes	N/A
Density Cap	N/A	Concentration caps – 250 ft. of separation between properties in residential districts.	Yes, for Type 2 and Type 3. Type 2 caps by census tract – only 1 per tract. Type 3, 1 per property.

Appendix C:
Sources

- Bentonville, AR Municipal Code.
- "*A Practical Guide to Effectively Regulating Short-term Rentals on the Local Government Level*" Short-term Rentals White Paper, Host Compliance.
- "*Home Sharing and Short-term Rental Regulations FAQ's,*" Granicus.
- "*How do Wisconsin municipalities collect taxes from Airbnb and other home rental companies?*" Abigail Becker | The Capital Times; Sep 11, 2018.
- City of Fayetteville staff reports and ordinance drafts.
- "*Regulating Short-term Residential Rentals,*" American Planning Association.
- "*Short-Term Rental Regulations: Advocacy Tips to Protect the Right to Rent,*" National Association of Realtors, 2018.
- *"Albuquerque City Council Short-term Rentals Task Force: Findings and Recommendations Report,*" Consensus Planning, Inc., 6/14/2019
- *"Regulating Short-term Rentals: A Guidebook for Equitable Policy,*" Sustainable Economies Law Center, March 2016.
- Rentalscape by Deckard Technologies.
- Host Compliance by Granicus.

Agenda Item Form

Date of City Council Meeting	**March 9th, 2021**
Department	**Administration**
Submitted by	**Jim Wheeless**
Phone	**(479) 271-5926**

Item Type: (*Check All That Apply*)					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☑ Ordinance	☐ Resolution	☐ Bid Award

An Ordinance accepting the annexation of certain territory to the City of Bentonville, Arkansas, and making same a part of the City of Bentonville, and assigning same to wards. (Kalaiselvan (Pagan) Annexation)

Estimated Cost	**$**
Is this Item Budgeted?	☐ Yes ☐ No

If no, please explain how item will be funded *(briefly explain in space below)* :

ORDINANCE NO._____

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

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

WHEREAS, on the 14th day of January, 2021, the County Court of Benton County, Arkansas, entered an order authorizing annexation pursuant to § 14-40-601 et seq. of the Arkansas Code, finding that the petition met the requirements for annexation by a majority of property owners under those provision and directed the Clerk to forward the order to the City of Bentonville; and

WHEREAS, thirty days have passed since the County Judge entered his order and the City is thus authorized to complete the annexation,

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

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

Section 2. That the above described territory shall be annexed to and made a part of Ward 3 of the City of Bentonville, and the same shall henceforth be a part of said ward as fully as existing parts of said ward.

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

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

PASSED AND APPROVED THIS _____ DAY OF _____, 2021.

APPROVED: _____
HON. STEPHANIE ORMAN, Mayor

ATTEST: _____
HON. KIRBY ROMINES, City Clerk

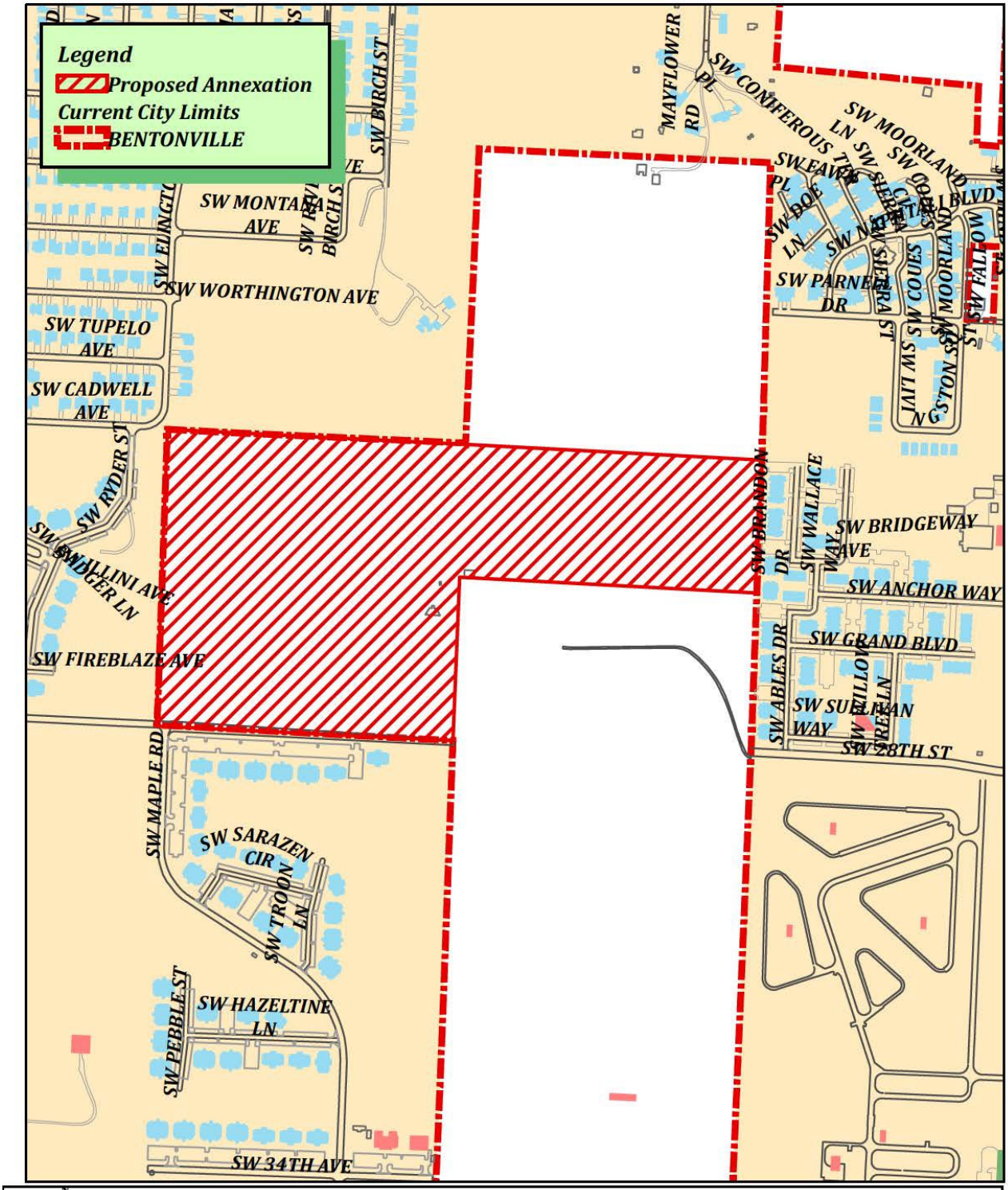
EXHIBIT "A"
ATTACHMENT TO ANNEXATION ORDINANCE
PROPERTY OWNERS PETITIONING TO BE ANNEXED

KALAISELVAN (PAGAN) ANNEXATION)

Pagan Incorporation_____ 18-08647-000
18-08648-001

EXHIBIT "B"
ATTACHMENT TO ANNEXATION ORDINANCE
DESCRIPTION OF PROPERTY TO BE ANNEXED

The Southeast Quarter (SE/4) of the Southwest Quarter (SW/4) of Section 1 and part of the Southwest Quarter (SW/4) of the Southeast Quarter (SE/4) of Section 1, Township 19 North, Range 31 West, Benton County, Arkansas, more particularly described as follows: Beginning at the South Quarter Corner of Section 1, being marked by an existing Stone Monument, thence along the south line thereof, N 87° 09' 32" W, 1,324.75 feet to an existing Mag Nail, marking the Southeast Corner of the Southwest Quarter of the Southwest Quarter of said Section 1; Thence along the west line of the Southeast Quarter of the Southwest Quarter of said Section 1, N 02° 09' 47" E, 1,323.51 feet to an existing ½ " rebar and cap stamped 1801; Thence S 87° 07' 31" E, 1,329.35 feet to an existing 5/8" rebar marking the Northwest Corner of the Southwest Quarter of the Southeast Quarter of said Section 1; Thence S 86° 57' 12" E, 1,326.72 feet to and existing Nail marking the Northeast Corner of the Southwest Quarter of the Southeast Quarter of said Section 1; Thence S 03° 04' 53" W, 593.34 feet to a set ½" rebar and cap stamped 1703; Thence N 86° 57' 12" W, 1,319.27 feet to a set ½" rebar and cap stamped 1703; Thence S 02° 21' 43" W, 729.30 feet to the Point of Beginning, containing 58.33 acres more or less and being subject to any rights-of-way or easements of record.


Legend
Proposed Annexation
Current City Limits
BENTONVILLE
SW BIRCH ST
SW MONTANA AVE
SW ELINGTON
SW WORTHINGTON AVE
SW TUPELO AVE
SW CADWELL AVE
SW RYDER ST
SW WIDGER LN
SW ILLINI AVE
SW FIREBLAZE AVE
SW MAPLE RD
SW SARAZEN CIR
SW TROON LN
SW PEBBLE ST
SW HAZELTINE LN
SW 34TH AVE
MAYFLOWER PL
SW CONIFEROUS TRL
SW EAVES PL
SW BOF LN
SW MOORLAND LN
SW MOORLAND BLVD
SW PARNELL DR
SW BRANDON DR
SW WALLACE WAY
SW BRIDGEWAY AVE
SW ANCHOR WAY
SW GRAND BLVD
SW ABLES DR
SW SULLIVAN WAY
SW 28TH ST
1 inch = 532 feet
Exhibit 'B'
Proposed Annexation
Kalaiselvan (Pagan)

BENTON COUNTY

STATE OF ARKANSAS

RECEIVED JAN 28 2021

BETSY HARRELL

COUNTY CLERK & VOTER REGISTRAR
215 EAST CENTRAL, SUITE 217
BENTONVILLE, AR 72712-5373
479-271-1013
Fax: 479-271-1019

PROBATE COURT CLERK
COURTHOUSE,102 N.E. "A" STREET
BENTONVILLE, AR 72712-5350
479-271-5727
FAX: 479-271-1712

January 15, 2021

City Clerk Linda Spence
City of Bentonville
117 West Central Avenue
Bentonville, AR 72712

RE: City of Bentonville Annexation
Pagan Incorporation
County Court Case No. CC 2020-24

Dear Ms. Spence:

I am enclosing herein a certified copy of the Decree of Annexation entered by the County Court of Benton County on January 14, 2021 .

After thirty days have passed from that date and no contest to the annexation is made, please send me certified copies of the following items so that I can send those on to the Secretary of State required by the statute:

- Ordinance or resolution approving the annexation
- Plat of the annexed property

If you have any questions regarding this matter, please let me know.

[redacted]

BH/cno

ROGERS OFFICE
2111 W. WALNUT
(479) 636-3727
FAX (479) 636-4922

ROGERS ARCHIVES
2111 W. WALNUT
(479) 636-1037
FAX (479) 636-1053

SILOAM SPRINGS OFFICE
707 S. LINCOLN
479-271-1013
FAX (479) 524-8534

FILED

2021 JAN 14 PM 2:08

BETSY HARRELL
CO & PROBATE CLERK
BENTON COUNTY, AR

IN THE COUNTY COURT OF BENTON COUNTY, ARKANSAS

IN THE MATTER OF ANNEXING TO
THE CITY OF BENTONVILLE, ARKANSAS,
CERTAIN TERRITORY CONTIGUOUS TO
SAID CITY OF BENTONVILLE, ARKANSAS CASE NO. CC 2020-24

PAGAN INCORPORATION PETITIONER

ORDER APPROVING ANNEXATION

Now on this 14th day of January, 2021, comes on this matter for consideration of the Petition For Annexation filed herein, the Petitioners appearing by Jim Wheeless, appointed in their petition to act on their behalf, and from a review of the Petition and the entire file, and all things considered, the Court finds:

1. This matter involves property located in Benton County, Arkansas, having a legal description as follows:

The Southeast Quarter (SE/4) of the Southwest Quarter (SW/4) of Section 1 and part of the Southwest Quarter (SW/4) of the Southeast Quarter (SE/4) of Section 1, Township 19 North, Range 31 West, Benton County, Arkansas, more particularly described as follows: Beginning at the South Quarter Corner of Section 1, being marked by an existing Stone Monument, thence along the south line thereof, N 87° 09' 32" W, 1,324.75 feet to an existing Mag Nail, marking the Southeast Corner of the Southwest Quarter of the Southwest Quarter of said Section 1; Thence along the west line of the Southeast Quarter of the Southwest Quarter of said Section 1, N 02° 09' 47" E, 1,323.51 feet to an existing ½ " rebar and cap stamped 1801; Thence S 87° 07' 31" E, 1,329.35 feet to an existing 5/8" rebar marking the Northwest Corner of the Southwest Quarter of the Southeast Quarter of said Section 1; Thence S 86° 57' 12" E, 1,326.72 feet to and existing Nail marking the Northeast Corner of the Southwest Quarter of the Southeast Quarter of said Section 1; Thence S 03° 04' 53" W, 593.34 feet to a set ½" rebar and cap stamped 1703; Thence N 86° 57' 12" W, 1,319.27 feet to a set ½" rebar and cap stamped 1703; Thence S 02° 21' 43" W, 729.30 feet to the Point of Beginning, containing 58.33 acres more or less and being subject to any rights-of-way or easements of record.

2021 0300

FILED
2021 JAN 14 PM 2:08
BETSY HARRELL
CO & PROBATE CLERK
BENTON COUNTY, AR

2. Petitioners constitute a majority of the numbers of the real estate described in paragraph one and own more than one-half (½) of the acreage in that area.

3. That notice of the date of the hearing on this matter was published as required by law.

4. That at least thirty (30) days have passed since the notice of hearing was published.

5. That the only person appearing for the hearing was the Petitioners' representative.

6. That the allegations of the petition are sustained by the proof, including that the statutory requirement for signatures has been met, the limits of the territory to be annexed have been accurately described, and an accurate map of the area to be annexed has been filed.

7. That the prayer of the Petitioners is found to be "right and proper."

IT IS THEREFORE CONSIDERED AND ORDERED THAT the property described in paragraph 1 is hereby annexed to the City of Bentonville, Arkansas, subject only to a timely challenge to the annexation filed in Circuit Court, and a confirmation of the annexation by the City of Bentonville.

[redacted]

Date Entered: 1/14/21

2021 0301

IN THE COUNTY COURT OF BENTON COUNTY, ARKANSAS

IN THE MATTER OF ANNEXING TO THE CERTAIN PROPERTY CONTIGUOUS TO SAID CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS

CASE NO. CC 2020-24

PAGAN INCORPORATION

PETITIONER(S)

NOTICE OF HEARING

Notice is hereby given that there has been filed in the County Court of Benton County, Arkansas, the Petition of Pagan Incorporation asking for annexation to the City of Bentonville of the following described lands situated in Benton County, Arkansas, and contiguous to said City of Bentonville:

The Southeast Quarter (SE/4) of the Southwest Quarter (SW/4) of Section 1 and part of the Southwest Quarter (SW/4) of the Southeast Quarter (SE/4) of Section 1, Township 19 North, Range 31 West, Benton County, Arkansas, more particularly described as follows: Beginning at the South Quarter Corner of Section 1, being marked by an existing Stone Monument, thence along the south line thereof, N 87° 09' 32" W, 1,324.75 feet to an existing Mag Nail, marking the Southeast Corner of the Southwest Quarter of the Southwest Quarter of said Section 1; Thence along the west line of the Southeast Quarter of the Southwest Quarter of said Section 1, N 02° 09' 47" E, 1,323.51 feet to an existing ½ " rebar and cap stamped 1801; Thence S 87° 07' 31" E, 1,329.35 feet to an existing 5/8" rebar marking the Northwest Corner of the Southwest Quarter of the Southeast Quarter of said Section 1; Thence S 86° 57' 12" E, 1,326.72 feet to and existing Nail marking the Northeast Corner of the Southwest Quarter of the Southeast Quarter of said Section 1; Thence S 03° 04' 53" W, 593.34 feet to a set ½" rebar and cap stamped 1703; Thence N 86° 57' 12" W, 1,319.27 feet to a set ½" rebar and cap stamped 1703; Thence S 02° 21' 43" W, 729.30 feet to the Point of Beginning, containing 58.33 acres more or less and being subject to any rights-of-way or easements of record.

A map of said land proposed for annexation is on file with said Petition in the Office of the Clerk of said Court.

The Court has fixed the 14th day of January, 2021, at 2:00 o'clock p.m. as the date for a hearing on said Petition to be held in the Quorum Court Room, County Administration Building, 215 East Central Avenue, Bentonville, Arkansas. All interested persons desiring to be heard are now notified to be present at said Court at the time and date so fixed.

Petitioners

Pagan Corporation

ATTENTION: CATHY WILES, ADVERTISING DEPARTMENT
Northwest Arkansas Newspaper
Email: cwiles@nwadg.com

Date E-mailed: December 22, 2020

Annexation by Petition **CC 2020-24**

Date to be Published: Sunday, December 27, 2020
Sunday, January 03, 2021 and
Sunday, January 10, 2021

Publication and Certification Statement should be sent to:

Name: City of Bentonville
Attn: Jim Wheeless

Address: 305 SW A Street
Bentonville, AR 72712

Phone: 479-271-5926

Please acknowledge receipt of this Notice. If you have any questions, please call the County Clerk's office at (479)-271-1013.

Thank you.

Betsy Harrell

NORTHWEST ARKANSAS
Democrat Gazette
P.O. BOX 1607, FAYETTEVILLE, AR 72702 • 479-442-1700 • FAX 479-695-1118 • WWW.NWADG.COM

AFFIDAVIT OF PUBLICATION

I, Brittany Smith, do solemnly swear that I am the Accounting Legal Clerk of the Northwest Arkansas Democrat-Gazette, a daily newspaper printed and published in said County, State of Arkansas; that I was so related to this publication at and during the publication of the annexed legal advertisement the matter of: Notice pending in the Court, in said County, and at the dates of the several publications of said advertisement stated below, and that during said periods and at said dates, said newspaper was printed and had a bona fide circulation in said County; that said newspaper had been regularly printed and published in said County, and had a bona fide circulation therein for the period of one month before the date of the first publication of said advertisement; and that said advertisement was published in the regular daily issues of said newspaper as stated below.

Benton County Clerk
Case No. CC 2020-24

Was inserted in the Regular Edition on:
December 27, 2020, January 3 & 10, 2021

Publication Charges: $497.04

[redacted]
Brittany Smith

Subscribed and sworn to before me
This 12 day of Jan, 2021.

[redacted]
Notary Public
My Commission Expires: 2/20/24

NOTE Please do not pay from Affidavit
Invoice will be sent.

IN THE COUNTY COURT OF BENTON COUNTY, ARKANSAS
IN THE MATTER OF ANNEXING TO THE CASE NO. CC 2020-24 CERTAIN PROPERTY CONTIGUOUS TO SAID CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS
PAGAN INCORPORATION
PETITIONER(S)
NOTICE OF HEARING

Notice is hereby given that there has been filed in the County Court of Benton County, Arkansas, the Petition of Pagan Incorporation asking for annexation to the City of Bentonville of the following described lands situated in Benton County, Arkansas, and contiguous to said City of Bentonville:

The Southeast Quarter (SE/4) of the Southwest Quarter (SW/4) of Section 1 and part of the Southwest Quarter (SW/4) of the Southeast Quarter (SE/4) of Section 1, Township 19 North, Range 31 West, Benton County, Arkansas, more particularly described as follows:

Beginning at the South Quarter Corner of Section 1, being marked by an existing Stone Monument, thence along the south line thereof, N 87° 09' 32" W, 1,324.75 feet to an existing Mag Nail, marking the Southeast Corner of the Southwest Quarter of the Southwest Quarter of said Section 1; Thence along the west line of the Southeast Quarter of the Southwest Quarter of said Section 1, N 02° 09' 47" E, 1,323.51 feet to an existing ½ " rebar and cap stamped 1801; Thence S 87° 07' 31" E, 1,329.35 feet to an existing 5/8" rebar marking the Northwest Corner of the Southwest Quarter of the Southeast Quarter of said Section 1; Thence S 86° 57' 12" E, 1,326.72 feet to and existing Nail marking the Northeast Corner of the Southwest Quarter of the Southeast Quarter of said Section 1; Thence S 03° 04' 53" W, 593.34 feet to a set ½" rebar and cap stamped 1703; Thence N 86° 57' 12" W, 1,319.27 feet to a set ½" rebar and cap stamped 1703; Thence S 02° 21' 43" W, 729.30 feet to the Point of Beginning, containing 58.33 acres more or less and being subject to any rights-of-way or easements of record.

A map of said land proposed for annexation is on file with said Petition in the Office of the Clerk of said Court.

The Court has fixed the 14th day of January, 2021, at 2:00 o'clock p.m. as the date for a hearing on said Petition to be held in the Quorum Court Room, County Administration Building, 215 East Central Avenue, Bentonville, Arkansas. All interested persons desiring to be heard are now notified to be present at said Court at the time and date so fixed.

Petitioners
Pagan Corporation
75363165 Dec 27,20 Jan 3 & 10, 2021

FILED

2020 DEC 17 PM 4:06

CO & PROBATE CLERK
BENTON COUNTY, AR

IN THE COUNTY COURT OF BENTON COUNTY, ARKANSAS

IN THE MATTER OF ANNEXING TO THE CITY OF BENTONVILLE, ARKANSAS, CERTAIN PROPERTY CONTIGUOUS TO THE CITY OF BENTONVILLE IN BENTON COUNTY, ARKANSAS

CASE NO. CC# 2020-24

Pagan Incorporation

PETITIONER(S)

ORDER FOR HEARING

A Petition of real estate owners desiring the annexation of certain territory to the City of Bentonville, Arkansas, more particularly described therein, has been filed on the 15th day of December, 2021.

The Court does hereby fix the 14th day of January, 2021, at 2 o'clock p.m. as the date and time for hearing on said Petition. Said hearing to be held in the Quorum Court Room, County Administration Building, 215 East Central Avenue, Bentonville, Arkansas.

The Court further orders that the Petitioners, shall give notice of such hearing as provided by law.

It is so ordered on this 17th day of December, 20[redacted]

Barry Moehring, County Judge

2020 5490

FILED

2020 DEC 15 AM 9:22

BETSY HARRELL
CO & PROBATE CLERK
BENTON COUNTY, AR

IN THE COUNTY COURT OF BENTON COUNTY, ARKANSAS

IN THE MATTER OF ANNEXING TO THE CITY OF BENTONVILLE, ARKANSAS CERTAIN TERRITORY CONTIGUOUS TO SAID CITY

NO. CC2020-24

PAGAN INCORPORATION — PETITIONER

PETITION FOR ANNEXATION

Come now the undersigned Petitioner(s), and state as follows:

1. That Petitioner(s) is (are) a majority of the real estate owners (meaning a majority of the total number of owners who own more than one half (½) of the acreage affected) of property in Benton County, Arkansas, proposed to be annexed, which is described as follows:

The Southeast Quarter (SE/4) of the Southwest Quarter (SW/4) of Section 1 and part of the Southwest Quarter (SW/4) of the Southeast Quarter (SE/4) of Section 1, Township 19 North, Range 31 West, Benton County, Arkansas, more particularly described as follows: Beginning at the South Quarter Corner of Section 1, being marked by an existing Stone Monument, thence along the south line thereof, N 87° 09' 32" W, 1,324.75 feet to an existing Mag Nail, marking the Southeast Corner of the Southwest Quarter of the Southwest Quarter of said Section 1; Thence along the west line of the Southeast Quarter of the Southwest Quarter of said Section 1, N 02° 09' 47" E, 1,323.51 feet to an existing ½ " rebar and cap stamped 1801; Thence S 87° 07' 31" E, 1,329.35 feet to an existing 5/8" rebar marking the Northwest Corner of the Southwest Quarter of the Southeast Quarter of said Section 1; Thence S 86° 57' 12" E, 1,326.72 feet to and existing Nail marking the Northeast Corner of the Southwest Quarter of the Southeast Quarter of said Section 1; Thence S 03° 04' 53" W, 593.34 feet to a set ½" rebar and cap stamped 1703; Thence N 86° 57' 12" W, 1,319.27 feet to a set ½" rebar and cap stamped 1703; Thence S 02° 21' 43" W, 729.30 feet to the Point of Beginning, containing 58.33 acres more or less and being subject to any rights-of-way or easements of record.

2. That the described property is contiguous to and adjoining the present City of Bentonville city limits, as shown on the map attached hereto as Exhibit "A."

)) FILED

2020 DEC 15 AM 9:22

BETSY MARKLEY
CO & PROBATE CLERK
BENTON COUNTY, AR

3. That Petitioners authorize Jim Wheeless to act on their behalf to complete this annexation process.

4. That the following schedule of services shall be extended to the area by the City of Bentonville within three (3) years after the date the annexation becomes final: All properties annexed into the City of Bentonville are provided with Police, Fire and EMS services. Additional services such as water and sewer may be provided if readily available. Such services are provided in accordance with existing ordinances and terms of service, including but not limited to the payment of required fees, the necessary permits, inspections and approvals.

5. That the Arkansas Geographic Information System Office has been consulted concerning this proposed annexation and has issued a letter confirming that consultation which is attached hereto as Exhibit "B."

WHEREFORE, Petitioners pray that the land described be annexed into the City of Bentonville, and for all other proper relief.

FILED

2020 DEC 15 AM 9:22

BETSY HARRELL
BENTON COUNTY CIRCUIT CLERK

I confirm my desire that property owned by me, which is to be included in a petition to annex property, be annexed into the City of Bentonville.

If the property being annexed is owned jointly, I attest that all owners of the property are signing a copy of this confirmation.

If the property is owned by a trust, I attest either that I have the authority to sign this confirmation on behalf of the trust, or that all persons required to do so by the trust are signing a copy of this confirmation.

If the property is owned by a corporation, limited liability company or other entity I attest either that I have the authority to sign this confirmation on behalf of the entity, or that all persons required to do so by the entity's governing documents are signing a copy of this confirmation.

[redacted] President

Signature of Property Owner or Legal Representative of Property Owner, Petitioner

Title, if applicable (i.e. Trustee, (Managing Member, President, Secretary)

18-08647-000
18-08648-001

Parcel number of property to be annexed

ACKNOWLEDGMENT

State of Arkansas)
) ss.
County of Benton)

On this the 11th day of December, 2020 ~~2019~~, before me, the undersigned officer, personally appeared Kalaiarasi Kalaiselvan, known to me (or satisfactorily proven) to be the person whose name is subscribed above and acknowledged and attested that it was executed for the purposes therein apparent.

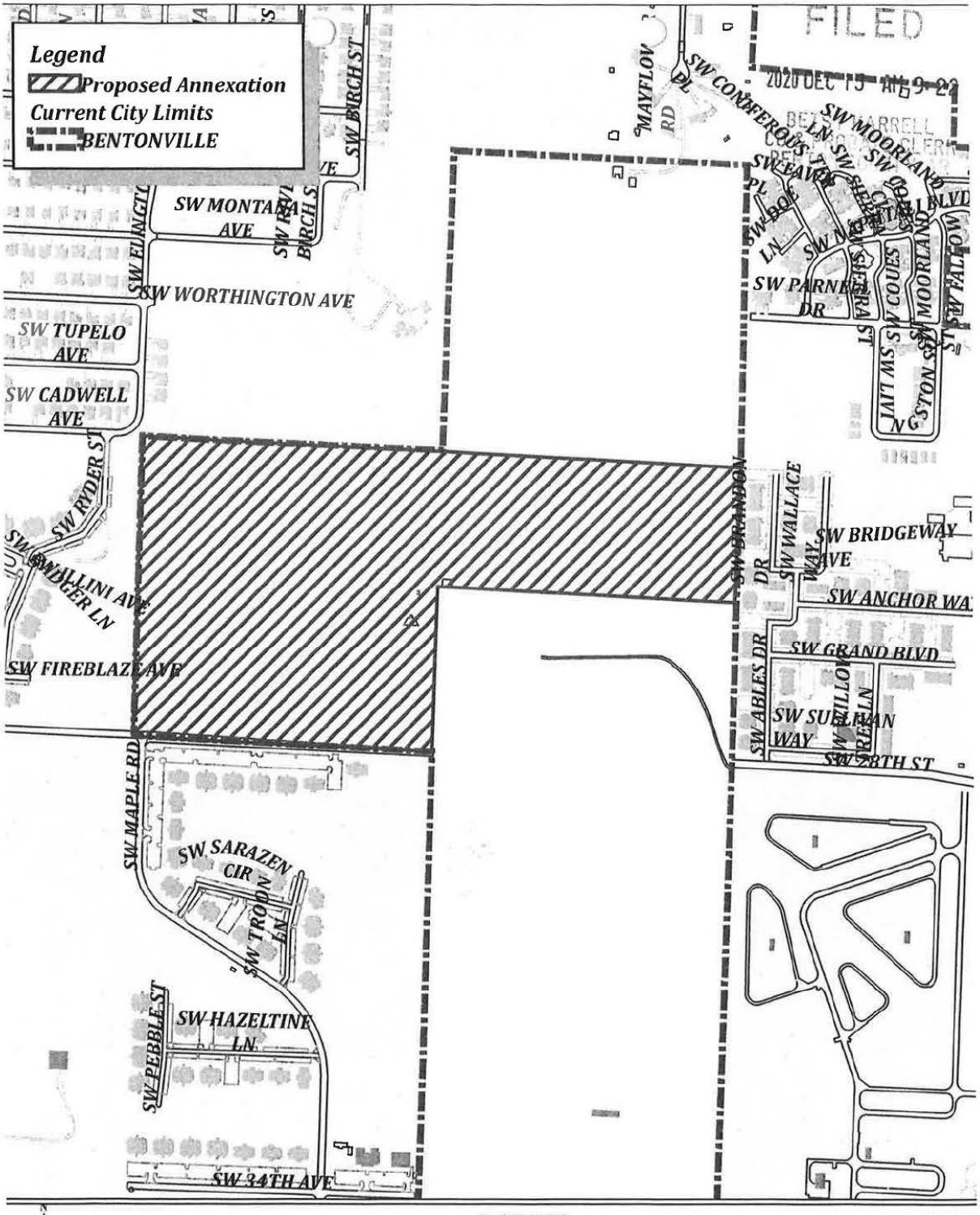
[redacted]

NOTARY PUBLIC

My Commission Expires:

7-19-2025

TAMMIE LUNSFORD NOTARY PUBLIC ARKANSAS BENTON COUNTY 12694577 EXPIRES 7-19-2025


Legend
Proposed Annexation
Current City Limits
BENTONVILLE
FILED
2020 DEC 15 AM 9:22
SW MONTANA AVE
SW WORTHINGTON AVE
SW TUPELO AVE
SW CADWELL AVE
SW RYDER ST
SW FIREBLAZE AVE
SW MAPLE RD
SW SARAZEN CIR
SW TROON LN
SW HAZELTINE LN
SW PEBBLE ST
SW 34TH AVE
SW BIRCH ST
SW MAYFLOW RD
SW CONIFEROUS LN
SW MOORLAND
SW PARNELL DR
SW BRANDON DR
SW WALLACE WAY
SW BRIDGEWAY AVE
SW ANCHOR WA
SW GRAND BLVD
SW ABLES DR
SW SULLIVAN WAY
SW 28TH ST
1 inch = 532 feet
Exhibit 'A'
Proposed Annexation
Kalaiselvan

FILED

2020 DEC 15 AM 9:22
BETSY [illegible]
CO & P[illegible]
BENTO[illegible]

EXHIBIT "B"

ARKANSAS GIS OFFICE

Department of Transformation and Shared Services
Governor Asa Hutchinson
Secretary Amy Fecher
Director Shelby Johnson

December 10, 2020

Mr. Jim Wheeless
GIS Coordinator - City of Bentonville
305 SW A Street
Bentonville, AR 72712

RE: City of Bentonville Coordination Requirement

Mr. Wheeless,

Thank you for coordinating with our office as you seek to annex property into the City of Bentonville, AR described as the "Kalaiselvan" annexation and located in Section 1, Township 19 North, Range 31 West. This letter represents confirmation that you have properly coordinated with our office (Arkansas GIS Office) as specified in *§ 14-40-101* (Act 914 of 2015) of the 90th General Assembly.

Please note this annexation appears to create an enclave within an existing enclave.

Our office will wait completion of any additional steps necessary for the proposed boundary change, which normally comes from the Arkansas Secretary of State Elections Division after any appropriate filing by your County Clerk.

Thank you,

[redacted]

Jennifer Wheeler, GIS Analyst

Attachments:
GIS Office Map of Proposed Annexation
Legal Description
Secretary of State Municipal Change Checklist

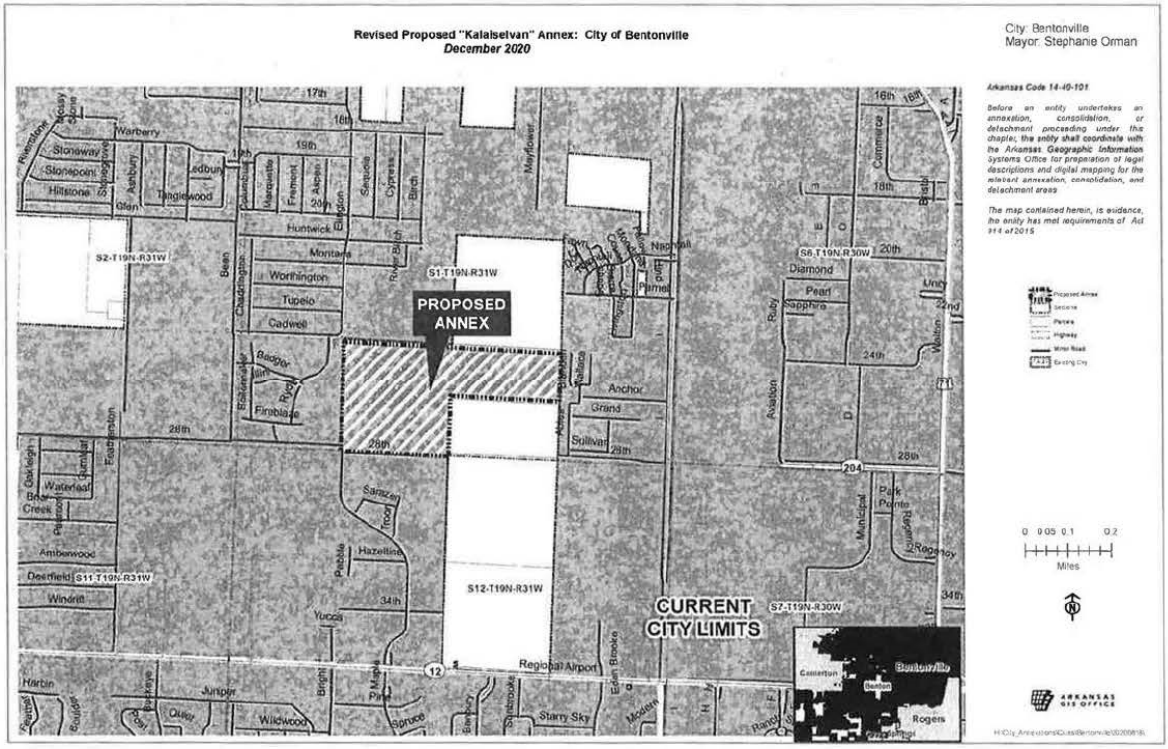
H:\City_Annexations\Cities\Bentonville\20200818\Doc\20201210_Bentonville_Annexation_Coordination_Letter_revised.docx

ARKANSAS GIS OFFICE
1 Capitol Mall, Suite 6D ▪ Little Rock, AR 72201 ▪ 501.682.2767
gis.arkansas.gov ▪ transform.ar.gov

FILED

2020 DEC 15 AM 9:22

BETSY HARRELL
CO & PROBATE CLERK
BENTON COUNTY



FILED
2020 DEC 15 AM 9:22
BETSY HARRELL
CO & PROBATE CLERK
BENTON COUNTY, AR

Kalaiselvan Annexation
Exhibit "A"

The Southeast Quarter (SE/4) of the Southwest Quarter (SW/4) of Section 1 and part of the Southwest Quarter (SW/4) of the Southeast Quarter (SE/4) of Section 1, Township 19 North, Range 31 West, Benton County, Arkansas, more particularly described as follows:

Beginning at the South Quarter Corner of Section 1, being marked by an existing Stone Monument, thence along the south line thereof, N 87° 09' 32" W, 1,324.75 feet to an existing Mag Nail, marking the Southeast Corner of the Southwest Quarter of the Southwest Quarter of said Section 1; Thence along the west line of the Southeast Quarter of the Southwest Quarter of said Section 1, N 02° 09' 47" E, 1,323.51 feet to an existing ½ " rebar and cap stamped 1801; Thence S 87° 07' 31" E, 1,329.35 feet to an existing 5/8" rebar marking the Northwest Corner of the Southwest Quarter of the Southeast Quarter of said Section 1; Thence S 86° 57' 12" E, 1,326.72 feet to and existing Nail marking the Northeast Corner of the Southwest Quarter of the Southeast Quarter of said Section 1; Thence S 03° 04' 53" W, 593.34 feet to a set ½" rebar and cap stamped 1703; Thence N 86° 57' 12" W, 1,319.27 feet to a set ½" rebar and cap stamped 1703; Thence S 02° 21' 43" W, 729.30 feet to the Point of Beginning, containing 58.33 acres more or less and being subject to any rights-of-way or easements of record.

Arkansas Secretary of State
John Thurston Arkansas Secretary of State, 500 Woodlane Ave, Little Rock, AR 72201-1094

Municipal Boundary Change Checklist

Act 655 of 2017 and A.C.A. §14-40-103

County:_____ **City/Town:** _____

City Ordinance/Resolution No:_____ **Date approved:** _____

County Court Case No:_____ **Date Order Filed:** _____

Type: _____
(Choose from the list of Arkansas Code Sections located on the back)

Date Change Effective: _____ Set by: ○Municipal Ordinance ○ Emergency Clause ○Court ○Default
(Required by Act 655 of 2017)

For Circuit Court Challenge: Date Order Filed: _____ ○Upheld○ Overturned○ Other *(attach explanation*

Please indicate which ward(s) the territory will be assigned to: _____
(See A.C.A § 14-40-203)

Initiating party:

○All Landowners ○Majority Landowners ○Municipal Governing Body ○State ○Other_____

Supporting Documentation attached *(check all that apply)*:

- ☐ File marked copy of City Ordinance/Resolution ***(required)***
- ☐ File marked copy of County Court Order or certified annexation election results ***(required** except for A.C.A. §14-40-501)*
- ☐ Copy of Arkansas GIS approved printed map and certification letter ***(required)***
- ☐ Proof of Publication for all Legal Notices *(include Hearing, Election, and City Ordinance/Resolution notices)*
- ☐ File marked copy of Petition Part *(if applicable)*
- ☐ File marked copy of Complaint and final Circuit Court Order (*Court Challenge only)*

Municipal Contact:

Name:_____ Title: _____

Street Address: _____

City:_____ St:_____ Zip code: _____

Complete one form per ordinance/resolution, attach it as a cover page to the supporting document set and submit to the County Clerk's Office within 45 days of the Effective Date as required by Act 655 of 2017

County Official:

Signature:_____ Title: _____

Date: _____

Pursuant to Act 655 of 2017, County Officials must submit a file-marked copy of municipal boundary change documents within 30 days of receipt to: Arkansas Secretary of State, Attn: Municipal Boundary Filing, 500 Woodlane Ave Suite 256, Little Rock, AR 72201-1094

Office of the Arkansas Secretary of State use only

Received by: _____

Rev. 2/2019

Municipal Annexation, Detachment, and Incorporation Reference

Annexation of Territories Contiguous to County Seat A.C.A §14-40-201

Annexation of Territories in another Judicial District (multiple county seats) A.C.A. §14-40-202

Annexation of City Park or Airport (automatic) A.C.A §14-40-204

Annexation of building on boundary of two municipalities (written notice) A.C.A. §14-40-207

Annexation by Election (contiguous land) A.C.A. §14-40-302

Annexation of land in adjoining County A.C.A §14-40-401

Annexation of surrounded unincorporated area (island/doughnut holes) by ordinance A.C.A. §14-40-501

Annexation by Petition of majority of Landowners A.C.A. §14-40-602

Annexation by Petition of all Landowners A.C.A §14-40-609

Consolidation of two municipalities by Election A.C.A §14-40-1201

Annexation with Detachment from another municipality at landowner request A.C.A §14-40-2001

Annexation with Detachment from adjoining city at city request A.C.A §14-40-2101

Detachment of Land annexed by petition under §14-40-601 A.C.A §14-40-608

Detachment of municipal lands back to County by election A.C.A. §14-40-1801

Detachment of unsuitable land by municipal resolution A.C.A §14-40-1901

Incorporation by direct petition of landowners A.C.A §14-38-101

Incorporation by petition for special election A.C.A §14-38-115

Surrender of Charter (Disincorporation) by second class city A.C.A §14-39-101

City Council Agenda Items
For City Council Meeting of March 9, 2021
From the March 2, 2021 Planning Commission Meeting

a. Ordinance accepting a lot split of Lot 1 of 7 Brew Subdivision, Clearwater Investments, Inc., 2811 & 2813 SW 14th Street, C-2, General Commercial.

The Planning Commission voted 6-0, recommending approval.

A lot split of previously unplatted land creating new Lot 1 (+/- 1.67 acres) of 7 Brew Subdivision. The plat dedicates additional utility easements along SW Stagecoach Road and SW 14th Street.

b. Ordinance accepting a lot split of Lots 1-4 of Allen Subdivision South, Bentonville/Bella Vista Trailblazers Association, SW 8th Street, A-1, Agricultural.

The Planning Commission voted 6-0, recommending approval.

A lot split of existing Lot 19 of Hardcastle Estates and Tract 8 of Allen Subdivision eating new Lot 1 (+/-17.51 acres), Lot 2 (+/- 15.16 acres), Lot 3 (+/- 6.26 acres) & Lot 4 (4.79 acres) of Allen Subdivision South. Per the requirements of the Master Street Plan, right-of-way is adequate along both SW 8th Street and Melissa Drive. The plat dedicates utility easements to serve the lot with public utilities.

c. Ordinance accepting a property line adjustment of Lots 17-18, Block 19 of Deming's 2nd Addition, Stephan & Catherine Roche & Clifford & Lori Vanderpool, 601 & 605 NW B Street, R-1, Single Family Residential.

The Planning Commission voted 6-0, recommending approval.

A property line adjustment of Lots 13, 14, and 15, Block 19 of Deming's 2nd Addition, creating new Lots 17 (+/- 0.168 acres) and 18 (+/- 0.198 acres). The plat dedicates a ten-foot utility easement along NW B Street.

d. Ordinance accepting a property line adjustment of Lot 44 of Oakwood Heights, Calcon, Inc., 2104 Almand Drive, R-1, Single Family Residential.

The Planning Commission voted 6-0, recommending approval.

A property line adjustment of Lots 23 and 24 of Oakwood Heights, creating new Lot 44 (+/- 0.526 acres). The plat dedicates additional right-of-way along Almand Drive.

e. Ordinance changing real estate from A-1, Agricultural to C-3, Mixed-Use Commercial, Crystal Bridges Museum of American Art, 600 Museum Way.

The Planning Commission voted 6-0, recommending approval.

The Future Land Use Plan currently depicts this property as Public/Semi-public. Public/Semi-public land uses include government offices, community facilities, and museums that are open to the public and provide community services and amenities. The current land use of Crystal Bridges is in line with this land-use category.

The Future Land Use Plan and the definition of the C-3 zoning district provide support for the rezoning request. Staff recommends approval of the rezoning request.

f. Ordinance changing real estate from A-1, Agricultural to C-1, Neighborhood Commercial & C-2, General Commercial, Vaishno Group, LLC, SW 14th Street.

The Planning Commission voted 6-0, recommending approval.

The property is within Priority Area 3, Edge Growth, as identified in Chapter 4 of the Land Use Plan. This area focuses on development in areas proximate to existing infrastructure to capitalize on municipal investments that have already taken place. (p. 44). Also, this area is noted for its potential to support mixed-use development.

The Future Land Use Plan depicts this property as Residential Estate. These areas include large, detached single-family residential properties at least one acre in size. These areas may also include public uses that support residents. The Future Land Use designation of Residential Estate is not consistent with development patterns that have occurred in this area of the city.

Planning staff has reviewed this rezoning request. While it is not consistent with the Future Land Use Plan, it is consistent with the development patterns that have taken place in the surrounding area. Staff recommends approval of the proposed rezoning.

g. Ordinance changing real estate from R-1, Single Family Residential to DE, Downtown Edge, Mark & Lisa Hufford, 302 NW A Street.

The Planning Commission voted 6-0, recommending approval.

The Bentonville Community Plan, Downtown Bentonville Subarea Plan, depicts this property within the Downtown Transition character area (p. 122). The transition area is meant to serve as a transition in scale and intensity from Downtown development and surrounding residential uses. The character area recommends supporting a mix of residential and local commerce uses. At the intersection of NW 3rd and NW A Street, a mix of uses can be observed, with townhomes, a religious facility, and this single-family home coexisting.

The Future Land Use Plan currently depicts this property as High-Density Residential. High-Density Residential areas typically include apartments, condominium buildings, and resident-oriented commercial uses.

The Downtown Bentonville Subarea Plan and the intent of the DE Zoning District lend support to the rezoning request. Staff recommends approval of the rezoning request.

h. Ordinance changing real estate from C-2, General Commercial to C-3, Mixed-Use Commercial, LaRose Development, LLC, S Walton Boulevard.

The Planning Commission voted 6-0, recommending approval.

The Future Land Use Plan depicts this property as General Commercial. These areas include uses that serve both nearby residents and those coming from other parts of the city or region. Appropriate uses in these areas include retail, restaurants, services and offices, Vertical mixed-use developments are encouraged, but are not as high priority as in mixed-use or downtown commercial areas. General commercial uses should balance access between pedestrians and vehicles, though the impacts of parking should be minimized through site design and landscaping.

The request is consistent with the Future Land Use Plan. Staff recommends approval of the rezoning request due to its compatibility with the surrounding commercial uses and the potential to provide a variety of housing types and other services near the downtown core and along a major arterial road that traverses the entire city.

i. Ordinance changing real estate from R-2, Duplex & Patio Home Residential to DN-2, Downtown Medium-Density Residential, Wayne Alexander Trust, 406 SW Glover Street.

The Planning Commission voted 6-0, recommending approval.

The Future Land Use Plan depicts this property as Medium Density Residential. These areas include townhouse or duplex residential properties with a typical density of 8-12 units per acre. These areas are found both near Downtown and in some recent growth areas. These areas may also include local amenities for residents, including neighborhood parks, places of worship, etc.

The request is consistent with the Future Land Use Plan. Staff recommends approval of the rezoning request due to its compatibility with the surrounding zoning designations and residential uses in this quadrant of the downtown area.

Consent Agenda Items

For Planning Commission meeting of March 2, 2021

Reviewer: Tyler Overstreet, AICP, Planning Services Manager

- At the Technical Review meeting held on February 23, 2021 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: Lot 1 of 7 Brew Subdivision, 2811 and 2813 SW 14th Street, C-2, General Commercial, *PLA21-0002*

A lot split of previously unplatted land creating new Lot 1 (+/- 1.67 acres) of 7 Brew Subdivision. The plat dedicates additional utility easements along SW Stagecoach Road and SW 14th Street.

(Please click on this link to access the vicinity map for this item: https://arcg.is/08HvK8)

Lot Split: Lots 1-4 of Allen Subdivision South, SW 8th Street, A-1, Agricultural, *LS20-0044*

A lot split of existing Lot 19 of Hardcastle Estates and Tract 8 of Allen Subdivision eating new Lot 1 (+/-17.51 acres), Lot 2 (+/- 15.16 acres), Lot 3 (+/- 6.26 acres) & Lot 4 (4.79 acres) of Allen Subdivision South. Per the requirements of the Master Street Plan, right-of-way is adequate along both SW 8th Street and Melissa Drive. The plat dedicates utility easements to serve the lot with public utilities.

(Please click on this link to access the vicinity map for this item: https://arcg.is/08HvK8)

Property Line Adjustment: Lots 17-18, Block 19 of Deming's 2nd Addition, 601 and 605 NW B Street, R-1, Single-Family Residential, *LS21-0006*

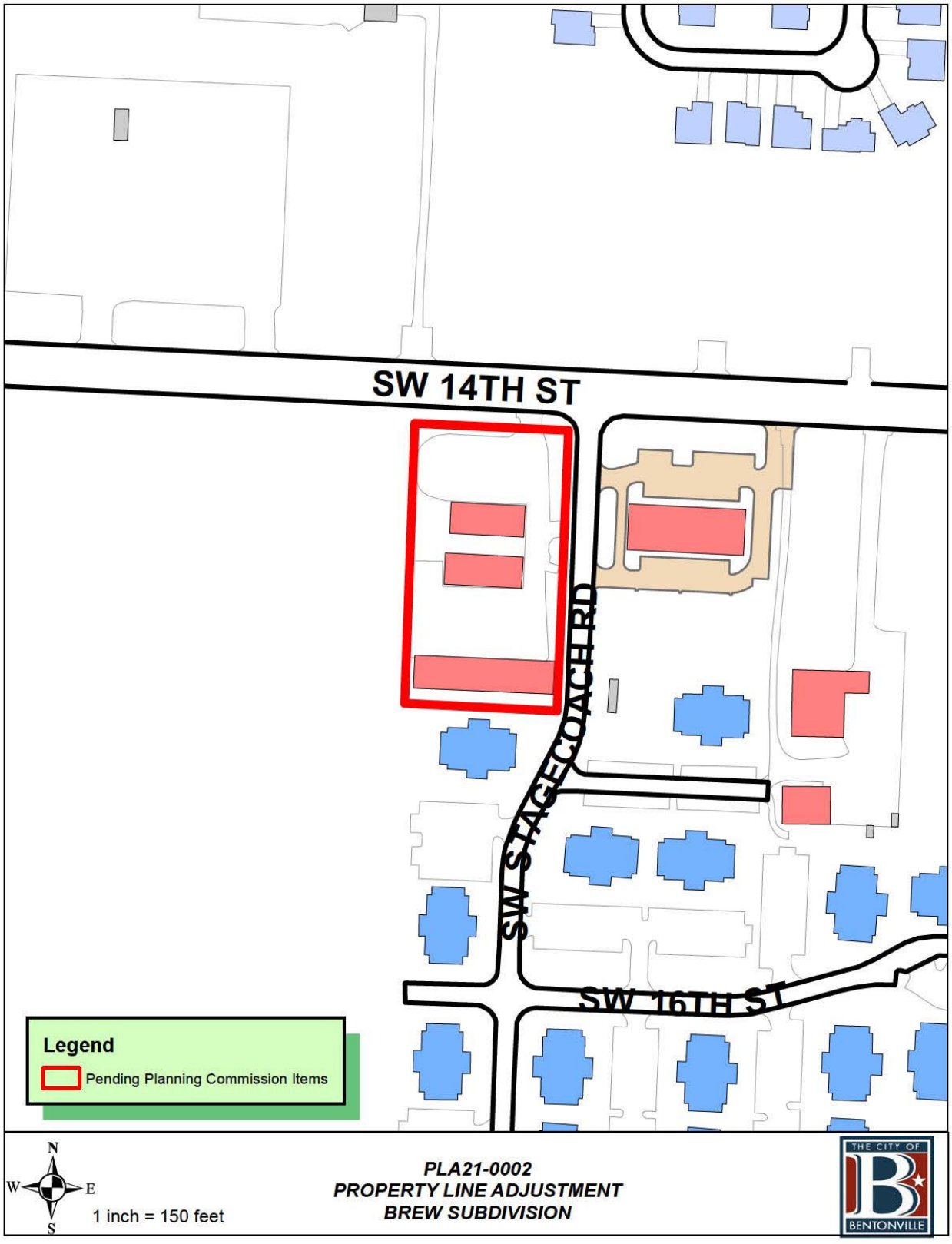
A property line adjustment of Lots 13, 14, and 15, Block 19 of Deming's 2nd Addition, creating new Lots 17 (+/- 0.168 acres) and 18 (+/- 0.198 acres). The plat dedicates a ten-foot utility easement along NW B Street.

(Please click on this link to access the vicinity map for this item: https://arcg.is/08HvK8)

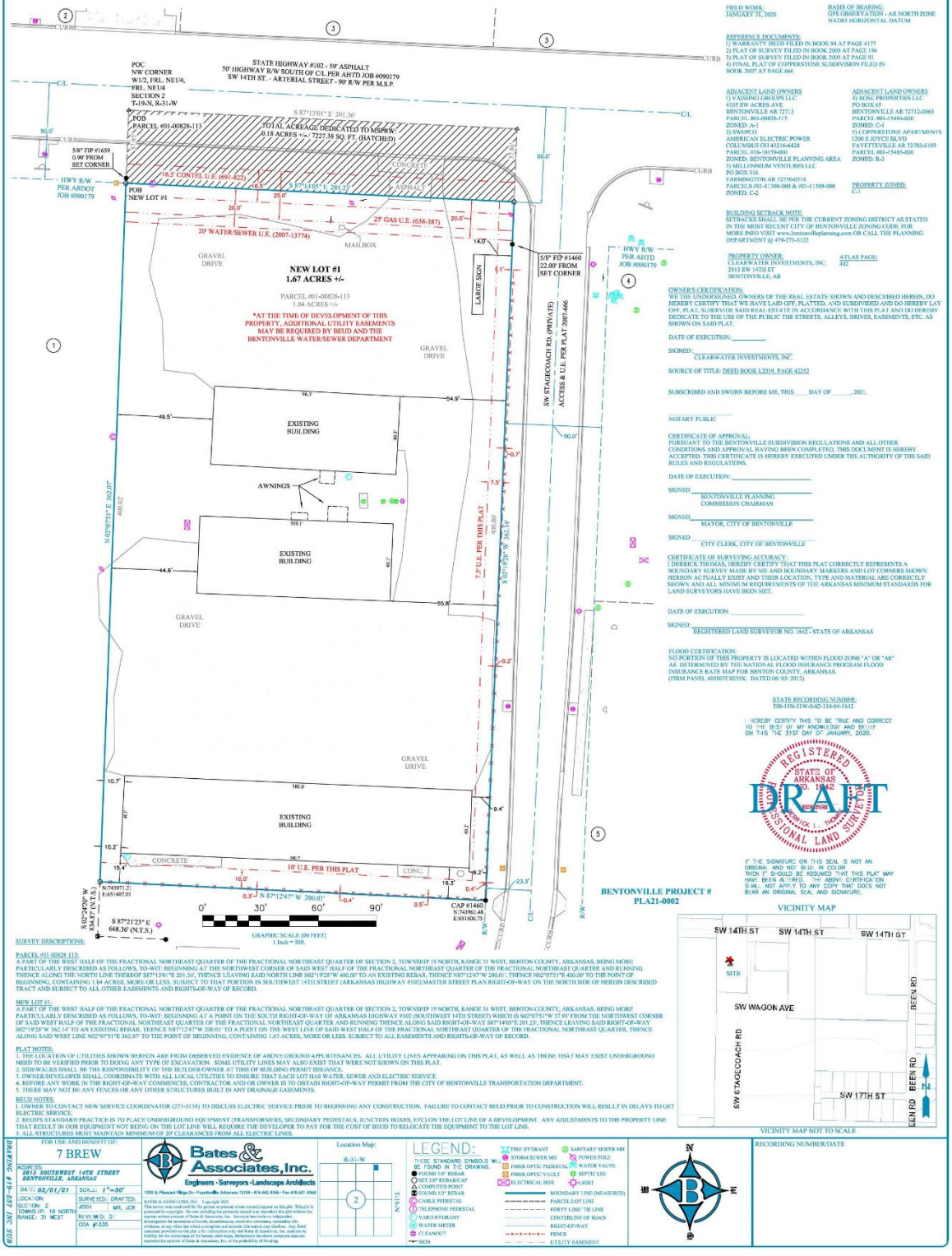
Property Line Adjustment: Lot 44, Oakwood Heights, 2104 Almand Drive, R-1, Single-Family Residential, *PLA21-0003*

A property line adjustment of Lots 23 and 24 of Oakwood Heights, creating new Lot 44 (+/- 0.526 acres). The plat dedicates additional right-of-way along Almand Drive.

(Please click on this link to access the vicinity map for this item: https://arcg.is/08HvK8)


SW 14TH ST
SW STAGECOACH RD
SW 16TH ST
Legend
Pending Planning Commission Items
N
W
E
S
1 inch = 150 feet
PLA21-0002
PROPERTY LINE ADJUSTMENT
BREW SUBDIVISION
THE CITY OF
BENTONVILLE

PROPERTY LINE ADJUSTMENT CREATING NEW LOT 1 OF 7 BREW SUBDIVISION



FIELD WORK:
JANUARY 31, 2020

BASIS OF BEARING:
GPS OBSERVATION - AR NORTH ZONE
NAD83 HORIZONTAL DATUM

REFERENCE DOCUMENTS:
1) WARRANTY DEED FILED IN BOOK 84 AT PAGE 4177
2) PLAT OF SURVEY FILED IN BOOK 2005 AT PAGE 194
3) PLAT OF SURVEY FILED IN BOOK 2005 AT PAGE 91
4) FINAL PLAT OF COPPERSTONE SUBDIVISION FILED IN BOOK 2007 AT PAGE 666

ADJACENT LAND OWNERS
1) VASSING GROUPS LLC
4105 SW ACRES AVE
BENTONVILLE AR 72713
PARCEL #01-00828-115
ZONED: A-1
2) SWEPCO
AMERICAN ELECTRIC POWER
COLUMBUS OH 432166428
PARCEL #18-10159-000
ZONED: BENTONVILLE PLANNING AREA
3) MILLENNIUM VENTURES LLC
PO BOX 516
FARMINGTON AR 727304516
PARCELS #01-11308-000 & #01-11309-000
ZONED: C-2

ADJACENT LAND OWNERS
4) ROSE PROPERTIES LLC
PO BOX 65
BENTONVILLE AR 72712-0065
PARCEL #01-15484-000
ZONED: C-1
5) COPPERSTONE APARTMENTS
1200 E JOYCE BLVD
FAYETTEVILLE AR 72703-5189
PARCEL #01-15485-000
ZONED: R-3

PROPERTY ZONED:
C-1

BUILDING SETBACK NOTE:
SETBACKS SHALL BE PER THE CURRENT ZONING DISTRICT AS STATED IN THE MOST RECENT CITY OF BENTONVILLE ZONING CODE. FOR MORE INFO VISIT www.bentonvilleplanning.com OR CALL THE PLANNING DEPARTMENT @ 479-271-3122

PROPERTY OWNER:
CLEARWATER INVESTMENTS, INC.
2813 SW 14TH ST
BENTONVILLE, AR

ATLAS PAGE:
442

OWNER'S CERTIFICATION:
WE THE UNDERSIGNED, OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE HAVE LAID OFF, PLATTED, AND SUBDIVIDED AND DO HEREBY LAY OFF, PLAT, SUBDIVIDE SAID REAL ESTATE IN ACCORDANCE WITH THIS PLAT AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC THE STREETS, ALLEYS, DRIVES, EASEMENTS, ETC. AS SHOWN ON SAID PLAT.

DATE OF EXECUTION:_____

SIGNED:_____
CLEARWATER INVESTMENTS, INC.

SOURCE OF TITLE: DEED BOOK L2019, PAGE 42252

SUBSCRIBED AND SWORN BEFORE ME, THIS ____ DAY OF _____, 2021.

_____
NOTARY PUBLIC

CERTIFICATE OF APPROVAL:
PURSUANT TO THE BENTONVILLE SUBDIVISION REGULATIONS AND ALL OTHER CONDITIONS AND APPROVAL HAVING BEEN COMPLETED, THIS DOCUMENT IS HEREBY ACCEPTED. THIS CERTIFICATE IS HEREBY EXECUTED UNDER THE AUTHORITY OF THE SAID RULES AND REGULATIONS.

DATE OF EXECUTION:_____

SIGNED_____
BENTONVILLE PLANNING
COMMISSION CHAIRMAN

SIGNED_____
MAYOR, CITY OF BENTONVILLE

SIGNED_____
CITY CLERK, CITY OF BENTONVILLE

CERTIFICATE OF SURVEYING ACCURACY:
I DERRICK THOMAS, HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A BOUNDARY SURVEY MADE BY ME AND BOUNDARY MARKERS AND LOT CORNERS SHOWN HEREON ACTUALLY EXIST AND THEIR LOCATION, TYPE AND MATERIAL ARE CORRECTLY SHOWN AND ALL MINIMUM REQUIREMENTS OF THE ARKANSAS MINIMUM STANDARDS FOR LAND SURVEYORS HAVE BEEN MET.

DATE OF EXECUTION:_____

SIGNED:_____
REGISTERED LAND SURVEYOR NO. 1642 - STATE OF ARKANSAS

FLOOD CERTIFICATION:
NO PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "A" OR "AE" AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR BENTON COUNTY, ARKANSAS. (FIRM PANEL 0050070255K. DATED 06/ 05/ 2012).

STATE RECORDING NUMBER:
5B6-1D8-3T4C-04D-110-04-1642

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS THE 31ST DAY OF JANUARY, 2020.

REGISTERED
STATE OF
ARKANSAS
NO. 1642
DERRICK L. THOMAS
REGISTERED
PROFESSIONAL LAND SURVEYOR
DRAFT

IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.

BENTONVILLE PROJECT #
PLA21-0002

VICINITY MAP

VICINITY MAP NOT TO SCALE

SURVEY DESCRIPTIONS:

PARCEL #01-00828-113:
A PART OF THE WEST HALF OF THE FRACTIONAL NORTHEAST QUARTER OF THE FRACTIONAL NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 19 NORTH, RANGE 31 WEST, BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE NORTHWEST CORNER OF SAID WEST HALF OF THE FRACTIONAL NORTHEAST QUARTER OF THE FRACTIONAL NORTHEAST QUARTER AND RUNNING THENCE ALONG THE NORTH LINE THEREOF S87°13'01"E 201.36', THENCE LEAVING SAID NORTH LINE S02°19'28"W 400.00' TO AN EXISTING REBAR, THENCE N87°12'47"W 200.01', THENCE N02°07'51"E 400.00' TO THE POINT OF BEGINNING, CONTAINING 1.84 ACRES, MORE OR LESS. SUBJECT TO THAT PORTION IN SOUTHWEST 14TH STREET (ARKANSAS HIGHWAY #102) MASTER STREET PLAN RIGHT-OF-WAY ON THE NORTH SIDE OF HEREIN DESCRIBED TRACT AND SUBJECT TO ALL OTHER EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

NEW LOT #1:
A PART OF THE WEST HALF OF THE FRACTIONAL NORTHEAST QUARTER OF THE FRACTIONAL NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 19 NORTH, RANGE 31 WEST, BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT ON THE SOUTH RIGHT-OF-WAY OF ARKANSAS HIGHWAY #102 (SOUTHWEST 14TH STREET) WHICH IS S02°07'51"W 37.93' FROM THE NORTHWEST CORNER OF SAID WEST HALF OF THE FRACTIONAL NORTHEAST QUARTER OF THE FRACTIONAL NORTHEAST QUARTER AND RUNNING THENCE ALONG SAID RIGHT-OF-WAY S87°14'05"E 201.23', THENCE LEAVING SAID RIGHT-OF-WAY S02°19'28"W 362.14' TO AN EXISTING REBAR, THENCE N87°12'47"W 200.01' TO A POINT ON THE WEST LINE OF SAID WEST HALF OF THE FRACTIONAL NORTHEAST QUARTER OF THE FRACTIONAL NORTHEAST QUARTER, THENCE ALONG SAID WEST LINE N02°07'51"E 362.07' TO THE POINT OF BEGINNING, CONTAINING 1.67 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

PLAT NOTES:
1. THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPURTENANCES. ALL UTILITY LINES APPEARING ON THIS PLAT, AS WELL AS THOSE THAT MAY EXIST UNDERGROUND NEED TO BE VERIFIED PRIOR TO DOING ANY TYPE OF EXCAVATION. SOME UTILITY LINES MAY ALSO EXIST THAT WERE NOT SHOWN ON THIS PLAT.
2. SIDEWALKS SHALL BE THE RESPONSIBILITY OF THE BUILDER/OWNER AT TIME OF BUILDING PERMIT ISSUANCE.
3. OWNER/DEVELOPER SHALL COORDINATE WITH ALL LOCAL UTILITIES TO ENSURE THAT EACH LOT HAS WATER, SEWER AND ELECTRIC SERVICE.
4. BEFORE ANY WORK IN THE RIGHT-OF-WAY COMMENCES, CONTRACTOR AND OR OWNER IS TO OBTAIN RIGHT-OF-WAY PERMIT FROM THE CITY OF BENTONVILLE TRANSPORTATION DEPARTMENT.
5. THERE MAY NOT BE ANY FENCES OR ANY OTHER STRUCTURES BUILT IN ANY DRAINAGE EASEMENTS.

BEUD NOTES:
1. OWNER TO CONTACT NEW SERVICE COORDINATOR (271-3139) TO DISCUSS ELECTRIC SERVICE PRIOR TO BEGINNING ANY CONSTRUCTION. FAILURE TO CONTACT BEUD PRIOR TO CONSTRUCTION WILL RESULT IN DELAYS TO GET ELECTRIC SERVICE.
2. BEUD'S STANDARD PRACTICE IS TO PLACE UNDERGROUND EQUIPMENT (TRANSFORMERS, SECONDARY PEDESTALS, JUNCTION BOXES, ETC) ON THE LOT LINE OF A DEVELOPMENT. ANY ADJUSTMENTS TO THE PROPERTY LINE THAT RESULT IN OUR EQUIPMENT NOT BEING ON THE LOT LINE WILL REQUIRE THE DEVELOPER TO PAY FOR THE COST OF BEUD TO RELOCATE THE EQUIPMENT TO THE LOT LINE.
3. ALL STRUCTURES MUST MAINTAIN MINIMUM OF 20' CLEARANCES FROM ALL ELECTRIC LINES.

DRAWING # 19-237 INC SB

FOR USE AND BENEFIT OF:
7 BREW
ADDRESS:
2813 SOUTHWEST 14TH STREET
BENTONVILLE, ARKANSAS
DATE: 02/01/21
SCALE: 1"=30'
LOCATION:
SECTION: 2
TOWNSHIP: 19 NORTH
RANGE: 31 WEST
SURVEYED: JOSH
DRAFTED: MR, JOB
REVISED:
COA #335

Bates & Associates, Inc.
Engineers · Surveyors · Landscape Architects
7220 S. Pleasant Ridge Dr. · Fayetteville, Arkansas 72704 · 479.442.8506 · Fax 479.521.8900

BATES & ASSOCIATES, INC Copyright 2021
This survey was conducted for the private or pension trustee named/signee on this plat. This plat is protected by copyright. No one including the person(s) named may reproduce this plat without the written permission of Bates & Associates, Inc. This survey is not valid for the purpose of investigation for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other fact which a complete and accurate title search may disclose. Any fixed easement provided on this plat is for information only and Bates & Associates, Inc. assumes no liability for the correctness of the human cited maps, furthermore the above statement does not represent the opinion of Bates & Associates, Inc. of the probability of flooding.

Location Map:
R-31-W
T19 N

LEGEND:
TO USE STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING.
FOUND 5/8" REBAR
SET 5/8" REBAR/CAP
COMPUTED POINT
FOUND 1/2" REBAR
CABLE PEDESTAL
TELEPHONE PEDESTAL
YARD HYDRANT
WATER METER
CLEANOUT
SIGN
FIRE HYDRANT
STORM SEWER MH
FIBER OPTIC PEDESTAL
FIBER OPTIC VAULT
ELECTRICAL BOX
SANITARY SEWER MH
POWER POLE
WATER VALVE
SEPTIC LID
LIGHT
BOUNDARY LINE (MEASURED)
PARCEL/LOT LINE
FORTY LINE/ TIE LINE
CENTERLINE OF ROAD
RIGHT-OF-WAY
FENCE
UTILITY EASEMENT

RECORDING NUMBER/DATE:

ORDINANCE NO._____

AN ORDINANCE ACCEPTING A LOT SPLIT OF LOT 1 OF 7 BREW SUBDIVISION TO THE CITY OF BENTONVILLE, ARKANSAS (PROJECT NUMBER: PLA21-0002).

WHEREAS, pursuant to the provisions of the Land Development Code of the Bentonville Municipal Code, the lot split of Lot 1 of 7 Brew Subdivision, Benton County, Arkansas, was submitted to the Bentonville Planning Commission on March 2, 2021; and,

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

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

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

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

Section 1: That the lot split of Lot 1 of 7 Brew 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 lot split by certifying said acceptance on the approved lot split.

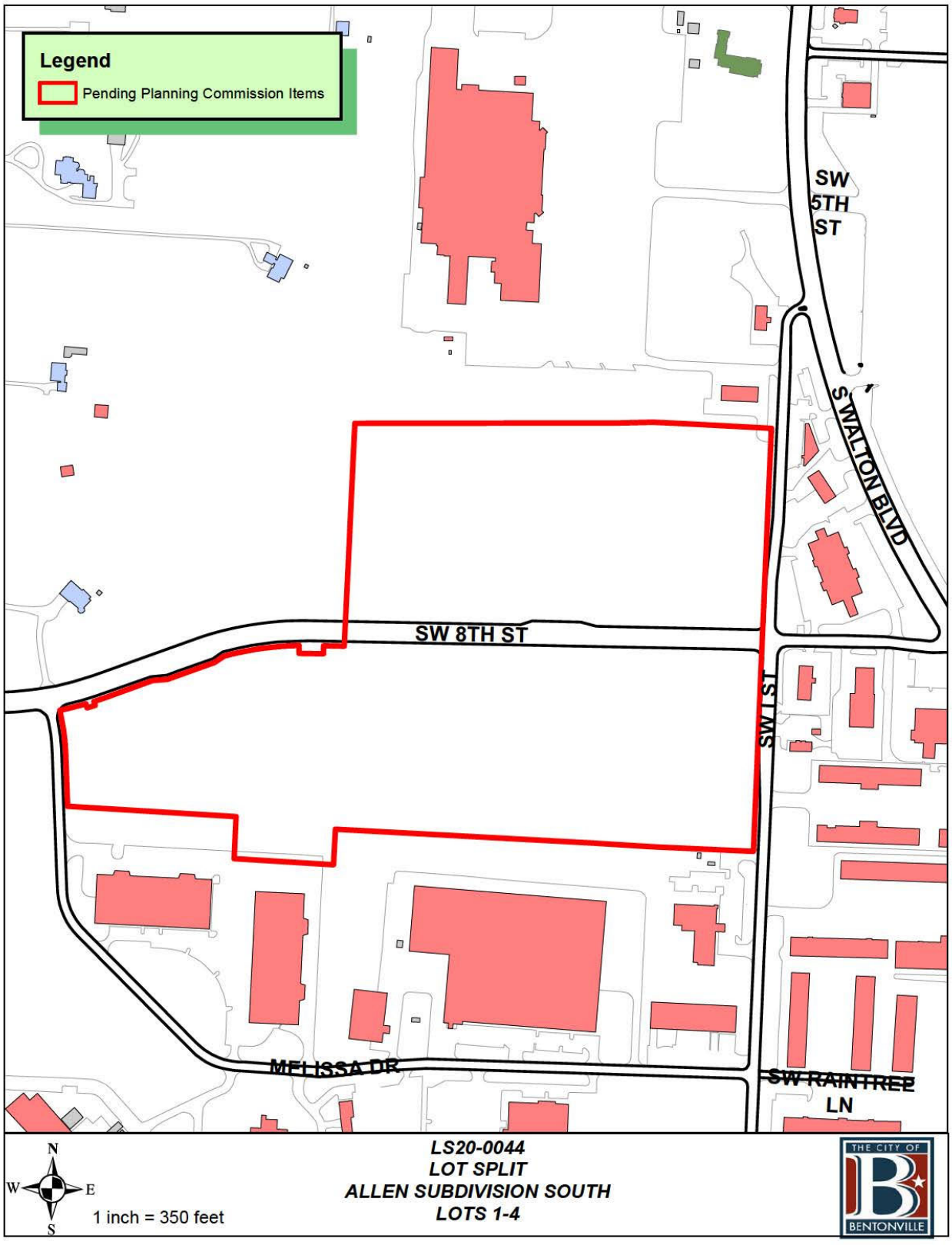
PASSED AND APPROVED this_____ day of _____, 2021.

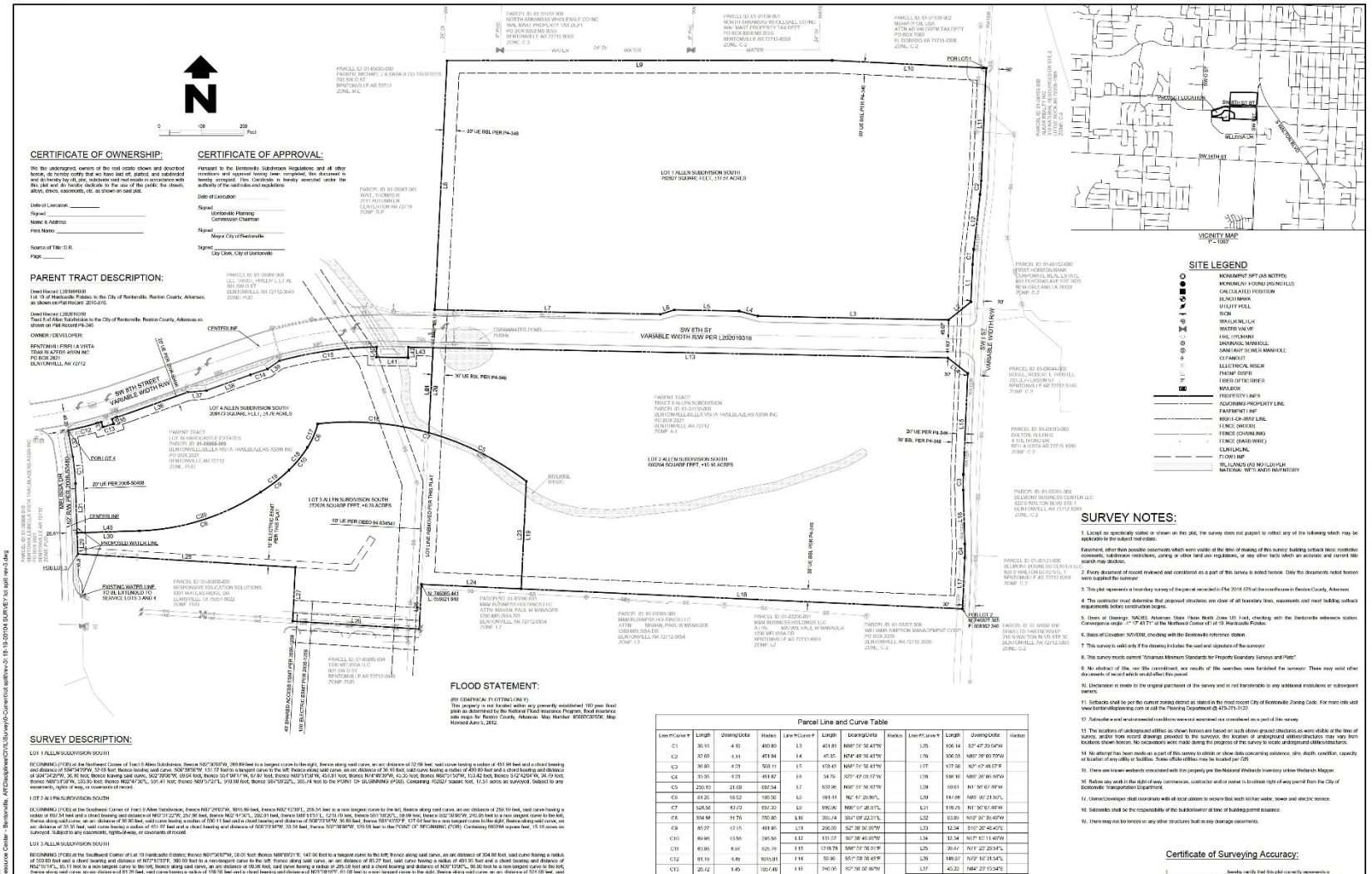
APPROVED:

_____
Stephanie Orman, Mayor

ATTEST:

_____
Kirby Romines, City Clerk


Legend
Pending Planning Commission Items
SW 5TH ST
S WALTON BLVD
SW 8TH ST
SW 1 ST
MELISSA DR
SW RAINTREE LN
N
W
E
S
1 inch = 350 feet
LS20-0044
LOT SPLIT
ALLEN SUBDIVISION SOUTH
LOTS 1-4
THE CITY OF
BENTONVILLE


N
0 100 200 Feet
CERTIFICATE OF OWNERSHIP:
We the undersigned, owners of the real estate shown and described hereon, do hereby certify that we have laid off, platted, and subdivided and do hereby lay off, plat, subdivide said real estate in accordance with this plat and do hereby dedicate to the use of the public the streets, alleys, drives, easements, etc. as shown on said plat.
Date of Execution: _____
Signed _____
Name & Address
Print Name: _____
Source of Title: D.R.
Page _____
CERTIFICATE OF APPROVAL:
Pursuant to the Bentonville Subdivision Regulations and all other conditions and approval having been completed, this document is hereby accepted. This Certificate is hereby executed under the authority of the said rules and regulations.
Date of Execution: _____
Signed _____
Bentonville Planning Commission Chairman
Signed _____
Mayor City of Bentonville
Signed _____
City Clerk, City of Bentonville
PARENT TRACT DESCRIPTION:
Deed Record: L2019991030
Lot 19 of Hardcastle Estates in the City of Bentonville, Benton County, Arkansas, as shown on Plat Record: 2010-076.
Deed Record: L2020119180
Tract B of Allen Subdivision to the City of Bentonville, Benton County, Arkansas as shown on Plat Record P4-346
OWNER / DEVELOPER:
RPATONVI I FRR I A VISTA
TRAM RI ACFRS ASSN INC
PO BOX 2821
BLNTONVILLE, AR 72712
SURVEY DESCRIPTION:
LOT 1 ALLEN SUBDIVISION SOUTH
BEGINNING (POB) at the Northwest Corner of Tract B Allen Subdivision, thence S82°30'00"W, 269.89 feet to a tangent curve to the right, thence along said curve, an arc distance of 32.68 feet, said curve having a radius of 451.94 feet and a chord bearing and distance of S84°34'09"W, 57.68 feet; thence leaving said curve, S06°38'06"W, 131.78 feet to a tangent curve to the left, thence along said curve, an arc distance of 36.80 feet, said curve having a radius of 489.80 feet and a chord bearing and distance of S04°34'29"W, 36.80 feet; thence leaving said curve, S02°30'06"W, 69.64 feet; thence S01°04'17"W, 67.89' feet; thence N89°51'09"W, 451.81 feet; thence N04°46'29"W, 43.30 feet; thence N85°51'50"W, 152.42 feet; thence S12°42'04"W, 34.79 feet; thence N89°51'04"W, 120.30 feet; thence N02°47'36"E, 591.41 feet; thence N89°12'21"E, 919.68 feet; thence S84°09'22"E, 269.44 feet to the POINT OF BEGINNING (POB). Containing 752527 square feet, 17.31 acres as surveyed. Subject to any easements, rights of way, or covenants of record.
LOT 2 ALLEN SUBDIVISION SOUTH
BEGINNING (POB) at the Southwest Corner of Tract B Allen Subdivision, thence N89°12'03"E, 1010.89 feet, thence N02°12'28"E, 259.56 feet to a non-tangent curve to the left, thence along said curve, an arc distance of 256.59 feet, said curve having a radius of 694.54 feet and a chord bearing and distance of N03°31'22"W, 254.99 feet, thence N82°13'36"E, 282.01 feet, thence S89°51'51"E, 1218.70 feet, thence S01°38'07"E, 28.68 feet, thence S82°30'00"W, 270.00 feet to a non-tangent curve to the left, thence along said curve, an arc distance of 50.80 feet, said curve having a radius of 550.00 feet and a chord bearing and distance of S79°31'57"W, 50.80 feet; thence S01°04'17"E, 577.64 feet to a non-tangent curve to the right; thence along said curve, an arc distance of 33.35 feet, said curve having a radius of 451.97 feet and a chord bearing and distance of S00°29'18"W, 33.34 feet; thence S02°38'06"W, 139.58 feet to the POINT OF BEGINNING (POB). Containing 660294 square feet, 15.16 acres as surveyed. Subject to any easements, rights-of-way, or covenants of record.
LOT 3 ALLEN SUBDIVISION SOUTH
BEGINNING (POB) at the Southeast Corner of Lot 19 Hardcastle Estates; thence N01°04'07"W, 58.01 feet thence N89°02'21"E, 147.90 feet to a tangent curve to the left; thence along said curve, an arc distance of 304.88 feet, said curve having a radius of 559.80 feet and a chord bearing and distance of N72°03'37"E, 300.99 feet to a non-tangent curve to the left; thence along said curve, an arc distance of 85.27 feet, said curve having a radius of 491.95 feet and a chord bearing and distance of N52°10'14"E, 85.11 feet to a non-tangent curve to the left; thence along said curve, an arc distance of 39.26 feet, said curve having a radius of 205.18 feet and a chord bearing and distance of N30°13'06"E, 39.20 feet; thence along said curve, an arc distance of 81.20 feet, said curve having a radius of 159.58 feet and a chord bearing and distance of N03°39'07"E, 81.08 feet to a non-tangent curve to the right; thence along said curve, an arc distance of 101.58 feet, said curve having a radius of 667.33 feet and a chord bearing and distance of S14°39'54"E, 101.48 feet, thence S02°16'39"W, 256.54 feet; thence N87°31'57"W, 236.33 feet; thence S02°57'36"W, 106.14 feet; thence N89°39'07"W, 308.03 feet; thence N03°42'49"E, 127.60 feet; thence N86°39'06"W, 516.10 feet to the POINT OF BEGINNING (POB). Containing 270626 square feet, 6.21 acres as surveyed. Subject to any easements, rights-of-way, or covenants of record.
LOT 4 ALLEN SUBDIVISION SOUTH
BEGINNING (POB) at the Northwest Corner of Lot 19 Hardcastle Estates at the beginning of a curve to the left; thence along said curve, an arc distance of 81.15 feet, said curve having a radius of 1045.81 feet and a chord bearing and distance of N85°00'19"E, 81.13 feet; thence N01°09'08"E, 12.94 feet to a non-tangent curve to the left; thence along said curve, an arc distance of 39.72 feet, said curve having a radius of 1057.48 feet and a chord bearing and distance of N07°13'09"E, 39.72 feet; thence N11°51'11"W, 12.34 feet; thence N11°23'21"E, 39.47 feet; thence N05°18'32"E, 149.67 feet; thence N84°23'10"E, 40.22 feet; thence N75°11'52"E, 150.57 feet to a non-tangent curve to the right; thence along said curve, an arc distance of 42.20 feet, said curve having a radius of 543.31 feet and a chord bearing and distance of N73°37'31"E, 42.20 feet; thence N53°36'12"E, 34.22 feet to a non-tangent curve to the right; thence along said curve, an arc distance of 232.32 feet, said curve having a radius of 856.00 feet and a chord bearing and distance of N61°49'11"E, 232.44 feet to a point of cusp; thence S01°38'25"W, 21.22 feet; thence S89°51'51"E, 43.00 feet; thence N01°38'25"E, 25.00 feet; thence S89°51'51"E, 50.80 feet; thence S82°57'28"W, 787.91 feet to a non-tangent curve to the left; thence along said curve, an arc distance of 765.40 feet, said curve having a radius of 667.77 feet and a chord bearing and distance of N85°55'15"W, 723.75 feet to a non-tangent curve to the left; thence along said curve, an arc distance of 61.76 feet, said curve having a radius of 559.58 feet and a chord bearing and distance of S23°29'49"W, 61.80 feet to a non-tangent curve to the right; thence along said curve, an arc distance of 69.86 feet, said curve having a radius of 205.06 feet and a chord bearing and distance of S33°13'06"W, 69.80 feet to a non-tangent curve to the right; thence along said curve, an arc distance of 85.27 feet, said curve having a radius of 491.95 feet and a chord bearing and distance of S52°10'14"W, 85.11 feet to a non-tangent curve to the right; thence along said curve, an arc distance of 384.88 feet, said curve having a radius of 559.80 feet and a chord bearing and distance of S72°03'37"W, 300.99 feet; thence leaving said curve, S89°02'21"W, 147.65 feet; thence N01°04'07"W, 116.25 feet to a tangent curve to the left, thence along said curve, an arc distance of 63.06 feet, said curve having a radius of 525.76 feet and a chord bearing and distance of N03°25'12"W, 63.01 feet; thence N06°16'56"W, 83.66 feet to the POINT OF BEGINNING (POB). Containing 369475 square feet, 4.76 acres as surveyed. Subject to any easements, rights of way, or covenants of record
FLOOD STATEMENT:
(BY GRAPHICAL PLOTTING ONLY)
This property is not located within any presently established 100 year flood plain as determined by the National Flood Insurance Program, flood insurance rate maps for Benton County, Arkansas. Map Number 05007C0055K, Map Revised June 5, 2012.
Parcel Line and Curve Table
Line #/Curve # | Length | Bearing/Delta | Radius
C1 | 36.15 | 4.15 | 499.80
C2 | 37.60 | 4.91 | 451.94
C3 | 36.80 | 4.28 | 500.11
C4 | 33.35 | 4.23 | 451.97
C5 | 256.59 | 21.09 | 697.54
C6 | 61.25 | 18.52 | 189.50
C7 | 526.58 | 43.72 | 690.30
C8 | 304.88 | 31.76 | 559.80
C9 | 85.27 | 12.15 | 491.95
C10 | 69.86 | 13.56 | 295.56
C11 | 83.95 | 9.97 | 525.76
C12 | 81.19 | 4.85 | 1045.81
C13 | 25.72 | 1.45 | 1057.48
C14 | 42.20 | 2.57 | 543.31
C15 | 232.32 | 14.80 | 856.00
C16 | 765.40 | 22.14 | 667.77
C17 | 61.76 | 18.52 | 190.58
C18 | 69.86 | 13.56 | 295.56
C19 | 85.27 | 12.15 | 491.95
C20 | 384.88 | 31.78 | 559.80
L1 | 69.91 | S2° 30' 6" E | 69.90
L2 | 60.87 | S51° 34' 16.5" W | 60.87
Line #/Curve # | Length | Bearing/Delta | Radius
L3 | 401.81 | N88° 59' 43.1"W | 401.81
L4 | 45.35 | N74° 49' 36.43"W | 45.35
L5 | 137.49 | N88° 57' 50.43"W | 137.49
L6 | 500.11 | N88° 57' 50.43"W | 500.11
L7 | 533.96 | N88° 57' 50.43"W | 533.96
L8 | 591.15 | N2° 47' 29.99"E | 591.15
L9 | 910.00 | N89° 57' 26.01"E | 910.00
L10 | 350.74 | S84° 09' 22.01"E | 350.74
L11 | 266.55 | S2° 38' 30.06"W | 266.55
L12 | 131.57 | S0° 38' 46.06"W | 131.57
L13 | 1218.78 | S88° 59' 56.91"E | 1218.78
L14 | 59.90 | S5° 59' 56.43"E | 59.90
L15 | 340.00 | S0° 58' 03.99"W | 340.00
L16 | 127.65 | S1° 49' 32.31"E | 127.65
L17 | 126.98 | S2° 38' 30.06"W | 126.98
L18 | 1045.69 | N87° 28' 03.31"W | 1045.69
L19 | 200.04 | N2° 42' 30.20"E | 200.04
L20 | 282.01 | N2° 47' 29.54"E | 282.01
L21 | 282.01 | S2° 47' 29.25"W | 282.01
L22 | 282.01 | N2° 47' 29.99"E | 282.01
L23 | 200.04 | S2° 42' 30.20"W | 200.04
L24 | 236.33 | N87° 24' 03.31"W | 236.33
Line #/Curve # | Length | Bearing/Delta | Radius
L25 | 106.14 | S2° 47' 29.54"W | 106.14
L26 | 306.03 | N89° 38' 03.70"W | 306.03
L27 | 127.98 | N2° 47' 48.07"E | 127.98
L28 | 516.10 | N89° 38' 06.48"W | 516.10
L29 | 59.01 | N1° 56' 01.48"W | 59.01
L30 | 141.66 | N89° 55' 21.90"E | 141.66
L31 | 116.75 | N1° 56' 01.48"W | 116.75
L32 | 63.89 | N10° 50' 39.49"W | 63.89
L33 | 12.34 | S10° 26' 48.42"E | 12.34
L34 | 12.34 | N77° 10' 11.40"W | 12.34
L35 | 39.47 | N11° 23' 20.54"E | 39.47
L36 | 149.67 | N75° 18' 31.54"E | 149.67
L37 | 45.22 | N84° 27' 15.54"E | 45.22
L38 | 118.57 | N75° 18' 31.54"E | 118.57
L39 | 34.22 | N85° 30' 12.54"E | 34.22
L40 | 34.22 | S1° 38' 25.06"W | 34.22
L41 | 70.00 | S85° 51' 34.49"E | 70.00
L42 | 25.00 | N1° 08' 25.51"E | 25.00
L43 | 50.80 | S85° 51' 34.49"E | 50.80
L44 | 282.01 | S2° 47' 29.25"W | 282.01
L45 | 141.06 | S85° 38' 21.30"W | 141.06
SITE LEGEND
MONUMENT SET (AS NOTED)
MONUMENT FOUND (AS NOTED)
CALCULATED POSITION
BLN.01 MARK
UTILITY POLL
SIGN
WATER VALVE
WATER VALVE
FIRE HYDRANT
DRAINAGE MANHOLE
SANITARY SEWER MANHOLE
CO FANCUT
ELECTRICAL RISER
PHONE RISER
FIBER OPTIC RISER
MAILBOX
PROPERTY LINES
ADJOINING PROPERTY LINE
EASEMENT LINE
RIGHT-OF-WAY LINE
FENCE (WOOD)
FENCE (CHAINLINK)
FENCE (BARB WIRE)
CURB LINE
TV CNTY INF
WL ILANDS (AS NOTED) WLK
MATERIAL: WITH ANY INVENTORY
SURVEY NOTES:
1. Except as specifically stated or shown on this plat, the survey does not purport to reflect any of the following which may be applicable to the subject real estate:
Easement, other than possible easements which were visible at the time of making of this survey; building setback lines; restrictive covenants, subdivision restrictions, zoning or other land use regulations, or any other facts which an accurate and current title search may disclose.
2. Every document of record reviewed and considered as a part of this survey is noted hereon. Only the documents noted hereon were supplied the surveyor.
3. This plat represents a boundary survey of the parcel recorded in Plat 2018-076 of the courthouse in Benton County, Arkansas
4. The contractor must determine that proposed structures are clear of all boundary lines, easements and meet building setback requirements before construction begins.
5. Basis of Bearings: NAD83, Arkansas State Plane North Zone US Ftod, checking with the Bentonville reference station. Convergence angle: -1° 17' 47.7" at the Northeast Corner of of 19, Hardcastle Estates
6. Basis of Elevation: NAVD88, checking with the Bentonville reference station.
7. This survey is valid only if the drawing includes the seal and signature of the surveyor.
8. This survey meets current "Arkansas Minimum Standards for Property Boundary Surveys and Plats".
9. No abstract of title, nor title commitment, nor results of title searches were furnished the surveyor. There may exist other documents of record which would affect this parcel
10. Declaration is made to the original purchaser of the survey and is not transferable to any additional institutions or subsequent owners.
11. Setbacks shall be per the current zoning district as stated in the most recent City of Bentonville Zoning Code. For more info visit www.bentonvilleplanning.com or call the Planning Department @ 479-271-3122
12. Subsurface and environmental conditions were not examined or considered as a part of this survey.
13. The locations of underground utilities as shown hereon are based on such above ground structures as were visible at the time of survey, and/or from record drawings provided to the surveyor. the location of underground utilities/structures may vary from locations shown hereon. No excavations were made during the progress of this survey to locate underground utilities/structures.
14. No attempt has been made as a part of this survey to obtain or show data concerning existence, size, depth, condition, capacity, or location of any utility or facilities. Some offsite utilities may be located per OIE
15. There are known wetlands associated with this property per the National Wetlands Inventory unless Wetlands Mapper.
16. Before any work in the right-of-way commences, contractor and or owner is to obtain right-of-way permit from the City of Bentonville Transportation Department.
17. Owner/Developer shall coordinate with all local utilities to ensure that each lot has water, sewer and electric service.
18. Sidewalks shall be the responsibility of the builder/owner at time of building permit issuance.
19. There may not be fences or any other structures built in any drainage easements.
Certificate of Surveying Accuracy:
I, _____, hereby certify that this plat correctly represents a boundary survey made by me and boundary markers and lot corners shown hereon actually exist and their location, type and material are correctly shown and all minimum requirements of the Arkansas Minimum Standards for Land Surveyors have been met.
Date of Execution: _____
Signed _____
Registered Land Surveyor
No. _____
State of Arkansas
VICINITY MAP
P - 1007
PARCEL ID: 01-00067-001
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ORDINANCE NO._____

AN ORDINANCE ACCEPTING A LOT SPLIT OF LOTS 1-4 OF ALLEN SUBDIVISION SOUTH TO THE CITY OF BENTONVILLE, ARKANSAS (PROJECT NUMBER: LS20-0044).

WHEREAS, pursuant to the provisions of the Land Development Code of the Bentonville Municipal Code, the lot split of Lots 1-4 of Allen Subdivision South, Benton County, Arkansas, was submitted to the Bentonville Planning Commission on March 2, 2021; 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 1-4 of Allen Subdivision South 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 _____, 2021.

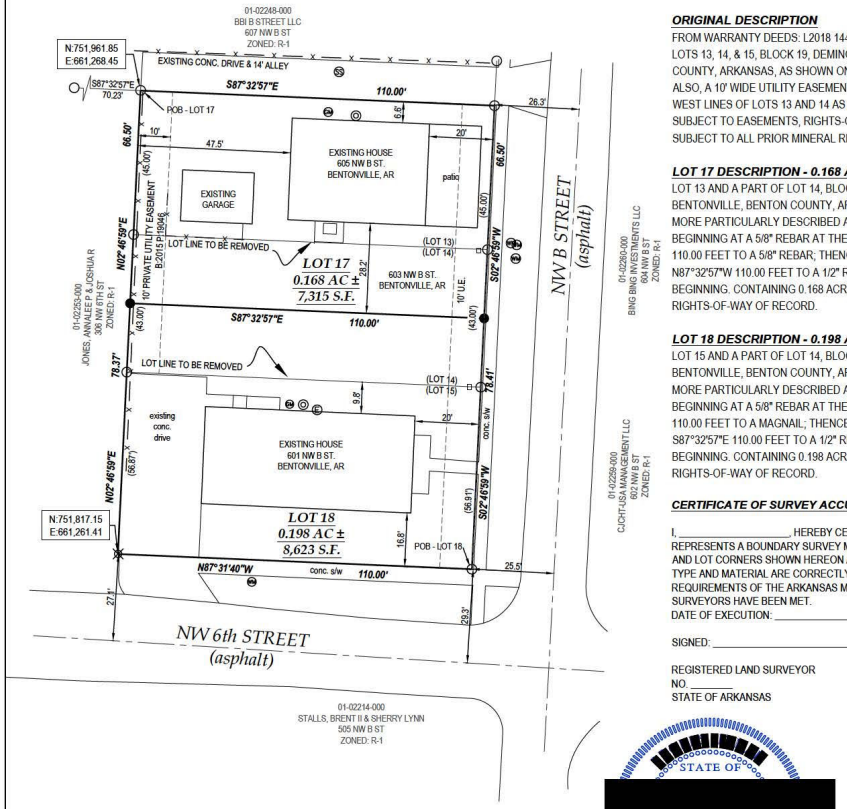
APPROVED:

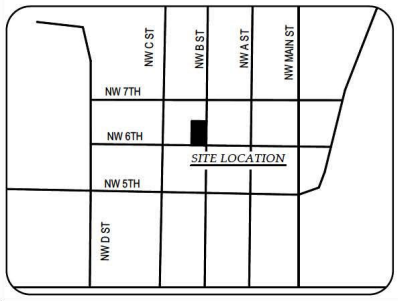
_____
Stephanie Orman, Mayor

ATTEST:

_____
Kirby Romines, City Clerk


NW 8TH ST
NW 7TH ST
NW 6TH ST
NW 5TH ST
NW C ST
NW B ST
NW A ST
17
18
Legend
Pending Planning Commission Items
N
W
E
S
1 inch = 150 feet
LS21-0006
LOT SPLIT
DEMINGS 2ND ADDITION
LOTS 13-14 & 15 BLOCK 19 CREATING LOTS 17 & 18
THE CITY OF
BENTONVILLE





ORIGINAL DESCRIPTION

FROM WARRANTY DEEDS: L2018 14404, L2018 14378, 2016-44666
LOTS 13, 14, & 15, BLOCK 19, DEMING'S 2ND ADDITION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD BOOK: 2015, PAGE: 251.
ALSO, A 10' WIDE UTILITY EASEMENT FROM DOCUMENT 2015-19046 , LYING 10' EAST OF THE WEST LINES OF LOTS 13 AND 14 AS DESCRIBED ON PLAT RECORD 2015-251.
SUBJECT TO EASEMENTS, RIGHTS-OF-WAY, AND PROTECTIVE COVENANTS OF RECORD, IF ANY.
SUBJECT TO ALL PRIOR MINERAL RESERVATIONS AND OIL AND GAS LEASES.

LOT 17 DESCRIPTION - 0.168 AC

LOT 13 AND A PART OF LOT 14, BLOCK 19, DEMING'S 2ND ADDITION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD B:2015, P:251, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A 5/8" REBAR AT THE NORTHWEST CORNER OF SAID LOT 13; THENCE S87°32'57"E 110.00 FEET TO A 5/8" REBAR; THENCE S02°46'59"W 66.50 FEET TO A 1/2" REBAR; THENCE N87°32'57"W 110.00 FEET TO A 1/2" REBAR; THENCE N02°46'59"E 66.50 FEET TO THE POINT OF BEGINNING. CONTAINING 0.168 ACRES, MORE OR LESS. SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD.

LOT 18 DESCRIPTION - 0.198 AC

LOT 15 AND A PART OF LOT 14, BLOCK 19, DEMING'S 2ND ADDITION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD B:2015, P:251, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A 5/8" REBAR AT THE SOUTHEAST CORNER OF SAID LOT 15; THENCE N87°31'40"W 110.00 FEET TO A MAGNAIL; THENCE N02°46'59"E 78.37 FEET TO A 1/2" REBAR; THENCE S87°32'57"E 110.00 FEET TO A 1/2" REBAR; THENCE S02°46'59"W 78.41 FEET TO THE POINT OF BEGINNING. CONTAINING 0.198 ACRES MORE OR LESS. SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD.

CERTIFICATE OF SURVEY ACCURACY

I, _____, HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A BOUNDARY SURVEY MADE BY ME AND BOUNDARY MARKERS AND LOT CORNERS SHOWN HEREON ACTUALLY EXIST AND THEIR LOCATION, TYPE AND MATERIAL ARE CORRECTLY SHOWN AND ALL MINIMUM REQUIREMENTS OF THE ARKANSAS MINIMUM STANDARDS FOR LAND SURVEYORS HAVE BEEN MET.
DATE OF EXECUTION: _____

SIGNED: _____

REGISTERED LAND SURVEYOR
NO.
STATE OF ARKANSAS



OWNER/DEVELOPER
VANDERPOOL, CLIFFORD V & LORI A
PARCEL: 01-02254-002
601 NW B ST
BENTONVILLE, AR

OWNER/DEVELOPER
ROCHE, STEPHAN & CATHERINE
PARCEL: 01-02254-000
PARCEL: 01-02254-001
603 & 605 NW B ST
BENTONVILLE, AR

NOTES:
1) THERE MAY NOT BE FENCES OR ANY OTHER STRUCTURES BUILT IN ANY DRAINAGE EASEMENTS.
2)SIDEWALKS SHALL BE THE RESPONSIBILITY OF THE BUILDER/OWNER AT TIME OF BUILDING PERMIT ISSUANCE.
3)OWNER/DEVELOPER SHALL COORDINATE WITH ALL LOCAL UTILITIES TO ENSURE THAT EACH LOT HAS WATER, SEWER AND ELECTRIC SERVICE.
4) SETBACKS SHALL BE PER THE CURRENT ZONING DISTRICT AS STATED IN THE MOST RECENT CITY OF BENTONVILLE ZONING CODE, INFO @ BENTONVILLEPLANNING.COM, 479-281-3122.
5) ALL STRUCTURES MUST MAINTAIN MINIMUM OF 20' CLEARANCE FROM ALL ELECTRICAL LINES.

FLOOD CERTIFICATION
THE HEREIN DESCRIBED TRACT IS NOT WITHIN THE 100 YEAR FLOOD ZONE PER F.I.R.M. COMMUNITY NO. 05007C0090J, BENTON COUNTY, AR EFFECTIVE DATE 09/28/2007.

BASIS OF BEARINGS
STATE PLANE - NAD 83 - AR NORTH

ZONED R-1 BUILDING SETBACKS
FRONT (GARAGE) - 30'
FRONT - 20'
SIDE (INTERIOR) - 7'
SIDE (ROW) - 20'
REAR - 25'

SCALE: 1" = 30'

LEGEND

- CENTERLINE
- BOUNDARY LINE
- FENCE LINE
- EASEMENT
- CALCULATED POINT
- FOUND IRON PIN
- SET IRON PIN
- SEWER CLEAN OUT
- PK NAIL
- SEWER MANHOLE
- ELEC METER
- GAS METER
- WATER METER

CERTIFICATE OF OWNERSHIP
WE THE UNDERSIGNED, OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE HAVE LAID OFF, PLATTED, AND SUBDIVIDED AND DO HEREBY LAY OFF, PLAT, SUBDIVIDE SAID REAL ESTATE IN ACCORDANCE WITH THIS PLAT AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC THE STREETS, ALLEYS, DRIVES, EASEMENTS, ETC. AS SHOWN ON SAID PLAT.
DATE OF EXECUTION: _____

SIGNED :_____
NAME (ROCHE)

SIGNED :_____
NAME (ROCHE)

SOURCE OF TITLE: D.R. L201814404 AND L2018144378

CERTIFICATE OF OWNERSHIP
WE THE UNDERSIGNED, OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE HAVE LAID OFF, PLATTED, AND SUBDIVIDED AND DO HEREBY LAY OFF, PLAT, SUBDIVIDE SAID REAL ESTATE IN ACCORDANCE WITH THIS PLAT AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC THE STREETS, ALLEYS, DRIVES, EASEMENTS, ETC. AS SHOWN ON SAID PLAT.
DATE OF EXECUTION: _____

SIGNED :_____
NAME (VANDERPOOL)

SIGNED :_____
NAME ((VANDERPOOL)

SOURCE OF TITLE: D.R. 2016-44666

CERTIFICATE OF APPROVAL
PURSUANT TO THE BENTONVILLE SUBDIVISION REGULATIONS AND ALL OTHER CONDITIONS AND APPROVAL HAVING BEEN COMPLETED, THIS DOCUMENT IS HEREBY ACCEPTED. THIS CERTIFICATE IS HEREBY EXECUTED UNDER THE AUTHORITY OF THE SAID RULES AND REGULATIONS.
DATE OF EXECUTION: _____

SIGNED _____
COMMUNITY DEVELOPMENT DIRECTOR

CITY ATLAS PAGE 361

PROJECT #: LS21-0006

JENKINS SURVEYING 1552 CEDAR ST. FAYETTEVILLE, AR 72703 P/F 479-521-5231	DATE:	2/14/21
	DRAWN BY:	DWJ
	SCALE:	1" = 30'
	JOB NO.:	20-070

PROPERTY LINE ADJUSTMENT LOTS 13,14, & 15, BLOCK 19 OF DEMINGS 2ND ADDITION CREATING LOTS 17 & 18,BLOCK 19

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING A PROPERTY LINE ADJUSTMENT OF LOTS 17-18, BLOCK 19 OF DEMING'S 2ND ADDITION TO THE CITY OF BENTONVILLE, ARKANSAS (PROJECT NUMBER: LS21-0006).

WHEREAS, pursuant to the provisions of the Land Development Code of the Bentonville Municipal Code, the property line adjustment of Lots 17-18, Block 19 of Deming's 2nd Addition of the City of Bentonville, Benton County, Arkansas was submitted to the Bentonville Planning Commission on March 2, 2021; 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 17-18, Block 19 of Deming's 2nd 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.

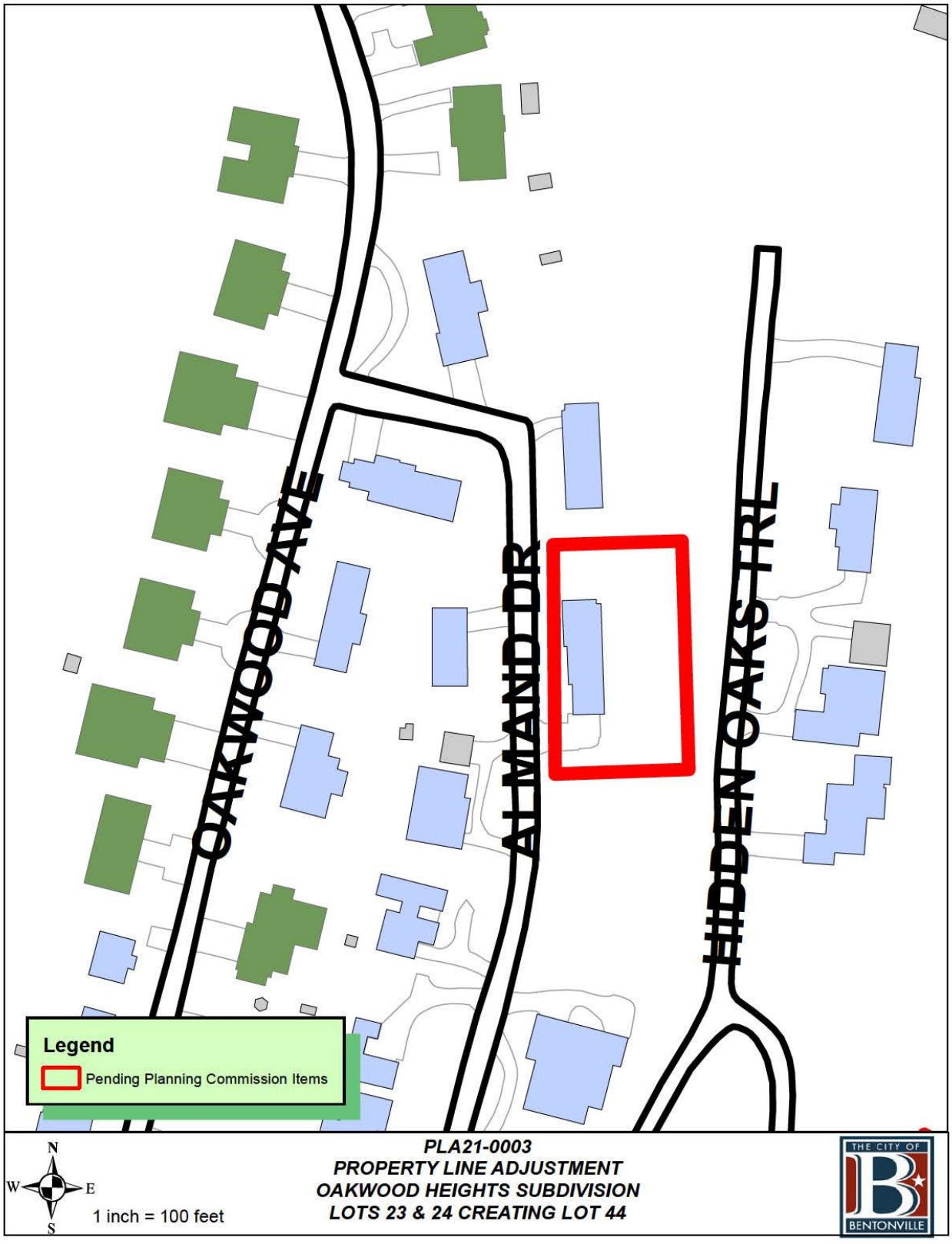
PASSED AND APPROVED this_____ day of _____, 2021.

APPROVED:

_____
Stephanie Orman, Mayor

ATTEST:

_____
Kirby Romines, City Clerk


OAKWOOD AVE
ALMAND DR
HIDDEN OAKS TRL
Legend
Pending Planning Commission Items
N
W
E
S
1 inch = 100 feet
PLA21-0003
PROPERTY LINE ADJUSTMENT
OAKWOOD HEIGHTS SUBDIVISION
LOTS 23 & 24 CREATING LOT 44
THE CITY OF
BENTONVILLE

LEGEND

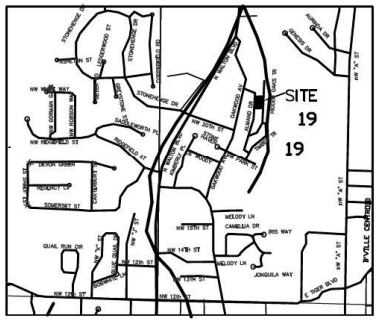
- ○ S.I.P. SET IRON PIN
- ● F.I.P. FOUND IRON PIN
- (M) SEWER MANHOLE
- PROPERTY LINE
- CENTERLINE
- ADJ. PROPERTY LINE
- ORIGINAL SUBDIVISIONAL LOT LINE
- 15' UTILITY EASEMENT
- (W) EXISTING WATER METER
- (G) EXISTING GAS METER
- DEDICATION AREA
- EXISTING FIRE HYDRANT

N

SCALE 1"=40'

40 20 0 40

REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF ARKANSAS
NO. 1553
Signature
DAVID B. PLATZ



BUILDING SETBACK

R-1 ZONING

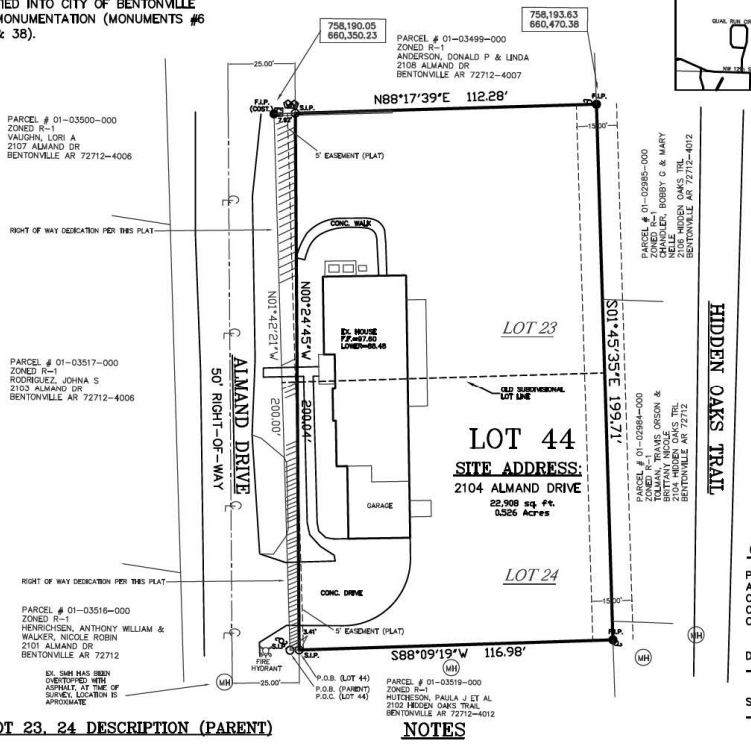
30' FRONT FROM STREET RIGHT-OF-WAY
20' FRONT FROM STREET RIGHT-OF-WAY
IF GARAGE IS RECESSED
7' ALONG SIDE LOT LINES
25' ALONG BACK LOT LINES

FLOOD CERTIFICATION

THIS PROPERTY DOES NOT LIE IN A TYPE "A" OR "AE" FLOOD ZONE AS SHOWN ON FEMA PANEL #05007C0090 J, DATED SEPTEMBER 28, 2007.

BASIS OF BEARING

TIED INTO CITY OF BENTONVILLE MONUMENTATION (MONUMENTS #6 & 38).



LOT 23, 24 DESCRIPTION (PARENT)

LOTS 23, 24 OF OAKWOOD HEIGHTS, CITY OF BENTONVILLE, COUNTY OF BENTON, ARKANSAS, ACCORDING TO THE RECORDED PLAT THEREOF, AS RECORDED. BEGINNING AT THE SE CORNER OF LOT 24, OAKWOOD HEIGHTS, NORTH 01°42'21" WEST 200.00 FEET; THENCE NORTH 88°17'39" EAST 120.20 FEET; THENCE SOUTH 01°45'35" EAST 199.71 FEET; THENCE SOUTH 88°09'19" WEST 120.39 FEET BACK TO THE POINT OF BEGINNING, SAID LOT CONTAINING 0.552 ACRES MORE OR LESS.

LOT 44 DESCRIPTION

COMMENCING AT THE SW CORNER OF LOT 24, OAKWOOD HEIGHTS, THENCE NORTH 88°09'19" EAST 3.41 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°24'45" WEST 200.04 FEET; THENCE NORTH 88°17'39" EAST 112.28 FEET; THENCE SOUTH 01°45'35" EAST 199.71 FEET; THENCE SOUTH 88°09'19" WEST 116.98 FEET BACK TO THE POINT OF BEGINNING, SAID LOT CONTAINING 0.526 ACRES MORE OR LESS.

CERTIFICATE OF ACCURACY

I, DAVID B. PLATZ, HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A BOUNDARY SURVEY MADE BY ME AND MONUMENTS SHOWN HEREON ACTUALLY EXIST AND THEIR LOCATION, SIZE, TYPE AND MATERIAL ARE CORRECTLY SHOWN.

DATE OF EXECUTION: _____

SIGNED: _____
REGISTERED LAND SURVEYOR
NO. 1553
STATE OF ARKANSAS

NOTES

1). WARRANTY DEED RECORDED ON OCTOBER 12, 2017 IN BOOK 2017, PAGE 64693.

2). TAX PARCEL IS 01-03518-000.

3). BEFORE ANY WORK IN THE RIGHT-OF-WAY COMMENCES, CONTRACTOR AND OR OWNER IS TO CONTACT THE CITY OF BENTONVILLE ENGINEERING AND TRANSPORTATION DEPARTMENTS AND NOTIFY SAID DEPARTMENTS ON THE INTENT AND TYPE OF THE WORK THAT WILL TAKE PLACE WITH-IN THE RIGHT-OF-WAY.

4). OWNER/DEVELOPER SHALL COORDINATE WITH ALL LOCAL UTILITIES TO INSURE THAT EACH LOT HAS WATER, SEWER, AND ELECTRIC SERVICE.

5). SIDEWALKS SHALL BE THE RESPONSIBILITY OF THE BUILDER/OWNER AT TIME OF BUILDING PERMIT ISSUANCE.

6). THERE MAY NOT BE FENCES OR ANY OTHER STRUCTURES BUILT IN ANY DRAINAGE EASEMENTS.

7).SETBACKS SHALL BE PER THE CURRENT ZONING DISTRICT AS STATED IN THE MOST CITY OF BENTONVILLE ZONING CODE.

CERTIFICATE OF OWNERSHIP

WE, THE UNDERSIGNED, OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE HAVE LAID OFF, PLATTED, AND SUBDIVIDED AND DO HEREBY LAY OFF, PLAT, SUBDIVIDE SAID REAL ESTATE IN ACCORDANCE WITH THIS PLAT AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC THE STREETS, ALLEYS, DRIVES, EASEMENTS, ETC. AS SHOWN ON SAID PLAT.

DATE OF EXECUTION: _____

SIGNED: _____
CALCON INC REPRESENTATIVE

PRINT: _____

STATE OF ARKANSAS)

COUNTY OF BENTON)

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ DAY OF _____ 2021.

_____
NOTARY PUBLIC SIGNATURE

CERTIFICATE OF APPROVAL

PURSUANT TO THE BENTONVILLE SUBDIVISION REGULATIONS AND ALL OTHER CONDITIONS AND APPROVAL HAVING BEEN COMPLETED, THIS DOCUMENT IS HEREBY ACCEPTED. THIS CERTIFICATE IS HEREBY EXECUTED UNDER THE AUTHORITY OF THE SAID RULES AND REGULATIONS.

DATE OF EXECUTION: _____

SIGNED: _____
MAYOR

_____
CITY CLERK

_____
PLANNING COMMISSION CHAIRMAN

A PROPERTY LINE ADJUSTMENT OF LOT 23 AND LOT 24 IN OAKWOOD HEIGHTS TO THE CITY OF BENTONVILLE, ARKANSAS TO BE KNOWN AS LOT 44, IN OAKWOOD HEIGHTS TO THE CITY OF BENTONVILLE.

PROP. LINE ADJ	REVISIONS		
	No.:	BY:	DATE:
OWNER: CALCON INC 10636 HWY 72 WEST BENTONVILLE, AR 72712	#1	CITY	2/11/21
273-7989 OR 366-7989 CONSULTING INC. P.O. BOX 223 BENTONVILLE, AR 72712	DRAWN BY: DP/ZS		DATE: 1/23/21
	CHECKED BY:		JOB No.: 2019011-PLA
	SCALE: 1"=40'		SHEET: 1

ATLAS PAGE 319
BENTONVILLE PROJECT #: PLA21-0003

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING A PROPERTY LINE ADJUSTMENT OF LOT 44 OF OAKWOOD HEIGHTS TO THE CITY OF BENTONVILLE, ARKANSAS (PROJECT NUMBER: PLA21-0003).

WHEREAS, pursuant to the provisions of the Land Development Code of the Bentonville Municipal Code, the property line adjustment of Lot 44 of Oakwood Heights of the City of Bentonville, Benton County, Arkansas was submitted to the Bentonville Planning Commission on March 2, 2021; 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 44 of Oakwood Heights 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 _____, 2021.

APPROVED:

_____
Stephanie Orman, Mayor

ATTEST:

_____
Kirby Romines, City Clerk

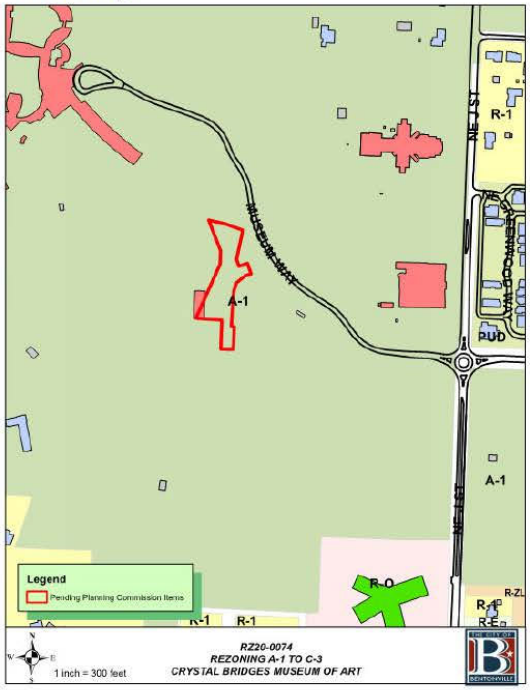
Crystal Bridges Museum of American Art

600 Museum Way
PC Date: 3/2/2021
Reviewer: Tyler Overstreet, Planning Services Manager, AICP

Project Number	RZ20-0074
Applicant / Current Owner	Crystal Bridges Museum of American Art
Site Area	+/- 1.5 acres
Current Zoning	A-1, Agricultural
Requested Zoning	C-3, Mixed-Use Commercial
Future Land Use Map Designation	Mixed Use

https://arcg.is/08HvK8

Location Map



Property Description
This property is located at 600 Museum Way, interior to the Crystal Bridges Museum of American Art Site, and west of the existing "Bucky Ball" parking lot. Adjacent zoning districts are A-1, Agricultural, on all sides.

Relationship to the Bentonville Community Plan
The Future Land Use Plan currently depicts this property as Public/Semi-public. Public/Semi-public land uses include government offices, community facilities, and museums that are open to the public and provide community services and amenities. The current land use of Crystal Bridges is in line with this land-use category.

Public Comment
Staff has received a letter of support regarding this request.

Analysis
According to the applicant's narrative, the intent of the rezoning request is to provide an area that allows for people to meet and utilize additional services within vicinity of their residences. The narrative cites the importance of pedestrian walkability via the trail system, and the importance of social interaction through open space.

The C-3, Mixed-Use Commercial, zoning district is defined within the Zoning Code as a district meant to provide areas to live, work, meet, and utilize services in proximity of their residences. Development within the district ought to be designed with an urban, walkable character that encourages social interaction. The applicant's narrative and intent are compatible with the C-3 zoning designation.

Conclusion
The Future Land Use Plan and the definition of the C-3 zoning district provide support for the rezoning request.

Staff recommends approval of the rezoning request.

175 Montrose West Ave, Suite 400
Akron, OH 44321
330.665.0660
www.cesoinc.com

December 21, 2020

Jon Stanley
City of Bentonville
Planning Department
305 SW A Street
Bentonville, AR 72712

RE: Parcel #01-15202-000 rezone to C-3

Dear Mr. Stanley:

Please accept this narrative letter for the referenced request to rezone a portion of parcel #01-15202-000 to C-3. See below for additional information on this request:

Current Zoning Designation: A-1 Agricultural District

Proposed Zoning Designation: C-3 Central Commercial

Explanation: A portion of parcel #01-15202-000 is being proposed to be rezoned from A-1 Agricultural to C-3 Central Commercial in order to develop a real estate project in compliance with C-3 development standards. The current owner is Crystal Bridges Museum of American Art Inc.

Reason to Rezone: The rezone would allow the development to establish an area that would provide an opportunity for people to meet and utilize additional services within the vicinity of their residences.

Statement of how the property will relate to surrounding properties: Being within the immediate proximity of the Amazeum and Crystal Bridges Museums, the development would be designed to complement the surrounding uses. The development would also add pedestrian walkability via new trails and encourage greater social interaction of residents through outdoor spaces for yoga or fitness groups.

Use: Offices, open office and conference space

Traffic: The development should not substantially increase the current traffic patterns on Museum Way and could potentially encourage more pedestrian activity.

Signage: None proposed

Appearance: Modern design standards will be used to enhance and compliment the surrounding area.

Water / Sewer: Water service is available via the 8" water main on site. Sewer service has a potential connection to the 24" sewer line located south of the property.

Thank you for your consideration of this request.

Should you have any further questions, please do not hesitate to call me.

[redacted]

Civil Team Lead

Enclosures

Initial: _____

NOTICE OF INTENT TO REZONE

Crystal Bridges Museum of American Art Inc. has requested the Bentonville Planning Commission to set a public hearing date to consider rezoning the following property from A-1 (Agricultural District) to C-3 (Central Commercial District)

The legal description of the property is as follows:

See attached full legal description

The common description of the property is: 600 Museum Way

Proposed land use: Offices, open office and conference space

The public hearing will be held February 2, 20 21 at 4:00 p.m. It will be held at 305 SW A Street.

This notification is in response to the requirement that all property owners within 200 feet of said property must be notified. If you wish to express any comments about the requested rezoning, you may respond by the following methods:

1. Attend the public hearing and express your views.
2. Express your opinion in writing to the Planning Commission. You may mail this or deliver it to the City of Bentonville Planning Department, 305 SW A Street, Bentonville, AR 72712.
3. Use the bottom of this form to express your opinion by checking the appropriate box. (This may also be delivered or mailed to the above address.)

For more information, you may call the Planning Department at (479)271-3122 extension 2.

I/We have received notice of the public hearing for the rezoning of the above described property and:

☒ I/we have no objections to the rezoning.
☐ I/we object to the rezoning because:

The residents of Legacy Village Garden Homes support the rezoning requested by Crystal Bridges

[redacted]

Disclaimer: FOR INFORMATIONAL PURPOSES ONLY.
In cases of discrepancy between the information presented here and a city ordinance, the city ordinance will prevail.

C-3, Mixed-Use Commercial

The C-3 District is established for areas outside of downtown to provide an opportunity for people to live, work, meet, shop and utilize services within the vicinity of their residences. The C-3 district allows for a mix of neighborhood commercial and personal services, offices and medium density residential uses. Development in this district should be designed with an urban, walkable character that encourages physical activity, alternative transportation and greater social interaction to benefit the health and wellbeing of residents.

Maximum Height Allowed: 60 feet

Height Exception: Any structure exceeding the listed maximum height shall be set back an additional 1 foot for each foot in excess of the maximum height allowed for that district.

Lot and Area Standards:

District	Building type	Min. lot area (sq. ft.)	Min. land area / dwelling unit (sq. ft.)	Lot width		Max. lot coverage	
				Min. lot width	Max. lot width	Interior lot	Exterior lot
C-3	All	None	-	-	-	100%	100%

Minimum Setback Standards:

District	Front		Side		Rear	
	Parking in front	No parking in front	Adjacent to non-residential district	Adjacent to residential district	Adjacent to non-residential district	Adjacent to residential district
C-3	0'	0'	0'	10'	0'	0'

Sidewalk Setback: No building in the C-3 district, regardless of the location of the lot lines of the property on which it is to be built, shall be built closer than 8 ft. from the back of the curb line of any public street abutting the property on which the building is located. This spacing shall be maintained in order to provide adequate space for the required sidewalk to be built along that street frontage.

Canopy Standards: Canopies may project over the street right-of-way if they terminate no less than 2 ft. horizontally from the outside edge of the street curb and are no less than 8 ft. above the surface of a new or existing sidewalk.

Updated 02-11-2020

Disclaimer: FOR INFORMATIONAL PURPOSES ONLY.
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C-3, Mixed-Use Commercial

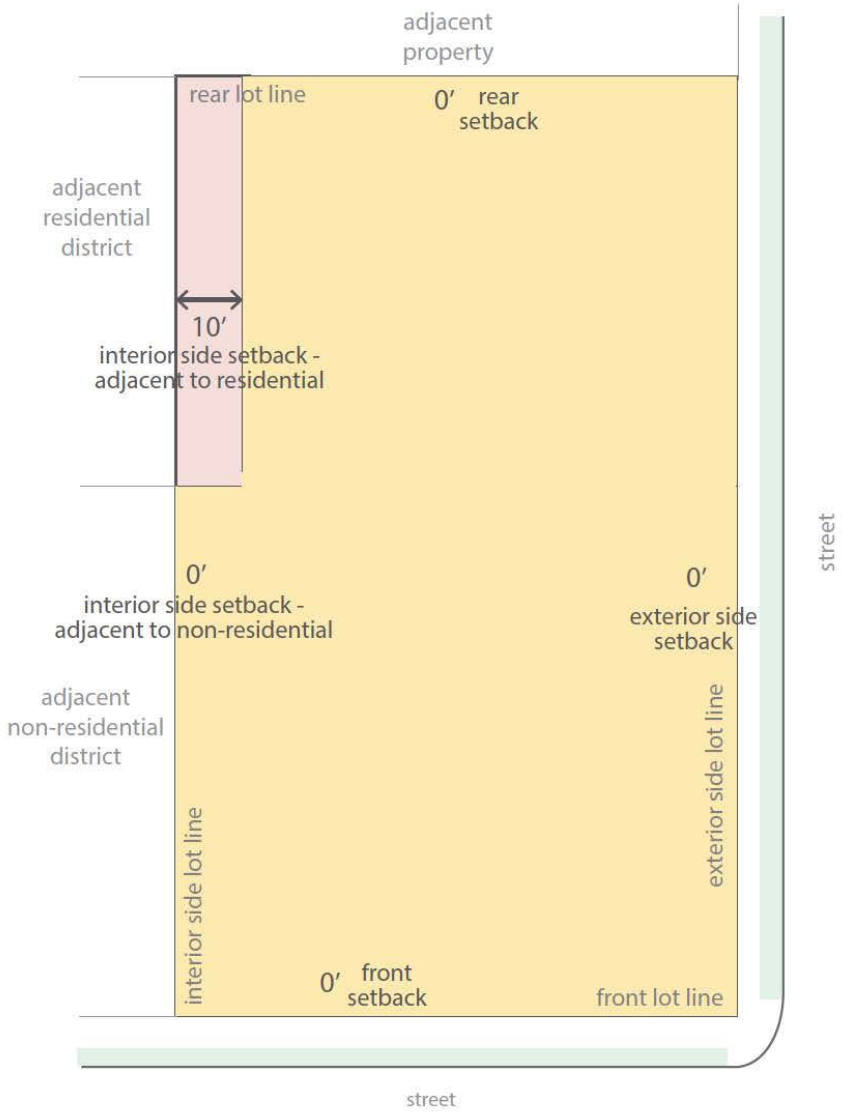
ALLOWED BY RIGHT	CONDITIONAL	ACCESSORY
Agriculture and Animals Animal - domestic or household Community garden Urban farm **Residential** Dwelling - condominium Dwelling - multi-family Home occupation - type b Residential facility - rehabilitation **Recreation, Education & Assembly** Aquarium Community center Commercial recreation facility - indoor Cultural studio Library Museum Park – mini, neighborhood **Services** Adult day care ATM machine Auction house Child care - commercial Child care - residential (4 children) Child care - residential (5-10 children) Copy facilities Financial institution Funeral home Governmental services facility Lodging - hotel / motel Medical services - doctor office Office - small scale (≤ 4,000 gsf) Office - large scale (≥ 4,000 gsf) Personal services Postal services Repair services - household **Retail** Artisan shop Bakery Bar, lounge or tavern Convenience store Convenience store that sells beer and/or light wine - off-site consumption Convenience store that sells beer, light wine/and or spirits for off-site consumption Gas station Outdoor vending - private property Restaurant Restaurant, drive-in Restaurant, drive through Retail - small scale (≤ 4,000 gsf) Sidewalk café in public right-of-way **Transportation / Utilities** Broadcasting studio	**Agriculture and Animals** Animal clinic Botanical garden Greenhouse **Residential** Dwelling - modular Dwelling - townhouse or rowhouse Dwelling - two-family **Recreation, Education & Assembly** Arena / Auditorium Commercial recreation facility - outdoor Educational facility Event center Golf course Outdoor music venue Religious facilities **Services** Cemetery or mausoleum Lodging - bed & breakfast Medical services - hospital Public safety services **Retail** Convenience store that sells beer and/or light wine for off-site consumption within 500 ft. of a city owned park or trail Convenience store that sells beer, light wine/and or spirits for off-site consumption within 500 ft. of a city owned park or trail Outdoor vendor park **Transportation / Utilities** Parking facility (as principle use) Transportation facilities excluding airports Utility facility Wireless communication facility (cell towers) **Other** Temporary uses	**Residential** Dwelling - accessory Home occupation - type a **Transportation / Utilities** Solar energy system Wind energy system, small **Other** Building, accessory - nonresidential

Updated 02-11-2020

Disclaimer: FOR INFORMATIONAL PURPOSES ONLY.
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C-3, Mixed- Use Commercial

Setback Illustration



Updated May 2020

ORDINANCE NO. _____

AN ORDINANCE CHANGING REAL ESTATE IN THE CITY OF BENTONVILLE, ARKANSAS, FROM ITS PRESENT ZONING CLASSIFICATION OF A-1, AGRICULTURAL TO C-3, CENTRAL COMMERCIAL (PROJECT NUMBER: RZ20-0074).

WHEREAS, Crystal Bridges Museum of American Art 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 A-1, Agricultural to C-3, Central Commercial to be used in accordance with city zoning laws and state laws, which property is described as follows:

A PART OF LOT 16 OF CRYSTAL BRIDGES ADDITION AS PER THE RECORDED PLAT THEREOF FILED IN BOOK 2017 AT PAGE 677 IN THE CIRCUIT CLERK'S OFFICE OF BENTON COUNTY, BEING LOCATED IN A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND A PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 20 NORTH, RANGE 30 WEST, BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 29 AND RUNNING THENCE ALONG THE EAST LINE THEREOF S02°30'05"W 1322.09' TO THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, THENCE ALONG THE WEST LINE THEREOF S02°33'57"W 790.80', THENCE LEAVING SAID WEST LINE S87°26'03"E 80.99' TO THE TRUE POINT OF BEGINNING AND RUNNING THENCE S77°00'00"E 80.82', THENCE S70°09'31"E 88.02', THENCE S12°00'00"W 140.79', THENCE S18°00'00"E 34.62', THENCE N72°00'00"E 43.44', THENCE S18°00'00"E 52.68', THENCE S72°00'00"W 26.62', THENCE S52°22'15"W 54.70', THENCE S18°22'15"W 40.41', THENCE S04°00'00"W 169.88', THENCE S87°06'56"E 13.21', THENCE S01°53'28"W 108.66', THENCE N88°06'32"W 60.00', THENCE N01°53'28"E 137.63', THENCE N86°00'00"W 122.49', THENCE N24°00'00"E 282.51', THENCE N01°30'00"E 62.38', THENCE N21°00'00"W 155.89' TO THE POINT OF BEGINNING, CONTAINING 1.50 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.; and,

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held March 2, 2021 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Northwest Arkansas Democrat-Gazette for the time and in the manner required by law; and,

WHEREAS, the Planning Commission voted to recommend to the City Council that the petition be approved and that said property be rezoned from its present classification of A-1, Agricultural to C-3, Central 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 A-1, Agricultural to C-3, Central Commercial to be used in accordance with the city zoning laws and state laws.

PASSED AND APPROVED this_____ day of _____, 2021.

APPROVED:

_____
Stephanie Orman, Mayor

ATTEST:

_____
Kirby Romines, City Clerk

REZONING STAFF REPORT

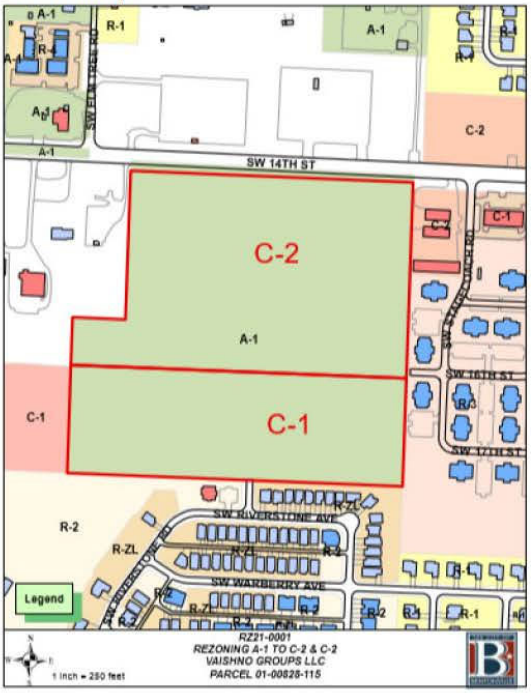
Vaishno Group, LLC

SW 14th Street
PC Date: 3/2/2021
Reviewer: Jon Stanley, Senior Planner, ALSA

Project Number	RZ21-0001
Applicant / Current Owner	Vaishno Group, LLC
Site Area	+/- 33.60 acres
Current Zoning	A-1, Agricultural
Requested Zoning	C-1, Neighborhood Commercial & C-2, General Commercial
Future Land Use Map Designation	Residential Estate

https://arcg.is/08HvK8

Location Map



Property Description
The requested rezoning is located along SW 14th Street just south of the intersection of SW Elm Tree Road. It is currently zoned A-1, Agricultural. Adjacent zoning districts are C-2, General Commercial and R-3, Medium-Density Residential to the east, R-ZL, Zero Lot Line Residential and R-2, Duplex & Patio Home Residential to the south, and Benton County to the north and west.

Southwest 14thst Street is designated as an Arterial street, while two local streets, SW 16th Street to the east and SW Mossy Stone Road to the south, both terminate at the property boundary.

Relationship to the Bentonville Community Plan
The property is within Priority Area 3, Edge Growth, as identified in Chapter 4 of the Land Use Plan. This area focuses on development in areas proximate to existing infrastructure to capitalize on municipal investments that have already taken place. (p. 44). Also, this area is noted for its potential to support mixed-use development.

The Future Land Use Plan depicts this property as Residential Estate. These areas include large, detached single-family residential properties at least one acre in size. These areas may also include public uses that support residents. The Future Land Use designation of Residential Estate is not consistent with development patterns that have occurred in this area of the city.

Public Comment
Staff has not received public comment regarding this request.

Analysis
According to the applicant's narrative, they intend to develop the property into multi-family housing that would be consistent with surrounding development patterns within and around the immediate area.

The areas surrounding the proposed rezoning reflects a variety of land uses. Several C-2 developments exist along the highway frontage to the north, west, and east, while multi-family apartments are also located to the east. Single-family homes are located to the south. The applicant has requested the C-2 zoning along the northern portion of the property fronting the Arterial highway and C-1, Neighborhood Commercial along the southern portion of the property to allow for a transition of less intense uses between the proposed commercial zonings and the existing residential districts.

Conclusion
Planning staff has reviewed this rezoning request. While it is not consistent with the Future Land Use Plan, it is consistent with the development patterns that have taken place in the surrounding area. Staff recommends approval of the proposed rezoning.

Crafton Tull

901 N 47th Street, Suite 400
Rogers, AR 72756

479.636.4838 (ph)
479.631.6224 (fax)

February 9, 2021

Bentonville Current Planning
305 SW A Street
Bentonville, AR 72712

RE: Rezoning of Property (Parcel #01-00828-115)

Staff,

On behalf of our clients we would like to formally request a zoning change for this project from A-1, Agricultural to C-1, Neighborhood Commercial and C-2, General Commercial District. The property is currently owned by Vaishno Groups, LLC. The adjacent properties are zoned R-3, R-2, and C-1. A proposed C-2 zoning of the north portion and C-1 along the southern portion is appropriate in this area based on access to Highway 102 and surrounding properties' zoning.

The owners of this parcel are requesting a rezone to C-1 and C-2 in order to make the property more marketable. Currently, there are not any plans for development on this property, so the proposed use would be anything allowed by right under a C-1 or C-2 zoning designation. This property is adjacent to SW 14th St (Hwy 102), but also includes access to 2 alternate points of egress (via SW 16th St and SW Mossy Stone Rd).

Since there are no plans for development on this property, plans for proposed signage are also unknown. Future LSDP's will be responsible for working with city staff when planning any proposed signage.

The site currently has large overhead electric lines crossing through the middle of the site. The land is comprised of dense grass cover with some larger trees throughout. Water and sewer are readily available on this site via neighboring properties to the south and east.

By rezoning to C-1, Neighborhood Commercial and C-2, General Commercial, this property will be an excellent place for development and will be an asset to the Bentonville community.

Thank you,

[redacted]

Project Manager

Disclaimer: FOR INFORMATIONAL PURPOSES ONLY.
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C-2, General Commercial

The C-2 District represents the least restrictive of the commercial districts and is designed to serve the planning area and highway travelers. This district shall congregate on local arterial streets in such a manner as to minimize disruptions of through traffic and shall be interspersed within the corporate boundaries.

Maximum Density Allowed: N/A

Maximum Height Allowed: 60 feet

Height Exception: Any structure exceeding the listed maximum height shall be set back an additional 1 foot for each foot in excess of the maximum height allowed for that district.

Lot and Area Standards:

District	Building type	Min. lot area (sq. ft.)	Min. land area / dwelling unit (sq. ft.)	Lot width		Max. lot coverage	
				Min. lot width	Max. lot width	Interior lot	Exterior lot
C-2	All	7,000	-	70'	-	60%	60%

Minimum Setback Standards:

District	Front		Side		Rear	
	Parking in front	No parking in front	Adjacent to non-residential district	Adjacent to residential district	Adjacent to non-residential district	Adjacent to residential district
C-2	50'	20'	7'	30'	20'	30'

Updated 02-11-20

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C-2, General Commercial

ALLOWED BY RIGHT

Agriculture and Animals
Animal clinic
Animal - domestic or household
Botanical garden
Greenhouse
Plant nursery

Residential
Residential facility - assisted living
Residential facility - extended medical care
Residential facility - temporary shelter

Services
Adult day care
ATM machine
Auction house
Auto or equipment auction
Automobile repair
Car wash
Cemetery or mausoleum
Child care - commercial
Child care - residential (4 children)
Financial institution
Funeral home
Governmental services facility
Lodging - hotel / motel
Maintenance service
Medical services - hospital
Medical services - doctor office
Medical services - urgent care clinic
Medical services - laboratory
Medical services - substance abuse or mental health treatment clinic
Office - small scale (≤ 4,000 gsf)
Office - large scale (≥ 4,000 gsf)
Office / warehouse
Personal services
Postal services
Repair services - household
Repair services - equipment, large appliances

Retail
Artisan shop
Auto and vehicle sales/rental
Bakery
Bar, lounge or tavern
Building and landscape material sales
Convenience store
Convenience store that sells beer and/or light wine for off-site consumption
Convenience store that sells beer, light wine/and or spirits for off-site consumption
Equipment rental - indoor
Equipment rental - outdoor
Gas station
Recreational vehicle and boat sales/rental
Outdoor vending - private property
Package liquor store
Restaurant
Restaurant, drive-in
Restaurant, drive-through
Retail - small scale (≤ 4,000 gsf)
Retail - large scale (≥ 4,000 gsf)

Industrial and Warehousing
Laboratory - dental or medical
Laboratory - research
Mini-warehouse storage
Taxidermy

Transportation / Utilities
Broadcasting studio
Parking facility (as principle use)

Recreation, Education & Assembly
Aquarium
Arena / auditorium
Community Center
Commercial recreation facility - indoor
Conference / convention center
Cultural studio
Event center
Library
Museum
Library
Museum
Park – community, mini, neighborhood

CONDITIONAL

Agriculture and Animals
Animal kennel or shelter
Urban farm

Residential
Residential facility - rehabilitation

Recreation, Education & Assembly
Commercial recreation facility - outdoor
Educational facility
Golf course
Outdoor music venue
Religious facilities

Services
Crematory
Public safety services

Retail
Construction / heavy equipment sales/rental
Convenience store that sells beer and/or light wine for off-site consumption within 500 ft. of a city owned park or trail
Convenience store that sells beer, light wine/and or spirits for off-site consumption within 500 ft. of a city owned park or trail
Outdoor vendor park
Package liquor store within 500 ft. of a city owned and maintained park or trail
Restaurant - microbrewery
Sexually oriented business

Industrial and Warehousing
Contractor maintenance yard
Manufacturing and/or distribution plant, alcoholic beverages of every kind and type
Manufacturing and/or distribution plant, alcoholic beverages of every kind and type within 500 ft. of a city owned and maintained park or trail
Mining

Transportation / Utilities
Airport facilities
Transportation facilities excluding airports
Utility facility
Wireless communication facility (cell towers)

Other
Temporary uses

ACCESSORY

Residential
Dwelling - accessory

Transportation / Utilities
Solar energy system
Wind energy system, small

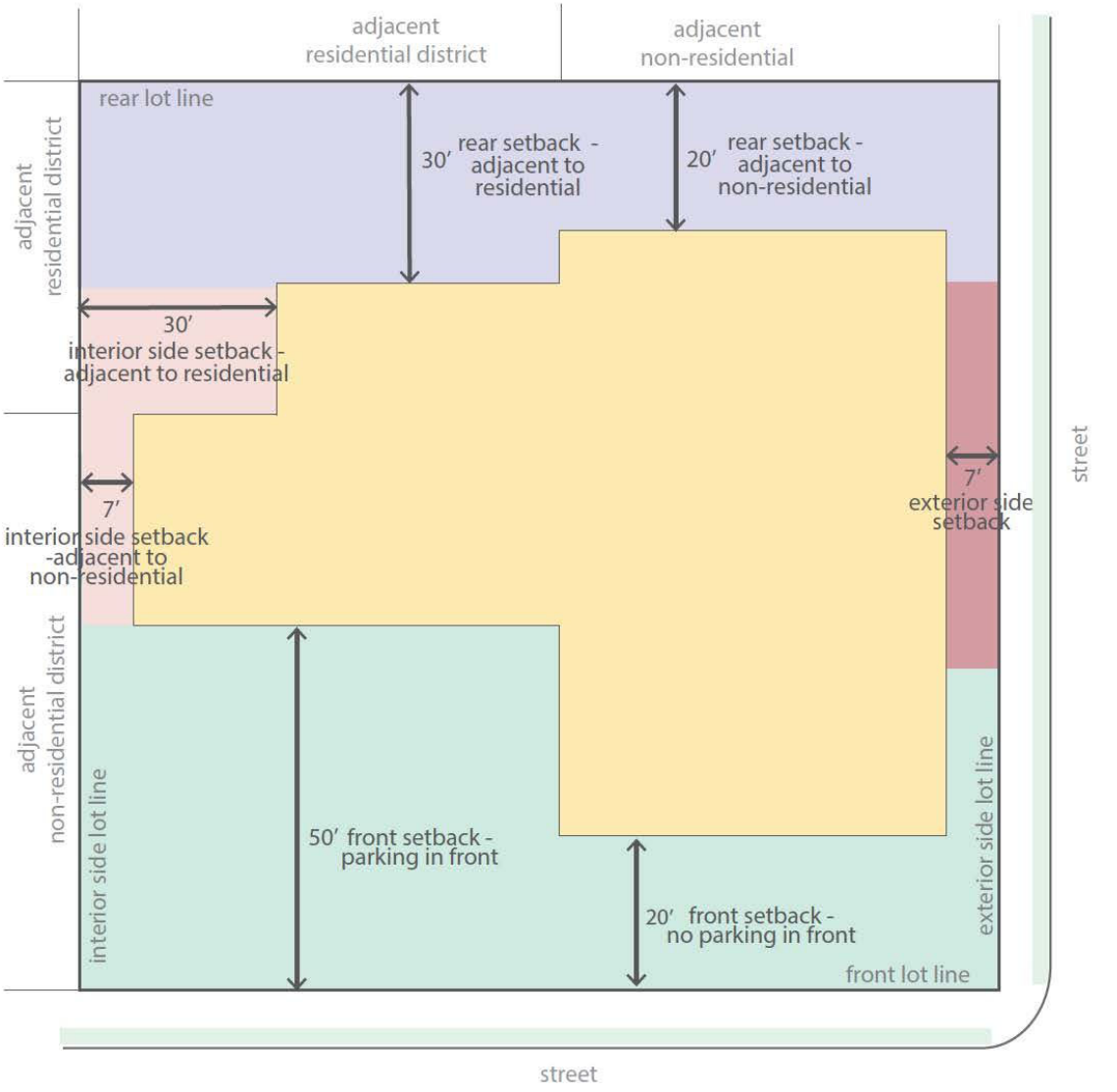
Other
Building, accessory - nonresidential

Updated 02-11-20

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C-2, General Commercial

Setback Illustration



Updated May 2020

Disclaimer: FOR INFORMATIONAL PURPOSES ONLY.
In cases of discrepancy between the information presented here and a city ordinance, the city ordinance will prevail.

C-1, Neighborhood Commercial

The C-1 District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas while maintaining a character in harmony with residential development. To this end, development in the C-1 District should harmonize in terms of form, bulk, height, materials, architecture, and overall design with surrounding residential areas. Signage and lighting should be subdued while landscaping and open space should be maximized. Parking areas should be as inconspicuous as possible as should loading and trash collection areas.

Maximum Density Allowed: N/A

Maximum Height Allowed: 40 feet

Height Exception: Any structure exceeding the listed maximum height shall be set back an additional 1 foot for each foot in excess of the maximum height allowed for that district.

Lot and Area Standards:

District	Building type	Min. lot area (sq. ft.)	Min. land area / dwelling unit (sq. ft.)	Lot width		Max. lot coverage	
				Min. lot width	Max. lot width	Interior lot	Exterior lot
C-1	All	7,000	-	70'	-	50%	50%

Minimum Setback Standards:

District	Front		Side		Rear	
	Parking in front	No parking in front	Adjacent to non-residential district	Adjacent to residential district	Adjacent to non-residential district	Adjacent to residential district
C-1	50'	20'	7'	15'	20'	25'

Updated 02-11-20

Disclaimer: FOR INFORMATIONAL PURPOSES ONLY.
In cases of discrepancy between the information presented here and a city ordinance, the city ordinance will prevail.

C-1, Neighborhood Commercial

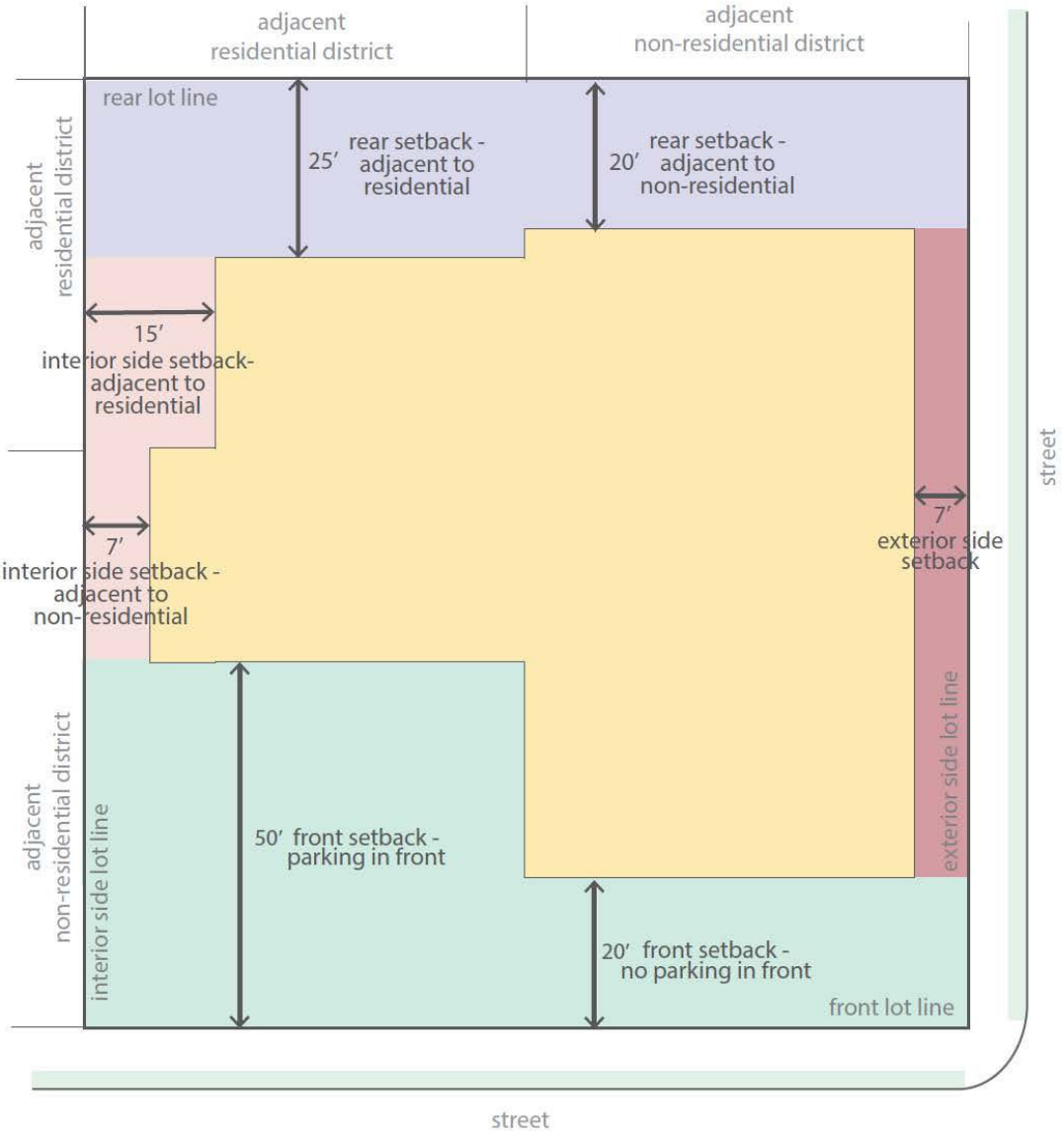
ALLOWED BY RIGHT	CONDITIONAL	ACCESSORY
Agriculture and Animals Animal - domestic or household Botanical garden **Residential** Residential facility - assisted living Residential facility - extended medical care Residential facility – rehabilitation **Recreation, Education & Assembly** Aquarium Community Center Cultural studio Library Museum Park – community Park – mini Park - neighborhood **Services** Adult day care ATM machine Auction house Cemetery or mausoleum Child care – commercial Child care – residential (4 children) Financial institution Funeral home Governmental services facility Maintenance service Medical services – doctor office Office – small scale (≤ 4,000 gsf) Personal services Postal services Repair services – household **Retail** Artisan shop Bakery Bar, lounge or tavern Convenience store Convenience store that sells beer and/or light wine for off-site consumption Convenience store that sells beer, light wine/and or spirits for off-site consumption Equipment rental – indoor Outdoor vending – private property Retail – small scale (≤ 4,000 gsf)	**Agriculture and Animals** Animal clinic Community garden **Recreation, Education & Public Assembly** Commercial recreation facility - indoor Commercial recreation facility – outdoor Educational facility Event center Golf course Religious facility **Services** Car wash Copy facilities Lodging – Bed & Breakfast Public safety services **Retail** Convenience store that sells beer and/or light wine for off-site consumption within 500 ft. of a city owned park or trail Gas station Outdoor vendor park Restaurant Restaurant, drive-through Restaurant, microbrewery **Transportation/Utilities** Airport facilities Parking facility (as principle use) Utility facility Wireless communication facility (cell tower) **Other** Temporary Uses	**Residential** Dwelling – accessory **Transportation/Utilities** Solar energy system Wind energy system, small **Other** Building – accessory nonresidential

Updated 02-11-20

Disclaimer: FOR INFORMATIONAL PURPOSES ONLY.
In cases of discrepancy between the information presented here and a city ordinance, the city ordinance will prevail.

C-1, Neighborhood Commercial

Setback Illustration



Updated May 2020

ORDINANCE NO. _____

AN ORDINANCE CHANGING REAL ESTATE IN THE CITY OF BENTONVILLE, ARKANSAS, FROM ITS PRESENT ZONING CLASSIFICATION OF A-1, AGRICULTURAL TO C-1, NEIGHBORHOOD COMMERCIAL (PROJECT NUMBER: RZ21-0001).

WHEREAS, Vaislmo Group, 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 A-1, Agricultural to C-1, Neighborhood Commercial to be used in accordance with city zoning laws and state laws, which property is described as follows:

PART OF THE FRACTIONAL NW 1/4 OF THE NE 1/4 OF SECTION 2, TOWNSHIP 19 NORTH, RANGE 31 WEST, BENTON COUNTY ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:BEGINNING AT THE SOUTHWEST CORNER OF THE FRACTIONAL NW 1/4 OF THE NE 1/4 OF SAID SECTION 2;THENCE N01°59'00"E 425.82 FEET; THENCE S87°43'21"E 1322.43 FEET; THENCE S01°59'46"W 425.82 FEET; THENCE N87°43'21"W 1322.34 FEET TO THE POINT OF BEGINNING, CONTAINING 12.93 ACRES, MORE OR LESS AND SUBJECT TO ANY AND ALL EASEMENTS OF RECORD OR FACT.; and,

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held March 2, 2021 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Northwest Arkansas Democrat-Gazette for the time and in the manner required by law; and,

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

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

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

PASSED AND APPROVED this_____ day of _____, 2021.

APPROVED:

_____
Stephanie Orman, Mayor

ATTEST:

_____
Kirby Romines, City Clerk

ORDINANCE NO. _____

AN ORDINANCE CHANGING REAL ESTATE IN THE CITY OF BENTONVILLE, ARKANSAS, FROM ITS PRESENT ZONING CLASSIFICATION OF A-1, AGRICULTURAL TO C-2, GENERAL COMMERCIAL (PROJECT NUMBER: RZ21-0001).

WHEREAS, Vaislmo Group, 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 A-1, Agricultural to C-2, General Commercial to be used in accordance with city zoning laws and state laws, which property is described as follows:

PART OF THE FRACTIONAL NW 1/4 OF THE NE 1/4 OF SECTION 2, TOWNSHIP 19 NORTH, RANGE 31 WEST, BENTON COUNTY ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:COMMENCING AT THE SOUTHWEST CORNER OF THE FRACTIONAL NW 1/4 OF THE NE 1/4 OF SAID SECTION 2;THENCE N01°59'00"E 425.82 FEET TO THE POINT OF BEGINNING;THENCE N01°59'00"E 188.35 FEET; THENCE S87°36'44"E 208.72 FEET; THENCE N01°59'00"E 586.15 FEET TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY 102; THENCE ALONG SAID RIGHT-OF-WAY S87°36'44"E 1113.90 FEET; THENCE LEAVING SAID RIGHT-OF-WAY S01°59'46"W 771.95 FEET; THENCE N87°43'21"W 1322.43 FEET TO THE POINT OF BEGINNING, CONTAINING 20.67 ACRES, MORE OR LESS AND SUBJECT TO ANY AND ALL EASEMENTS OF RECORD OR FACT.; and,

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held March 2, 2021 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Northwest Arkansas Democrat-Gazette for the time and in the manner required by law; and,

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

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

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

PASSED AND APPROVED this_____ day of _____, 2021.

APPROVED:

_____
Stephanie Orman, Mayor

ATTEST:

_____
Kirby Romines, City Clerk

REZONING STAFF REPORT

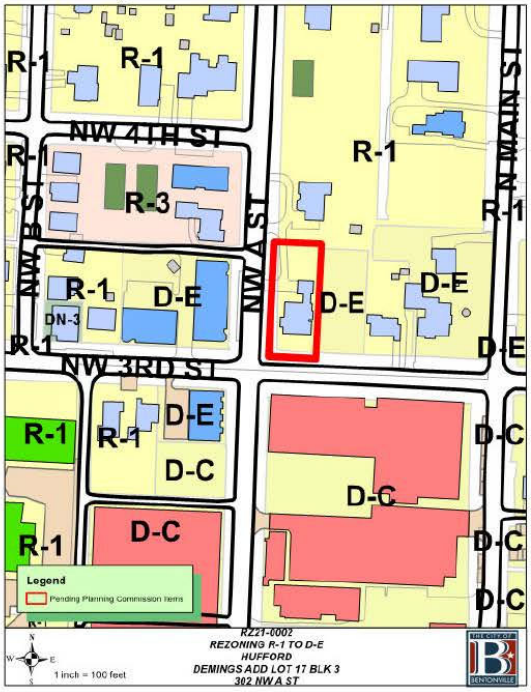
Hufford

302 NW A Street
PC Date: 3/2/2021
Reviewer: Tyler Overstreet, Planning Services Manager, AICP

Project Number	RZ21-0002
Applicant / Current Owner	Mark Hufford
Site Area	+/- .35 acres
Current Zoning	R-1, Single Family Residential
Requested Zoning	DE, Downtown Edge
Future Land Use Map Designation	High-Density Residential

https://arcg.is/08HvK8

Location Map



Property Description
This property is northeast of the intersection of NW A Street and NW 3rd Street. Adjacent zoning districts are R-1, Single-Family Residential to the north, DE, Downtown Edge to the east and west, and DC, Downtown Core to the south.

Relationship to the Bentonville Community Plan
The Bentonville Community Plan, Downtown Bentonville Subarea Plan, depicts this property within the Downtown Transition character area (p. 122). The transition area is meant to serve as a transition in scale and intensity from Downtown development and surrounding residential uses. The character area recommends supporting a mix of residential and local commerce uses. At the intersection of NW 3rd and NW A Street, a mix of uses can be observed, with townhomes, a religious facility, and this single-family home coexisting.

The Future Land Use Plan currently depicts this property as High-Density Residential. High-Density Residential areas typically include apartments, condominium buildings, and resident-oriented commercial uses.

Public Comment
Staff has received a letter of support regarding this request.

Analysis
According to the applicant's narrative, the intent of the rezoning request is to allow greater flexibility in setbacks for a future addition to the existing single-family home. In addition, the applicant states that they would like their zoning to be in line with those districts to the east and west of them.

The DE, Downtown Edge zoning district definition cites its potential as a transitionary zone between the downtown core and adjacent residential areas. The form and character of structures in the DE district are meant to provide a service-oriented character for surrounding neighborhoods.

Conclusion
The Downtown Bentonville Subarea Plan and the intent of the DE Zoning District lend support to the rezoning request.

Staff recommends approval of the rezoning request.

Expedient Civil Engineering, PLLC

9200 Suits Us Dr, Ste. B
Bella Vista, AR 72714
Phone: (479) 364-0028
Email: jason@ece-pllc.com

January 7, 2021

Bentonville City Utilities
117 W Central Avenue
Bentonville, AR 72712

RE: 302 NW 'A' STREET
REZONE
ECE PROJECT NO. 20-1066

Dear Sirs:

The property located at 302 NW 'A' Street is now owned by Mark Hufford. It is currently zoned as R-1, Single Family Residential. The proposed zone is D-E, Downtown Edge.

Reason for rezone:

1. Setback reduction for our addition.
2. To be in keeping with the zoning on the east and west.

There will be no increase in traffic.

Direct water and sewer are currently available.

Best Regards,

[redacted]**RING, PLLC**

Owner/Senior Project Manager

Cc: Burris Architecture

An equal opportunity employer

Legal Description:

Lot 17, Block 3, of the Property Line Adjustment of Lots 13, 14 and 15, Block 3, Deming's Addition, and

part of the 16.5 foot Vacated Alley between Lots 11 and 13, Block 3, Deming's Addition, Bentonville,

Benton County, Arkansas, as shown in Plat Record 2006 at Page 996.

NOTICE OF INTENT TO REZONE

Mark Hufford has requested the Bentonville Planning Commission to set a public hearing date to consider rezoning the following property from R-1, Single-family Residential to D-E, Downtown Edge

The legal description of the property is as follows:

Lot 17, Block 3, of the Property Line Adjustment of Lots 13, 14 and 15, Block 3, Deming's Addition, and part of the 16.5 foot Vacated Alley between Lots 11 and 13, Block 3, Deming's Addition, Bentonville, Benton County, Arkansas, as shown in Plat Record 2006 at Page 996.

The common description of the property is: NE Corner of NW A and NW 3rd

Proposed land use: Single Family Residence

The public hearing will be held February 16 20 21 at 4:00 p.m. It will be held at the Bentonville Commmunity Center, 1101 SW Citizens Circle.

This notification is in response to the requirement that all property owners within 200 feet of said property must be notified. If you wish to express any comments about the requested rezoning, you may respond by the following methods:

1. Attend the public hearing and express your views.
2. Express your opinion in writing to the Planning Commission. You may mail this or and deliver it to the City of Bentonville Planning Department, 305 S.W. A Street, Bentonville, AR 72712.
3. Use the bottom of this form to express your opinion by checking the appropriate box. (This may also be delivered or mailed to the above address.).

For more information, you may call the Planning Department at (479) 271-3122.

I/we have received notice of the public hearing for the rezoning of the above described property and:

☒ I / we have no objections to the rezoning.

☐ I / we object to the rezoning because:

_____

[redacted]

NOTICE OF INTENT TO REZONE

Mark Hufford has requested the Bentonville Planning Commission to set a public hearing date to consider rezoning the following property from

R-1, Single-family Residential to D-E, Downtown Edge

The legal description of the property is as follows:

Lot 17, Block 3, of the Property Line Adjustment of Lots 13, 14 and 15, Block 3, Deming's Addition, and part of the 16.5 foot Vacated Alley between Lots 11 and 13, Block 3, Deming's Addition, Bentonville, Benton County, Arkansas, as shown in Plat Record 2006 at Page 996.

The common description of the property is: NE Corner of NW A and NW 3rd

Proposed land use: Single Family Residence

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For more information, you may call the Planning Department at (479) 271-3122.

I/we have received notice of the public hearing for the rezoning of the above described property and:

☑ I / we have no objections to the rezoning.

☐ I / we object to the rezoning because:

_____

_____

_____

[redacted] re and Physical Address

NOTICE OF INTENT TO REZONE

Mark Hufford has requested the Bentonville Planning Commission to set a public hearing date to consider rezoning the following property from R-1, Single-family Residential to D-E, Downtown Edge

The legal description of the property is as follows:

Lot 17, Block 3, of the Property Line Adjustment of Lots 13, 14 and 15, Block 3, Deming's Addition, and part of the 16.5 foot Vacated Alley between Lots 11 and 13, Block 3, Deming's Addition, Bentonville, Benton County, Arkansas, as shown in Plat Record 2006 at Page 996.

The common description of the property is: NE Corner of NW A and NW 3rd

Proposed land use: Single Family Residence

The public hearing will be held February 16 20 21 at 4:00 p.m. It will be held at the Bentonville Commmunity Center, 1101 SW Citizens Circle.

This notification is in response to the requirement that all property owners within 200 feet of said property must be notified. If you wish to express any comments about the requested rezoning, you may respond by the following methods:

1. Attend the public hearing and express your views.
2. Express your opinion in writing to the Planning Commission. You may mail this or and deliver it to the City of Bentonville Planning Department, 305 S.W. A Street, Bentonville, AR 72712.
3. Use the bottom of this form to express your opinion by checking the appropriate box. (This may also be delivered or mailed to the above address.).

For more information, you may call the Planning Department at (479) 271-3122.

I/we have received notice of the public hearing for the rezoning of the above described property and:

☑ I / we have no objections to the rezoning.

☐ I / we object to the rezoning because:

We support D-E Zoning at this location.

[redacted]

Signature and Physical Address

Disclaimer: FOR INFORMATIONAL PURPOSES ONLY.
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DE, Downtown Edge

The Downtown Edge creates an area of transition between the Downtown Core with its retail emphasis and the lower density residential neighborhoods on the outskirts of downtown. This is the area of downtown with the greatest potential for infill and redevelopment. The physical form of structures begins to shift from commercial to residential character with flexibility in use, taking on a more service-oriented character for surrounding neighborhoods. The horizontal and vertical mixed use allows retail, commercial, office and residential uses on all floors. Live/work housing, personal services and small offices are strongly evident in this district. Buildings are spaced closely, but are separated by setbacks.

Primary and Secondary Streets: Developments that face **primary streets** have specific regulations pertaining to the relationship between the building and the street. The designated **primary streets** in the downtown districts are: Central Avenue, SW A Street, SW 8th Street, and S. Main Street. All other streets in the downtown districts shall be considered **secondary streets**.

Minimum Height Required: No minimum

Maximum Height Allowed: 50 feet

Lot and Area Standards:

District	Building type	Lot area		Min. land area /dwelling unit (sq. ft.)	Lot width		Min. lot depth	Lot coverage	
		Min.	Max.		Min. lot width	Max. lot width		Min.	Max.
DE	All	None	None	-	None	None	-	None	80%

Setback Standards:

District	Building type	Front Yard		Side Yard		Rear			
						Adjacent to Residential		Adjacent to Non-residential	
		Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
DE	Residential	-	20'	7'	-	12'	-	7'	-
	Nonresidential	-	0'	7'	-	12'	-	7'	-

Encroachment Standards:

District	Min. height clearance	Min. setback adjacent to a primary street	Min. setback adjacent to a secondary street
DE	8'	4'	6'

Applied to encroachments such as canopies, awnings and balconies.

Updated 02-11-20

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DE, Downtown Edge

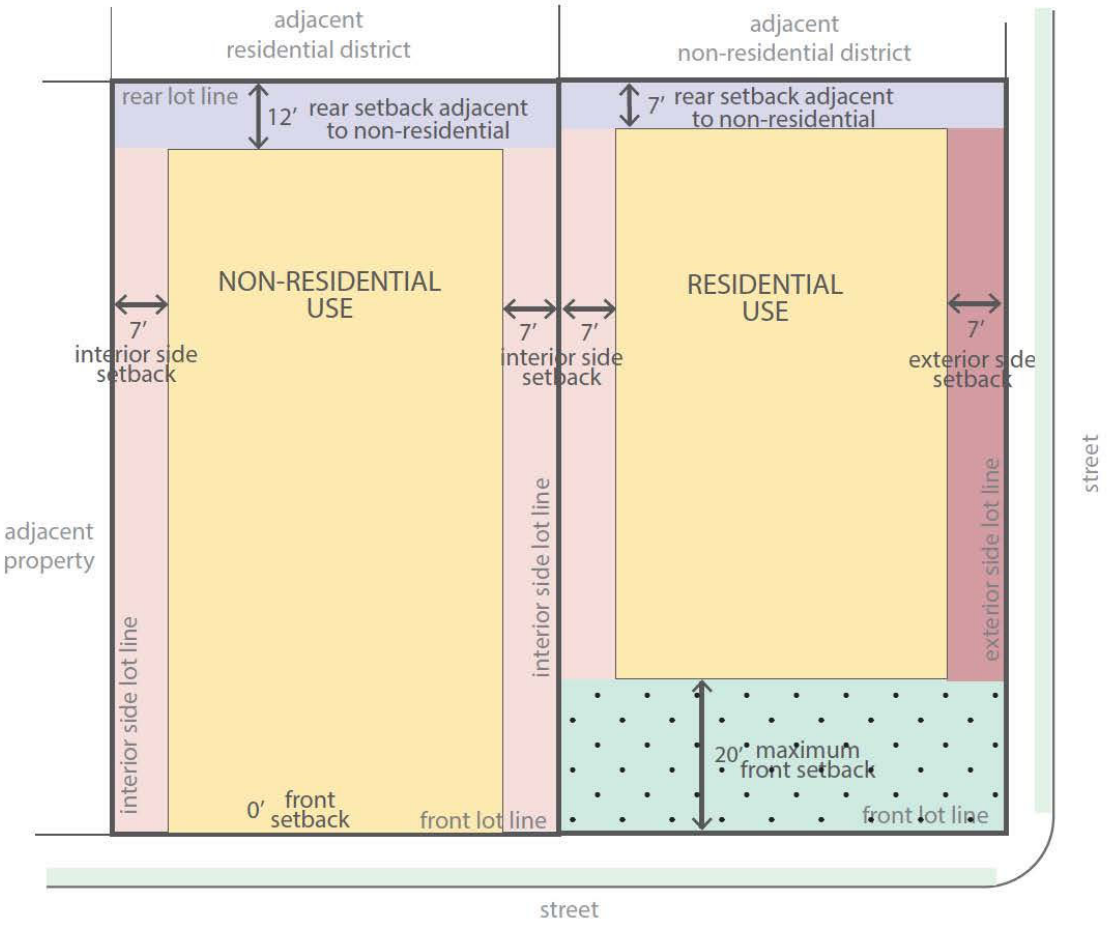
ALLOWED BY RIGHT	CONDITIONAL	ACCESSORY
Agriculture and Animals Animal - domestic or household Chicken - hobby Community Garden Greenhouse Plant nursery **Residential** Dwelling - condominium Dwelling - modular Dwelling - multi-family Dwelling - single family Dwelling - townhouse or rowhouse Dwelling - two family **Recreation, Education & Public Assembly** Commercial recreation facility - indoor Commercial recreation facility - outdoor Community Center Cultural studio Library Park - mini Park - neighborhood **Services** Adult day care ATM machine Cemetery or mausoleum Child care - commercial Child care - residential (4 children) Child care - residential (5 – 10 children) Copy facilities Financial institution Governmental services facility Maintenance service Medical services - doctor office Medical services - laboratory Medical services - urgent care clinic Office - small scale (≤ 4,000 gsf) Personal services Postal services Repair services - household **Retail** Artisan shop Bakery Mobile food vendor Outdoor vending - private property Outdoor vending - public right-of-way Retail - small scale (≤ 4,000 gsf) Sidewalk café in public right-of-way	**Agriculture and Animals** Animal clinic Urban farm **Residential** Home occupation - type b **Recreation, Education & Assembly** Aquarium Arena / auditorium Conference / convention center Educational facility Event center Museum Religious facilities **Services** Lodging - bed & breakfast Lodging - hotel / motel Office/warehouse Public safety services **Retail** Bar, lounge or tavern Restaurant **Transportation / Utilities** Parking facility (as principal use) Utility facility Wireless communication facility (cell tower) **Other** Temporary uses	**Residential** Dwelling - accessory Home occupation - type a **Transportation / Utilities** Solar energy system Wind energy system, small **Other** Building, accessory - nonresidential

Updated 02-11-20

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DE, Downtown Edge

Setback Illustration



Updated May 2020

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: RZ21-0002).

WHEREAS, Mark & Lisa Hufford 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 17 BLOCK 3 DEMINGS ADDITION TO BENTONVILLE, BENTON COUNTY, AR AS SHOWN ON PLAT RECORD BOOK 2006 PAGE 996, 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 March 2, 2021 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Northwest Arkansas Democrat-Gazette 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 _____, 2021.

APPROVED:

_____
Stephanie Orman, Mayor

ATTEST:

_____
Kirby Romines, City Clerk

REZONING STAFF REPORT

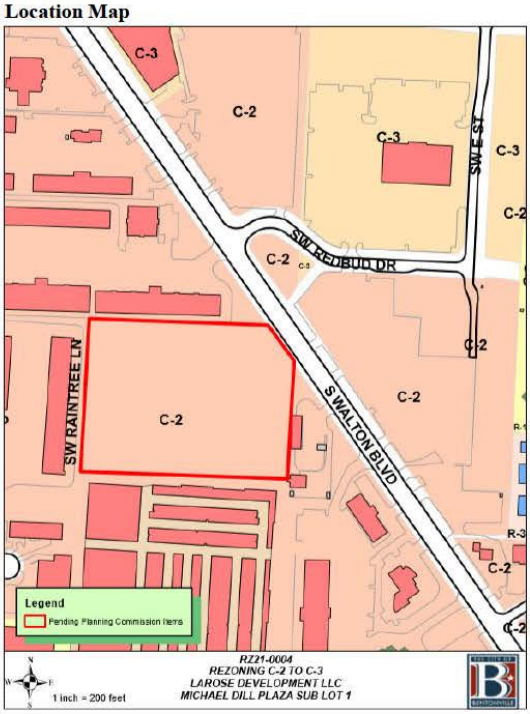
LaRose Development, LLC

South Walton Blvd.
PC Date: 3/2/2021
Reviewer: Jon Stanley, Senior Planner

Project Number	RZ21-0004
Applicant / Current Owner	La Rose Development, LLC PO Box 1626 Farmington, AR 72730
Site Area	+/- 7.0 acres
Current Zoning	C-2, General Commercial
Requested Zoning	C-3, Central Commercial
Future Land Use Map Designation	Commercial (C)

https://arcg.is/08HvK8

Location Map



Property Description
This property is located along South Walton Blvd., near the intersection of Redbud Street and south of RainTree Office park. Currently, an abandoned hotel is located on the site. Adjacent zonings are all C-2 General Commercial with some C-3, Mixed-Use Commercial nearby to the northeast.

Relationship to the General Plan
The Future Land Use Plan depicts this property as General Commercial. These areas include uses that serve both nearby residents and those coming from other parts of the city or region. Appropriate uses in these areas include retail, restaurants, services and offices, Vertical mixed-use developments are encouraged, but are not as high priority as in mixed-use or downtown commercial areas. General commercial uses should balance access between pedestrians and vehicles, though the impacts of parking should be minimized through site design and landscaping.

Public Comment
At the time of this report, staff has received one (1) written objection.

Analysis
The site's previous commercial use, proximity to a 5 lane arterial road, the downtown area, a large employer and other similar commercial uses may justify a rezoning to C-3, Central Commercial. The property is within Priority Area 2, Infill, as identified in Chapter 4 of the Land Use Plan. This area supports the development of vacant properties already served by infrastructure within the context of existing development (pg. 45). Per the applicant's narrative, the intent of the requested rezoning is to "allow the developer a greater variety of uses for this parcel. Notably, the C-2 does not allow for residential uses either conditionally or by right. The developer has requested the C-3 so that it may build a mix of commercial and residential uses on this parcel…"

Conclusion
The request is consistent with the Future Land Use Plan. Staff recommends approval of the rezoning request due to its compatibility with the surrounding commercial uses and the potential to provide a variety of housing types and other services near the downtown core and along a major arterial road that traverses the entire city.

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C-3, Mixed-Use Commercial

The C-3 District is established for areas outside of downtown to provide an opportunity for people to live, work, meet, shop and utilize services within the vicinity of their residences. The C-3 district allows for a mix of neighborhood commercial and personal services, offices and medium density residential uses. Development in this district should be designed with an urban, walkable character that encourages physical activity, alternative transportation and greater social interaction to benefit the health and wellbeing of residents.

Maximum Height Allowed: 60 feet

Height Exception: Any structure exceeding the listed maximum height shall be set back an additional 1 foot for each foot in excess of the maximum height allowed for that district.

Lot and Area Standards:

District	Building type	Min. lot area (sq. ft.)	Min. land area / dwelling unit (sq. ft.)	Lot width		Max. lot coverage	
				Min. lot width	Max. lot width	Interior lot	Exterior lot
C-3	All	None	-	-	-	100%	100%

Minimum Setback Standards:

District	Front		Side		Rear	
	Parking in front	No parking in front	Adjacent to non-residential district	Adjacent to residential district	Adjacent to non-residential district	Adjacent to residential district
C-3	0'	0'	0'	10'	0'	0'

Sidewalk Setback: No building in the C-3 district, regardless of the location of the lot lines of the property on which it is to be built, shall be built closer than 8 ft. from the back of the curb line of any public street abutting the property on which the building is located. This spacing shall be maintained in order to provide adequate space for the required sidewalk to be built along that street frontage.

Canopy Standards: Canopies may project over the street right-of-way if they terminate no less than 2 ft. horizontally from the outside edge of the street curb and are no less than 8 ft. above the surface of a new or existing sidewalk.

Updated 02-11-2020

Disclaimer: FOR INFORMATIONAL PURPOSES ONLY.
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C-3, Mixed-Use Commercial

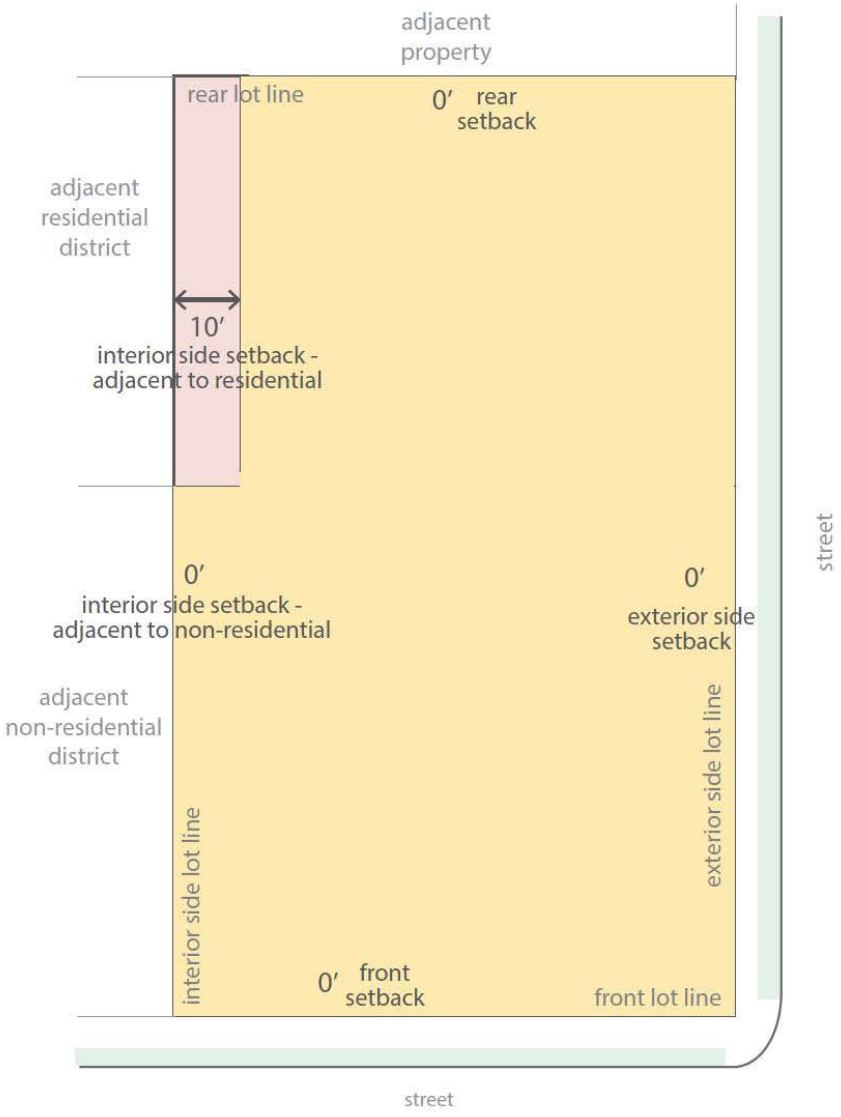
ALLOWED BY RIGHT	CONDITIONAL	ACCESSORY
Agriculture and Animals Animal - domestic or household Community garden Urban farm **Residential** Dwelling - condominium Dwelling - multi-family Home occupation - type b Residential facility - rehabilitation **Recreation, Education & Assembly** Aquarium Community center Commercial recreation facility - indoor Cultural studio Library Museum Park – mini, neighborhood **Services** Adult day care ATM machine Auction house Child care - commercial Child care - residential (4 children) Child care - residential (5-10 children) Copy facilities Financial institution Funeral home Governmental services facility Lodging - hotel / motel Medical services - doctor office Office - small scale (≤ 4,000 gsf) Office - large scale (≥ 4,000 gsf) Personal services Postal services Repair services - household **Retail** Artisan shop Bakery Bar, lounge or tavern Convenience store Convenience store that sells beer and/or light wine - off-site consumption Convenience store that sells beer, light wine/and or spirits for off-site consumption Gas station Outdoor vending - private property Restaurant Restaurant, drive-in Restaurant, drive through Retail - small scale (≤ 4,000 gsf) Sidewalk café in public right-of-way **Transportation / Utilities** Broadcasting studio	**Agriculture and Animals** Animal clinic Botanical garden Greenhouse **Residential** Dwelling - modular Dwelling - townhouse or rowhouse Dwelling - two-family **Recreation, Education & Assembly** Arena / Auditorium Commercial recreation facility - outdoor Educational facility Event center Golf course Outdoor music venue Religious facilities **Services** Cemetery or mausoleum Lodging - bed & breakfast Medical services - hospital Public safety services **Retail** Convenience store that sells beer and/or light wine for off-site consumption within 500 ft. of a city owned park or trail Convenience store that sells beer, light wine/and or spirits for off-site consumption within 500 ft. of a city owned park or trail Outdoor vendor park **Transportation / Utilities** Parking facility (as principle use) Transportation facilities excluding airports Utility facility Wireless communication facility (cell towers) **Other** Temporary uses	**Residential** Dwelling - accessory Home occupation - type a **Transportation / Utilities** Solar energy system Wind energy system, small **Other** Building, accessory - nonresidential

Updated 02-11-2020

Disclaimer: FOR INFORMATIONAL PURPOSES ONLY.
In cases of discrepancy between the information presented here and a city ordinance, the city ordinance will prevail.

C-3, Mixed- Use Commercial

Setback Illustration



Updated May 2020

WATKINS, BOYER, GRAY & CURRY, PLLC

ATTORNEYS AT LAW

WILLIAM P. WATKINS, III, P.A.
RONALD L. BOYER, P.A.
JENNIFER E. GRAY, P.A.*
ANDREW T. CURRY, P.A.
WILLIAM A. KELLSTROM
JOHN E. JENNINGS (OF COUNSEL)
* ALSO LICENSED IN MISSOURI

WRITER'S DIRECT E-MAIL
wkellstrom@watkinslawoffice.com

DELYNN HALE, SECRETARY
AMY BENSON, PARALEGAL
WHITNEY DUCKER, OFFICE MANAGER

January 25, 2021

Bentonville Planning Department
305 SW A Street
Bentonville, AR 72712

RE: Rezoning Parcel No. 01-05071-000 from C-2–General Commercial to C-3–Mixed Use Commercial

Dear Planning Staff:

This law firm has been hired to assist the applicant, Larose Development, LLC, in obtaining a rezoning of Parcel No. 01-05071-000 from C-2, General Commercial to C-3, Mixed Use Commercial, pursuant to a proposed sale to a developer.

The primary purpose for this rezoning request is to allow the developer a greater variety of uses for this parcel. Notably, C-2 largely does not allow residential uses, either conditionally or by right. The developer has requested C-3 so that it may build a mix of commercial and residential uses on this parcel, and help to create a sense of place along S. Walton Blvd. The development will create a "live, work play" environment, and will take advantage of the close proximity to the planned Eighth Street Gateway Park currently in development. The development is expected to be designed with contemporary/modern architecture. As for signage, the developer plans to construct a monument sign on Walton Blvd.

Because all adjacent properties have commercial zonings and uses, the requested zoning and proposed use are compatible with the parcel's surroundings. Moreover, this rezoning is expected to act as a continuation of the redevelopment occurring along this stretch of S. Walton Blvd. As for traffic, the parcel sits Highway 71B, which has should have ample capacity for further development. Lastly, as for utilities, there is an 8" water line and a 8" gravity sewer line currently serving the property which run along the Eastern diagonal of the parcel along Walton Blvd.

Thank you for considering this rezoning request. If you have any questions please feel free to contact me at 479-636-2168 or at wkellstrom@watkinslawoffice.com.

Sincerely,

WATKINS, BOYER,
GRAY & CURRY, PLLC

[redacted]

Will A. Kellstrom

WK:
pc:

1106 WEST POPLAR STREET
ROGERS, AR 72756
PH: 479-636-2168
FX: 479-636-6098
WWW.WATKINSLAWOFFICE.COM

REAL ESTATE, CONSTRUCTION & LIEN LAW, LAND USE & PLANNING
CORPORATE & COMMERCIAL LAW, BANKING, BANKRUPTCY
CRIMINAL LAW, FAMILY LAW, GUARDIANSHIPS, LANDLORD-TENANT
ESTATE PLANNING, ELDER LAW, PROBATE, TRUST LITIGATION
CIVIL LITIGATION, COMMERCIAL & CONSUMER DEBT COLLECTION

NOTICE OF INTENT TO REZONE

LAROSE DEVELOPMENT, LLC has requested the Bentonville Planning Commission to set a public hearing date to consider rezoning the following property from **C-2, General Commercial** to **C-3, Central Commercial**. The legal description of the property is as follows:

Lot 1 Michael-Dill Plaza, to the City of Bentonville, Benton County, Arkansas, as shown on Plat record 13, Page 380.

The common description of the property is: **1002 S. Walton Boulevard, Bentonville, Arkansas**

The public hearing will be held on March 2nd, 2021 at 4:00 p.m. It will be held at 305 SW A Street.

This notification is in response to the requirement that all property owners within 200 feet of said property must be notified. If you wish to express any comments about the requested rezoning, you may respond by the following methods:

1. Attend the public hearing and express your views.
2. Express your opinion in writing to the Planning Commission. You may mail this or deliver it to the City of Bentonville Planning Department, 305 SW A Street, Bentonville, AR 72712.
3. Use the bottom of this form to express your opinion by checking the appropriate box. (This may also be delivered or mailed to the above address.)

For more information, you may call the Planning Department at (479) 271-3122, Extension 2.

I/We have received notice of the public hearing for the rezoning of the above described property and:

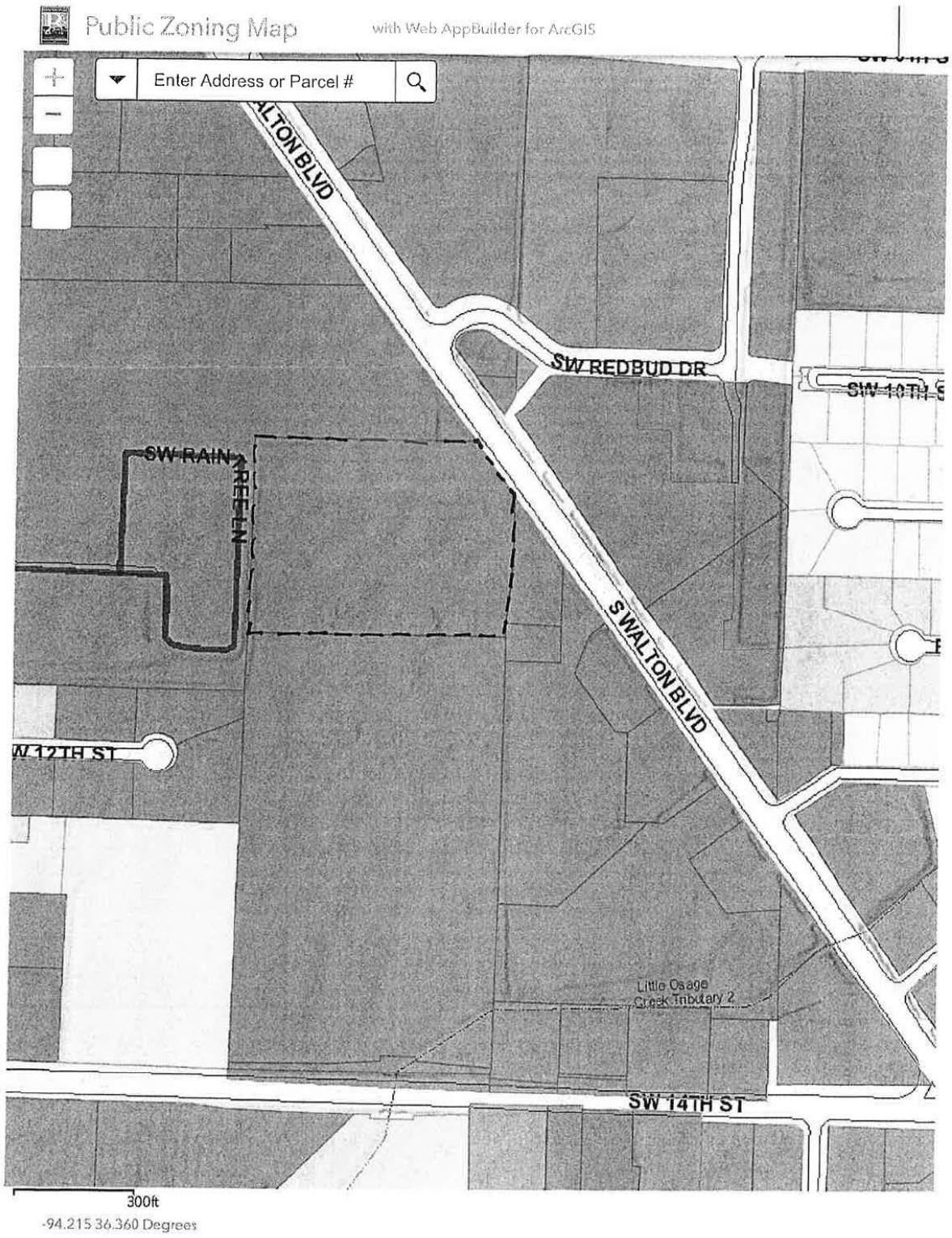
I/we have no objections to the rezoning. R221.0004

OR

I/we object to the rezoning because:

WE OBJECT TO THE C3 BECAUSE
OUR WALTON BLVD. FRONTAGE IS
C2.

[redacted]


Public Zoning Map
with Web AppBuilder for ArcGIS
Enter Address or Parcel #
ALTON BLVD
SW REDBUD DR
SW RAIN TREE LN
S WALTON BLVD
W 12TH ST
Little Osage Creek Tributary 2
SW 14TH ST
300ft
-94.215 36.360 Degrees

ORDINANCE NO. _____

AN ORDINANCE CHANGING REAL ESTATE IN THE CITY OF BENTONVILLE, ARKANSAS, FROM ITS PRESENT ZONING CLASSIFICATION OF C-2, GENERAL COMMERCIAL TO C-3, MIXED-USE COMMERCIAL (PROJECT NUMBER: RZ21-0004).

WHEREAS, LaRose 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-2, General Commercial to C-3, Mixed-Use Commercial to be used in accordance with city zoning laws and state laws, which property is described as follows:

LOT 1 MICHAEL-DILL PLAZA, TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD 13, PAGE 380.; and,

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held March 2, 2021 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Northwest Arkansas Democrat-Gazette 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-2, General Commercial to C-3, Mixed-Use 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-2, General Commercial to C-3, Mixed-Use Commercial to be used in accordance with the city zoning laws and state laws.

PASSED AND APPROVED this_____ day of _____, 2021.

APPROVED:

_____
Stephanie Orman, Mayor

ATTEST:

_____
Kirby Romines, City Clerk

REZONING STAFF REPORT

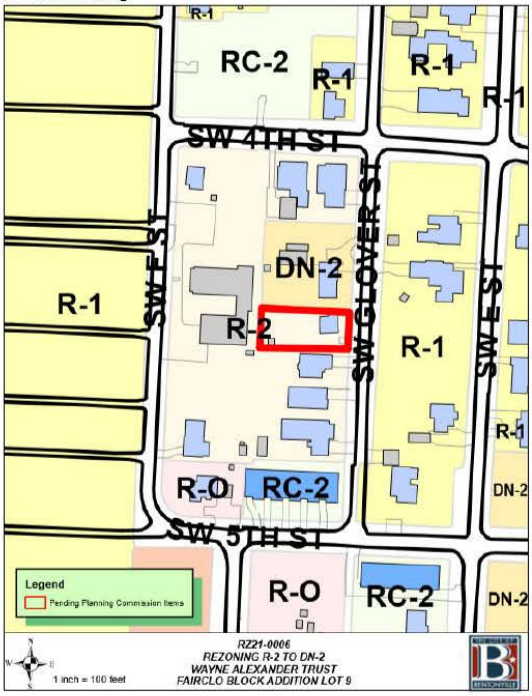
Wayne Alexander Trust

406 SW Glover Street
PC Date: 3/2/2021
Reviewer: Jon Stanley, Senior Planner

Project Number	RZ21-0006
Applicant / Current Owner	Wayne Alexander Trust PO Box 698 Pineville, MO 64856-0698
Site Area	+/- 0.17 acres
Current Zoning	R-2, Duplex and Patio Home Residential
Requested Zoning	DN-2, Downtown Medium-Density Residential
Future Land Use Map Designation	Medium Density Residential (MDR)

https://arcg.is/08HvK8

Location Map



Property Description
This property is located at 406 SW Glover Street and is currently zoned R-2, Duplex and Patio Home Residential. Adjacent zoning districts are R-2 to the west and south, DN-2 to the north and R-1, Single Family Residential to the east.

Relationship to the General Plan
The Future Land Use Plan depicts this property as Medium Density Residential. These areas include townhouse or duplex residential properties with a typical density of 8-12 units per acre. These areas are found both near Downtown and in some recent growth areas. These areas may also include local amenities for residents, including neighborhood parks, places of worship, etc.

Public Comment
At the time of this report, staff has not received any public comments.

Analysis
The property is within Priority Area 1, Downtown Intensification Infill, as identified in Chapter 4 of the Land Use Plan. This area highlights reinvestment in urban neighborhoods in and around Downtown Bentonville (pg. 45).

Conclusion
The request is consistent with the Future Land Use Plan. Staff recommends approval of the rezoning request due to its compatibility with the surrounding zoning designations and residential uses in this quadrant of the downtown area.

Rezoning Narrative 406 SW Glover

Current Zoning Designation: R2- Duplex & Patio Home Residential

Proposed Zoning Designation: DN2- Downtown Medium Density Residential

Explanation: Newell Development proposes to rezone the property at 406 SW Glover (Parcel # 01-02512-000) from R2 to DN2, in order to develop a future real estate project in compliance with DN2 development standards. The current owner is Wayne Alexander Trust (Mailing Address: PO Box 698 Pineville, MO 64856) who endeavors to sell the property to 404 GLV, LLC.

Reason to Rezone: The rezone would keep the zoning consistent across all properties in development (404 and 406 Glover) .

Statement of how the property will relate to surrounding properties: The adjacent property located at 404 SW Glover is zoned DN2, with additional zoning in the surrounding area being R1 and R2.

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

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

Signage: None proposed at this time.

Appearance: Future development will fit in form and scale of all DN2 district standards as well as adhere to all City of Bentonville development and design requirements.

Water/ Sewer/ Electric: On-Site

Disclaimer: FOR INFORMATIONAL PURPOSES ONLY.
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DN-2, Downtown Medium Density Residential

The intent of the DN-2 district is to allow for an increased single-family density through small lot widths where alleys and infrastructure support such development, and were small-lot single-family development provides an appropriate transition between large-lot residential areas and those of higher density. In some instances, such as the end of blocks, townhouses may be appropriate in this district.

Building Types Allowed:

District	Single-family	Two-family	Townhouse		Multi-family		Mixed-use
			Block-end	Mid-block	Block-end	Mid-block	
DN-2	•	•	•				

Maximum Height Allowed:

District	Single-family	Two-family	Townhouse	Multi-family	Mixed-use
DN-2	36 ft.	36 ft.	36 ft.	--	--

Lot and Area Standards:

District	Building type	Min. Lot Area (sq. ft.)	Min. Land Area / Dwelling Unit (sq. ft.)	Lot Width		Max. Lot Coverage	
				Min. Lot Width	Max. Lot Width	Interior lot	Exterior lot
DN-2	Single-family, alley access	4,000	-	40'	-	50%	55%
	Single-family, no alley access	5,000	-	50'	-	50%	55%
	Single-family attached unit	2,000	-	20'		-	-
	Single-family attached structure, alley access	4,000	-	40'	-	50%	55%
	Single-family attached structure, no alley access	5,000	-	50'	-	50%	55%
	Two-family, alley access	4,000	-	40'	-	50%	55%
	Two-family, no alley access	5,000	-	50'	-	50%	55%
	Townhouse unit	2,000	-	20'	-	-	-
	Townhouse structure	7,500	2,500	75'	-	60%	65%

Minimum Setback Standards:

District	Building type	Front Yard		Side Yard				Rear Yard
				Exterior Side Yard		Interior Side Yard		
		Min.	Max.	Min.	Max.	Detached Yard	Attached Yard	
DN-2	Single-family and Two-family	12'	25'	12'	25'	7'	0'	25'
	Townhouse block-end and all others not listed	12'	25'	12'	25'	10'	0'	25'

Residential Tree Planting: For newly constructed single and two-family residential structures: 1 shade tree planted in each yard adjacent to roadway and 1 shade tree planted in each right-of-way adjacent to roadway.

Updated 08-31-20

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DN-2, Downtown Medium Density Residential

Garage Setback Standards (generally for DN districts – additional requirements may apply):

Prohibited in front yards. Garages, parking lots or designated parking spaces are prohibited in the front yard and corner side yard.

Attached garages. Garages may be attached to the primary structure. However, if the garage is attached, it must be located and oriented in such a way that it does not protrude from the side façade of the primary building in order to be visible from the public street.

Detached garages. Detached garages shall be located to the rear of the primary structure.

Corner lot. On a corner lot, the garage shall not be located closer than 20' to the corner side lot line in order to allow for outdoor vehicular parking entirely on the lot.

Detached garages. Detached garages must be separated from the primary structure by a minimum of 10'.

Garages with alley access. Garages with alley access must be setback 8' from the alley.

Accessory Structures & Uses: (i.e. garages, storage sheds, separate dwelling units)

	Detached Non-residential	Detached Accessory Dwelling	Attached Accessory Dwelling
% of floor area of primary structure	40%	50%	50%
Maximum footprint	720 sq. ft.	720 sq. ft.	-
Front setback	As required by the district	As required by the district	As required by the district
Side setback	7'	7'	As required by the district
Rear setback	7'	7'	As required by the district

On corner lots: Structure shall not project beyond the building line of the primary structure of existing primary structure on the adjacent lot

Land Uses:

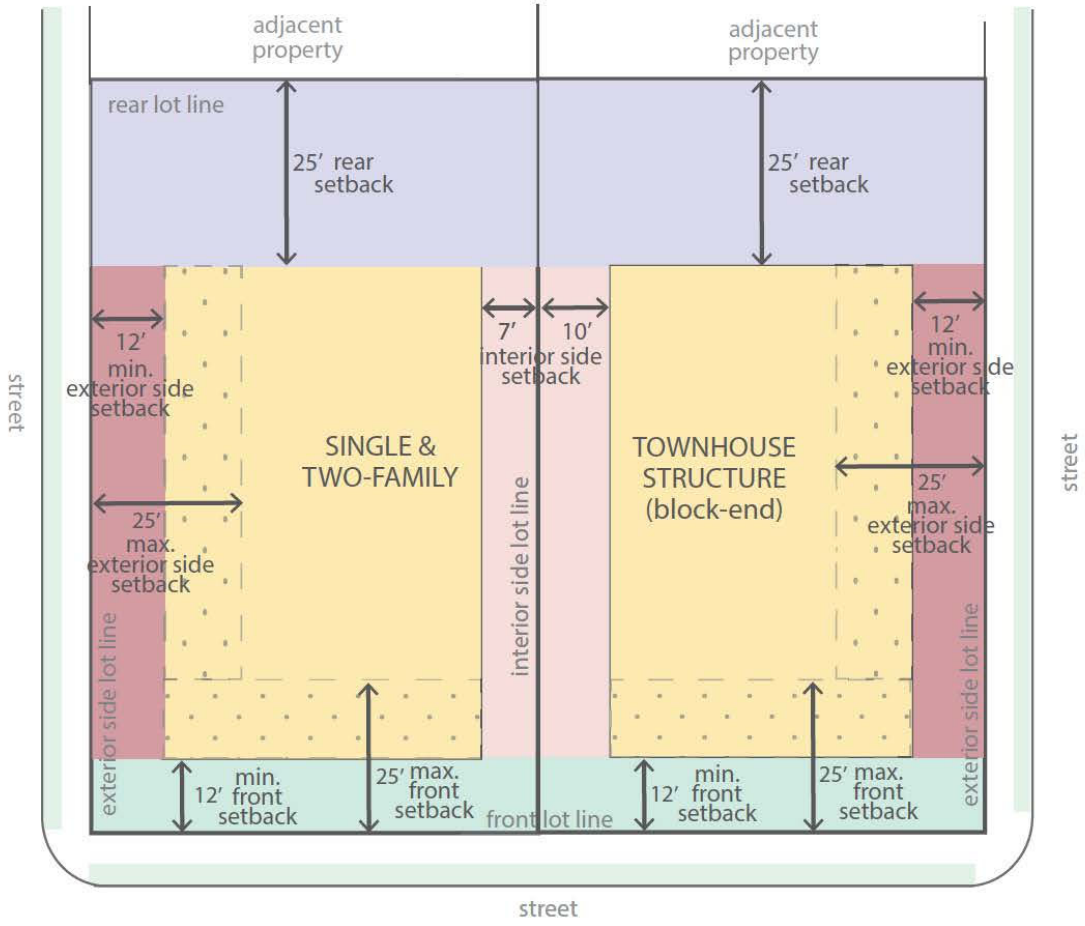
ALLOWED BY RIGHT	CONDITIONAL	ACCESSORY
Residential Dwelling - modular Dwelling - single family Dwelling - townhouse or rowhouse – end block Dwelling - two-family **Recreation, Education & Assembly** Park - mini Park - neighborhood **Services** Child care - residential (4 children)	**Agriculture and Animals** Urban farm **Residential** Home occupation - type b **Recreation, Education & Assembly** Educational facility Museum Religious facilities **Services** Adult day care Cemetery or mausoleum Child care - residential (5-10 children) Lodging - bed & breakfast Public safety services **Transportation / Utilities** Utility facility Wireless communication facility (cell towers) **Other** Temporary uses	**Agriculture and Animals** Community garden **Residential** Dwelling – accessory Home occupation - type a **Transportation Utilities** Solar energy system Wind energy system, small **Other** Building, accessory - nonresidential

Updated 08-31-20

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DN-2, Downtown Medium Density Residential

Setback Illustration



Updated May 2020

ORDINANCE NO. _____

AN ORDINANCE CHANGING REAL ESTATE IN THE CITY OF BENTONVILLE, ARKANSAS, FROM ITS PRESENT ZONING CLASSIFICATION OF R-2, DUPLEX AND PATIO HOME RESIDENTIAL TO DN-2, DOWNTOWN MEDIUM-DENSITY RESIDENTIAL (PROJECT NUMBER: RZ21-0006).

WHEREAS, Wayne Alexander Trust duly filed a petition with the Planning Commission requesting that the hereinafter described property situated in Benton County, Arkansas, be changed from its present zoning classification of R-2, Duplex and Patio Home Residential to DN-2, Downtown Medium-Density Residential to be used in accordance with city zoning laws and state laws, which property is described as follows:

LOT 9 FAIRCLO BLOCK ADDITION TO BENTONVILLE, BENTON COUNTY, AR AS SHOWN ON PLAT RECORD BOOK 1903 PAGE 34, 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 March 2, 2021 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Northwest Arkansas Democrat-Gazette 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-2, Duplex and Patio Home Residential to DN-2, Downtown Medium-Density 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-2, Duplex and Patio Home Residential to DN-2, Downtown Medium-Density Residential to be used in accordance with the city zoning laws and state laws.

PASSED AND APPROVED this_____ day of _____, 2021.

APPROVED:

_____
Stephanie Orman, Mayor

ATTEST:

_____
Kirby Romines, City Clerk

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Planning**
Submitted by	**Ellen Norvell**
Phone	**(479) 271-5993**

Item Type: *(Check All That Apply)*

☐ Budget Adjustment	☐ Change Order	☐ Informational	☑ Ordinance	☐ Resolution	☐ Bid Award

Recommendation/Suggested Action ***(Enter recommendation in space below):***

Appeal to a Planning Commission decision for a rezoning request by the Allen and Veda Kinyon Trustees of land located at 403 SW E Street. A rezoning request from R-1, Single-Family Residential to DN-2, Downtown Medium-Density Residential. The Planning Commission voted 7-0 to recommend to the City Council that the petition be denied and that said property not be rezoned from its present classification of R-1, Single Family Residential to DN-2, Downtown Medium-Density Residential.

Estimated Cost	**$**
Is this Item Budgeted?	☐ Yes ☐ No

If no, please explain how item will be funded ***(briefly explain in space below)*****:**

January 25, 2021

City of Bentonville City Council
117 W. Central Avenue
Bentonville, Arkansas 72712

NOTICE OF APPEAL
(2) REQUEST FOR REZONING FROM R-1 – DN-2
ADDRESS ONE: 342 SW D Street
ADDRESS TWO: 403 SW E Street

To City of Bentonville and the City Council:

My name is Barry Kinyon and I am the applicant for the above highlighted properties requesting rezoning that were on the Planning Commission agenda February 5, 2020. Both zoning requests received unanimous denials by the Planning Commission.

It was my observation and opinion that the Planning Commission's decision was already made before applicant comments were heard. Moreover, one planning commissioner made a reference that the commission was already taking a re-look at the Southwest Quadrant zoning overlay.

The City of Bentonville's DN-2 district for the Southwest Quadrant took **years of planning** and became official by the City of Bentonville **only three years ago - 2018.**

There is a recent undercurrent to stop the DN-2 District overlay.

Whenever the subject properties received notice from a neighbor of their intent to rezone R-1 to DN-2 we have never objected. Including one property that received their zoning request from R-1 to DN-2 that is a stone's throw and on the opposite corner from our subject property at 342 SW D Street.

We have accepted the progressive urban planning that the City of Bentonville overlaid for the Southwest Quadrant and the future development of our properties. We fully agree with the progressive thought envisioned by the planners that allows for a pedestrian way of life, whether it's going to a movie, out to dinner or going to work in the downtown area.

Except for the large historical homes along Central Avenue, the Southwest Quadrant has always been a small home community. Recently however, new purchases and subsequent building of large single-family homes, sometimes taking over two or more lots have taken place.

You must ask yourself who's really stepping out of character for this neighborhood. The new small urban homes on small lots or the new larger homes going in?

It is the responsibility of anyone buying a property in this neighborhood, or any neighborhood for that matter, to do their due diligence during their investigations. To understand the zoning and possibilities that surround them. Especially in a City that is growing by leaps and bounds.

This neglect during their investigations when buying into this neighborhood should not be the cause of undoing the City of Bentonville's initiatives for progressive urban growth planning in the downtown area.

For the two properties in question, the curvature of 4th street, and the way these two properties are both positioned in the neighborhood, **as they are both large endcap lots**, fall directly in-line **and represent showcase examples of the intent** the City of Bentonville planned to create higher density for the enjoyment of urban living. There are no gray areas and there are many lots similar to these that have already been granted DN-2 zoning.

Receiving a no vote at the last Planning Commission hearing should be a concern to the City of Bentonville and their long-term urban growth strategy. There are too many failed examples of this in other high growth cities when low density activism leads to unaffordability and long commutes causing downtown street congestion.

I'm applying to rezone these properties to be in line with the Community Plan for the neighborhood. Any future development will be in harmony with the surrounding neighborhood framework.

I'm respectfully requesting the City Council to approve both requests for re-zoning and not be sent back to the Planning Commission.

[redacted]

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-2, DOWNTOWN MEDIUM-DENSITY RESIDENTIAL (PROJECT NUMBER: RZ20-0062).

WHEREAS, Allen & Veda Kinyon Trustees 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-2, Downtown Medium-Density Residential to be used in accordance with city zoning laws and state laws, which property is described as follows:

LOT'S 1 & 2, BLOCK 1 COFFELT ADDITION TO BENTONVILLE, BENTON COUNTY, AR AS SHOWN ON PLAT RECORD BOOK "A" PAGE 91, 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 January 5, 2021 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Northwest Arkansas Democrat-Gazette for the time and in the manner required by law; and,

WHEREAS, the Planning Commission voted that the petition be denied and that said property be rezoned from its present classification of R-1, Single Family Residential to DN-2, Downtown Medium-Density Residential.

WHEREAS, the owners of said property appealed the Planning Commission decision to the City Council, and the City Council voted to approve the petition that said property be rezoned from its present classification of R-1, Single Family Residential to DN-2, Downtown Medium-Density 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-2, Downtown Medium-Density Residential to be used in accordance with the city zoning laws and state laws.

PASSED AND APPROVED this_____ day of _____, 2021.

APPROVED:

_____
Stephanie Orman, Mayor

ATTEST:

_____
Kirby Romines, City Clerk

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Planning**
Submitted by	**Ellen Norvell**
Phone	**(479) 271-5993**

Item Type: *(Check All That Apply)*

☐ Budget Adjustment	☐ Change Order	☐ Informational	☑ Ordinance	☐ Resolution	☐ Bid Award

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Estimated Cost	**$**
Is this Item Budgeted?	☐ Yes ☐ No

If no, please explain how item will be funded ***(briefly explain in space below)*****:**

January 25, 2021

City of Bentonville City Council
117 W. Central Avenue
Bentonville, Arkansas 72712

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We have accepted the progressive urban planning that the City of Bentonville overlaid for the Southwest Quadrant and the future development of our properties. We fully agree with the progressive thought envisioned by the planners that allows for a pedestrian way of life, whether it's going to a movie, out to dinner or going to work in the downtown area.

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It is the responsibility of anyone buying a property in this neighborhood, or any neighborhood for that matter, to do their due diligence during their investigations. To understand the zoning and possibilities that surround them. Especially in a City that is growing by leaps and bounds.

This neglect during their investigations when buying into this neighborhood should not be the cause of undoing the City of Bentonville's initiatives for progressive urban growth planning in the downtown area.

For the two properties in question, the curvature of 4th street, and the way these two properties are both positioned in the neighborhood, **as they are both large endcap lots**, fall directly in-line **and represent showcase examples of the intent** the City of Bentonville planned to create higher density for the enjoyment of urban living. There are no gray areas and there are many lots similar to these that have already been granted DN-2 zoning.

Receiving a no vote at the last Planning Commission hearing should be a concern to the City of Bentonville and their long-term urban growth strategy. There are too many failed examples of this in other high growth cities when low density activism leads to unaffordability and long commutes causing downtown street congestion.

I'm applying to rezone these properties to be in line with the Community Plan for the neighborhood. Any future development will be in harmony with the surrounding neighborhood framework.

I'm respectfully requesting the City Council to approve both requests for re-zoning and not be sent back to the Planning Commission.

[redacted]

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-2, DOWNTOWN MEDIUM-DENSITY RESIDENTIAL (PROJECT NUMBER: RZ20-0063).

WHEREAS, Allen & Veda Kinyon Trustees 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-2, Downtown Medium-Density Residential to be used in accordance with city zoning laws and state laws, which property is described as follows:

31-20-30-BENTONVILLE 31-20-30 0.37 Acres PART OF OUT LOT 23 OF THE NW/4 OF THE NE/4 OF SECTION 31 TOWNSHIP 20 NORTH, RANGE 30 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, BENTONVILLE, BENTON COUNTY, ARKANSAS. MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SE CORNER OF LOT 12 OF BLOCK 5 OF CLARKS SECOND ADDITION TO THE CITY OF BENTONVILLE, ARKANSAS, BEING A FOUND IRON PIN AS SHOWN ON PLAT "G" PAGE 21, THENCE S 00'II "30" W 40.58 FEET FOR THE POINT OF BEGINNING, BEING A FOUND IRON PIN.; and,

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held January 5, 2021 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Northwest Arkansas Democrat-Gazette for the time and in the manner required by law; and,

WHEREAS, the Planning Commission voted that the petition be denied and that said property be rezoned from its present classification of R-1, Single Family Residential to DN-2, Downtown Medium-Density Residential.

WHEREAS, the owners of said property appealed the Planning Commission decision to the City Council, and the City Council voted to approve the petition that said property be rezoned from its present classification of R-1, Single Family Residential to DN-2, Downtown Medium-Density 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-2, Downtown Medium-Density Residential to be used in accordance with the city zoning laws and state laws.

PASSED AND APPROVED this_____ day of _____, 2021.

APPROVED:

_____
Stephanie Orman, Mayor

ATTEST:

_____
Kirby Romines, City Clerk

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Planning**
Submitted by	**Ellen Norvell**
Phone	**(479) 271-5993**

Item Type: (*Check All That Apply*)

☐ Budget Adjustment	☐ Change Order	☐ Informational	☑ Ordinance	☐ Resolution	☐ Bid Award

Recommendation/Suggested Action *(Enter recommendation in space below):*

Appeal to a Planning Commission decision for a rezoning request by the Pinnacle Villas, LLC of land located at 301 SW E Street. A rezoning request from R-1, Single-Family Residential to DN-2, Downtown Medium-Density Residential. The Planning Commission voted 7-0 to recommend to the City Council that the petition be denied and that said property not be rezoned from its present classification of R-1, Single Family Residential to DN-2, Downtown Medium-Density Residential.

Estimated Cost	**$**
Is this Item Budgeted?	☐ Yes ☐ No

If no, please explain how item will be funded *(briefly explain in space below)* **:**

APPEAL ON PLANNING COMMISSION DENIAL FOR PINNACLE VILLAS, LLC

REQUEST FOR REZONING FROM R-1 TO DN-2

ADDRESS 301 SW E STREET

BENTONVILLE, AR 72712

To the Bentonville City Council,

My name is Bob Burckart and I, along with Blake Burckart and Joe Schrauder are the applicants and property owners representing Pinnacle Villas, LLC. We respectfully request this appeal be considered in the decision of the City Planning Commission's vote at the January 5, 2021 meeting, regarding a request for our property to be rezoned from R-1 Single Family Residential to DN-2 Downtown Medium-Density Residential

The property 301 SW E St. is presently a Lot in the R-1, Single Family Residential classification. We asked that the zoning be changed to DN-2 to reflect the current surrounding property use and reflect the City of Bentonville's Future Land Use Plan and the Community Plan, the Planning Commission voted to deny this request due to their own personal opinions for what is "best" for Bentonville and, or business interest they have. This decision does not reflect the City Planning Department recommendation to rezone to DN-2

The City Planning Staff members, Brian Behr and Jon Stanley, indicated department support for the rezoning in the Staff Report stating, "The Bentonville Community Plans Strategic Growth, Priority One, Downtown intensification, Chapter 5, Neighborhoods and Housing, and the Future Land Use Map support this zoning request. Staff has reviewed this application and recommends approval.

We believe the public health, safety, welfare, and morals would be better served if the Planning Commission's vote were reversed allowing the rezoning request for our property because:

- Rezoning our property to DN-2 is consistent with the Land Use Plan and the Community Plan.
- The end of block location of our property is an ideal location for future redevelopment, but too small for Townhomes or any other multifamily use.
- Rezoning will not have a significant increase to density since it will not accommodate multi family, but is consistent with the stated need to increase density for the support and sustainability of the downtown areas business.
- Rezoning will have no impact on building height of future redevelopment as R-1, DN-1 and DN-2 are all 36 feet (3 stories) maximum.
- The Planning Staff continue to support rezoning our property to DN-2 since the January 5th meeting.

We appreciate your consideration in this matter, and if you have any questions or concerns, please do not hesitate to contact our office.

Respectfully submitted,

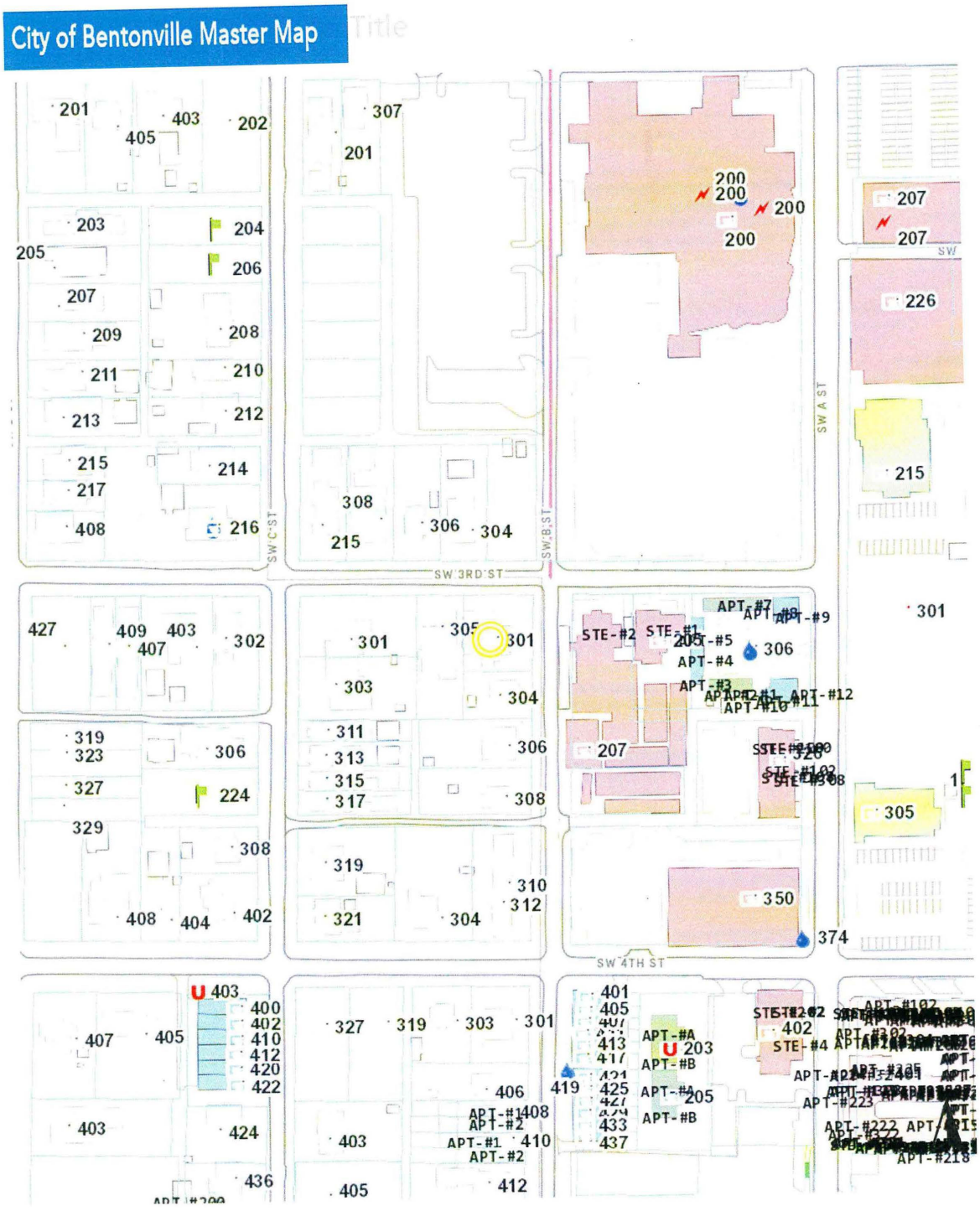
Bob Burckart/Applicant-Property Owner
Contact: bob@burckartcompanies.com 479-273-3339

Joe Schrauder/Applicant-Property Owner

Blake Burckart/Applicant-Property Owner

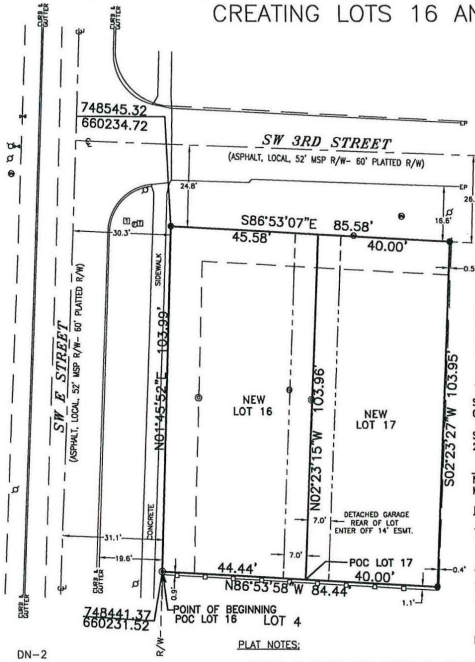
Please View Attached:

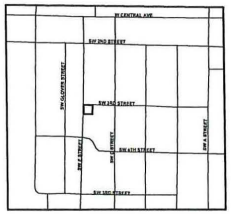
1. 4 Photos of cleared Lots 2 & 3 Block 5, Clarks 2nd Addition
2. Bentonville Community Plan page 111
3. City of Bentonville Master Map
4. Downtown Neighborhood Subarea Plan pages 136-138
5. Downtown Low-Density Residential Site Design Standards
6. New Plat for Lot Split per Subarea Plan



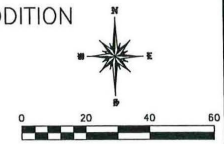
This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

LOT SPLIT PART OF LOTS 2 AND 3 BLOCK 5 CLARK'S SECOND ADDITION CREATING LOTS 16 AND 17 BLOCK 5





VICINITY MAP:
NTS



BASIS OF BEARINGS:
ARKANSAS STATE PLANE
COORDINATE SYSTEM
(NORTH ZONE)

OWNER
NAME ADDRESS

DEVELOPER
NAME ADDRESS

OWNERS CERTIFICATION
WE, THE UNDERSIGNED, DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE HEREON PLATTED PROPERTY AND HAVE CAUSED SAID PROPERTY TO BE REPLATTED AS SHOWN AND REZONED.

STATE OF ARKANSAS
COUNTY OF BENTON

SUBSCRIBED BEFORE ME THIS ____ DAY OF _____ 2021.

NOTARY PUBLIC
MY COMMISSION EXPIRES _____

PLANNING COMMISSION ACCEPTANCE

THIS PLAT IS HEREBY ACCEPTED THIS ____DAY OF____

CITY COUNCIL ACCEPTANCE

THIS PLAT IS HEREBY ACCEPTED THIS____ DAY OF ___ 2021.

MAYOR

SURVEY DESCRIPTION: PARENT TRACT
A PART OF LOTS 2 AND 3, BLOCK 5, CLARK'S SECOND ADDITION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 3, SAID POINT BEING AN EXISTING IRON PIPE ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST 'E' STREET; THENCE N01°45'52"E 103.99 FEET TO AN EXISTING IRON REBAR ON THE SOUTH RIGHT-OF-WAY LINE OF SOUTHWEST 3RD STREET; THENCE S86°53'07"E 85.58 FEET ALONG SAID RIGHT-OF-WAY LINE TO AN EXISTING IRON REBAR; THENCE LEAVING SAID RIGHT-OF-WAY LINE, S02°23'27"W 103.95 FEET TO AN EXISTING IRON REBAR; THENCE N86°53'58"W 84.44 FEET TO THE POINT OF BEGINNING, CONTAINING 0.20 ACRES (8837.21 SQUARE FEET), MORE OR LESS.

SURVEY DESCRIPTION LOT16
A PART OF LOTS 2 AND 3, BLOCK 5, CLARK'S SECOND ADDITION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 3, SAID POINT BEING AN EXISTING IRON PIPE ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST 'E' STREET; THENCE N01°45'52"E 103.99 FEET TO AN EXISTING IRON REBAR ON THE SOUTH RIGHT-OF-WAY LINE OF SOUTHWEST 3RD STREET; THENCE S86°53'07"E 45.58 FEET ALONG SAID RIGHT-OF-WAY LINE TO A SET IRON REBAR; THENCE LEAVING SAID RIGHT-OF-WAY LINE, S02°23'15"W 103.96 FEET TO A SET IRON REBAR; THENCE N86°53'58"W 44.44 FEET TO THE POINT OF BEGINNING, CONTAINING 0.10 ACRES (4679.2 SQUARE FEET), MORE OR LESS.

SURVEY DESCRIPTION LOT17
A PART OF LOTS 2 AND 3, BLOCK 5, CLARK'S SECOND ADDITION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 3, SAID POINT BEING AN EXISTING IRON PIPE ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST 'E' STREET; THENCE N01°45'52"E 103.99 FEET TO AN EXISTING IRON REBAR ON THE SOUTH RIGHT-OF-WAY LINE OF SOUTHWEST 3RD STREET; THENCE S86°53'07"E 44.44' FEET TO A SET IRON REBAR FOR THE TRUE POINT OF BEGINNING OF LOT 17; THENCE S86°53'07"E 40.00', THENCE S02°23'27"W 103.95 FEET TO A FOUND IRON REBAR; THENCE N86°53'07"W 40.00 FEET TO A SET IRON REBAR, THENCE N02°23'15"W 103.96' TO THE POINT OF BEGINNING, CONTAINING 0.10 ACRES (4158.00 SQUARE FEET), MORE OR LESS.

SURVEYORS CERTIFICATION
I CERTIFY THAT THE HEREON DESCRIBED SURVEY WAS COMPLETED UNDER MY SUPERVISION, AND THE MONUMENTS WERE SET AS SHOWN ON THIS PLAT.

TERRY L GING PLS 1301

LEGEND

- ELECTRIC METER
- EXISTING IRON PIPE
- EXISTING IRON REBAR
- EXISTING NAIL
- GAS METER
- POWER POLE
- TELEPHONE BOX
- TELEPHONE PEDESTAL
- FIBER OPTICS BOX
- SANITARY SEWER CLEANOUT
- WATER METER
- SET 1/2" IRON REBAR
- CENTERLINE ROAD
- RIGHT-OF-WAY LINE
- WOOD PICKET FENCE
- PROPERTY LINE
- UTILITY EASEMENT

PLAT NOTES:

EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE:

EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF MAKING OF THIS SURVEY; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS OR OTHER LAND USE REGULATIONS; AND ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.

THIS SURVEY IS VALID ONLY IF THE DRAWING INCLUDED THE SEAL AND SIGNATURE OF THE SURVEYOR.

THIS SURVEY MEETS OR EXCEEDS THE CURRENT "ARKANSAS MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS AND PLATS".

DECLARATION IS MADE TO THE ORIGINAL PURCHASER OF THE SURVEY. IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.

SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY.

BEFORE ANY WORK IN THE RIGHT OF WAY COMMENCES, CONTRACTOR AND OR OWNER IS TO OBTAIN RIGHT OF WAY PERMIT FROM THE CITY OF BENTONVILLE TRANSPORTATION DEPARTMENT.

OWNER/DEVELOPER SHALL COORDINATE WITH ALL LOCAL UTILITIES TO ENSURE THAT EACH LOT HAS WATER, SEWER, AND ELECTRIC SERVICE.

SIDEWALKS SHALL BE THE RESPONSIBILITY OF THE BUILDER/OWNER AT TIME OF BUILDING PERMIT ISSUANCE.

THERE MAY NOT BE FENCES OR ANY OTHER STRUCTURES BUILT IN ANY DRAINAGE EASEMENTS

LS20-0060

REVISIONS			
DATE	DESCRIPTION	BY	
11/30/20	REVISED PER CITY	TLG	

SHEET 1 OF 1
20180 DWG

TERRY GING SERVICES
1808 SW D STREET
BENTONVILLE, AR. 72712

DRAFTSMAN	
DATE	08/17/2020
CHECKED	TLG
SCALE	1"=20'
SHEET SIZE	18X24

PINNACLE VILLAS LLC
301 SW 'E' STREET
BENTONVILLE, ARKANSAS

LOTS 16 AND 17 BLOCK 5 CLARKS SECOND ADDITION

DOWNTOWN NEIGHBORHOOD
DOWNTOWN BENTONVILLE
8TH STREET
14TH STREET
REGIONAL AIRPORT BOULEVARD/1STREET
LITTLE FLOCK
ROGERS
CENTERTON
A Plan for a New American Town BENTONVILLE COMMUNITY PLAN 111
Chapter 10 – Subarea Plans

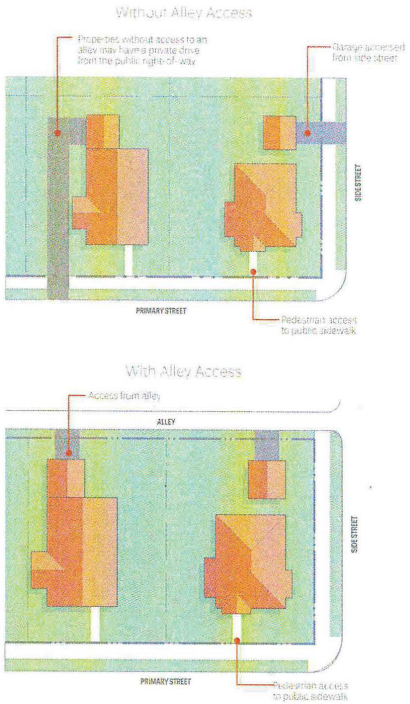


Downtown Low-Density Residential

The intent of the Downtown Low-Density Residential neighborhood area is to preserve the established predominantly single-family detached residential development pattern of portions of the Downtown Neighborhood with lots generally larger than 60' in width. Downtown Low-Density comprises the largest area within the Downtown Neighborhoods, and represents the areas least likely to see significant change.

While investment and redevelopment will occur in the area, it will likely be in the form of "teardown"/ infill redevelopment, where one single-family structure is demolished and replaced with a new larger single-family structure on the same lot.

SITE DESIGN STANDARDS
examples



APPROPRIATE DESIGN
examples



Downtown Neighborhood Subarea Plan

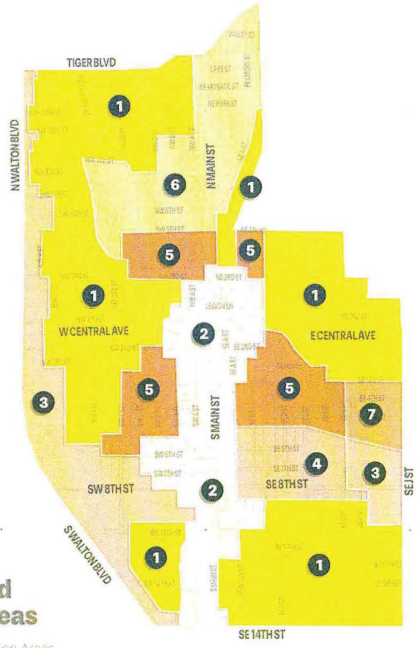
The residential neighborhoods surrounding any successful downtown are every bit as vital to the success of Downtown as the shops, restaurants, and entertainment venues. A robust, attractive, vibrant residential neighborhood adds to the overall character, appeal, stability, and desirability of a downtown. Downtown Bentonville is no exception.

The neighborhoods surrounding Downtown Bentonville are experiencing rapid change and significant investment as they become increasingly desirable places to live. With close proximity to the Downtown and nearby cultural resources, these traditional grid pattern neighborhoods are providing a focus for new development and investment as more and more people want to call the Downtown Neighborhoods their home.

DOWNTOWN NEIGHBORHOOD CHARACTER AREAS

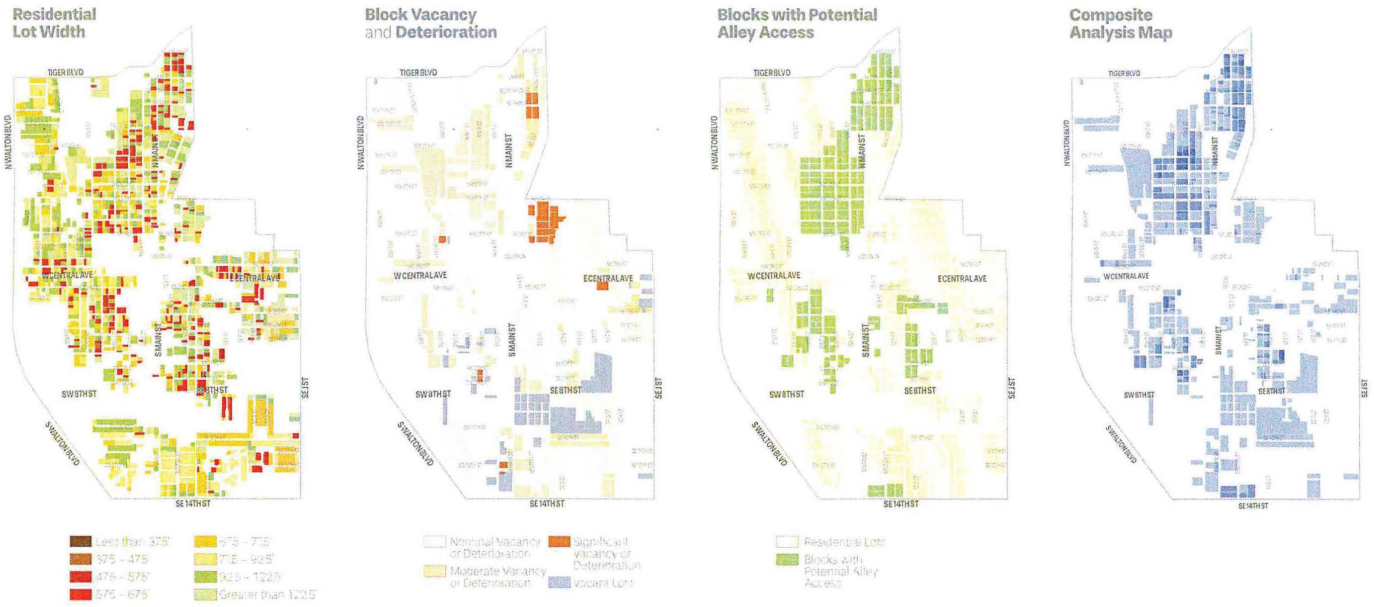
Collectively, the framework for the Downtown Neighborhood Subarea includes several unique Character Areas that include everything from the downtown core and gateway corridors that provide approaches to the square, to the traditional single-family blocks and areas of new multi-family and mixed-residential development. It is this unique fabric of the area that defines its attractiveness and overall sense of place. It is within this dynamic context that the environment for targeted residential strategies is created.





Downtown Neighborhood Character Areas

1. Residential Preservation Areas
2. Downtown Core and Gateway Corridors
3. Corridor Commercial Areas
4. Southeast Downtown Plan Area
5. High Density Residential Area
6. Secondary Residential Density Area
7. Transitional Residential Area



AREAS OF STABILITY and CHANGE

Based on a variety of factors and existing conditions, the neighborhoods' most stable areas and its areas most susceptible to change have been identified, providing a clear indication of where redevelopment is most likely to occur, where increased density is most appropriate and most compatible, where more flexible housing types may be most viable, and what areas are most stable and unlikely to see significant pressures for change.

Lot Width

Although almost all of the single-family detached residential lots in the Downtown neighborhoods are zoned R-1, the lots vary in width from greater than 120' wide to less than 37' wide. With some blocks having a significantly higher concentration of smaller/narrower widths, and therefore a higher existing residential density, a natural and more organic mix of residential lot sizes and densities can be replicated as redevelopment occurs.

Block Vacancy and Deterioration

Other determining factors include vacancy and deterioration. While most of the neighborhoods are well maintained and occupied, some blocks have higher rates of building deterioration, deferred maintenance, and vacancy. These blocks represent more likely candidates for redevelopment, as the value of the land exceeds the value of the improvements on that land. Where this condition exists, redevelopment often occurs.

When these and other existing factors are applied, areas of high redevelopment likelihood emerge, as do areas that will likely remain the same. In areas of likely and anticipated change, a mix of single-family homes, townhomes, duplexes, and multi-family housing will emerge. Generally speaking, the nearer the blocks are to the Downtown Core, the greater the density and variety of residential dwelling types. The residential neighborhoods and their proximity to the Downtown commercial and mixed-use areas impact the variety and density of residential development.

Alley Access

Several blocks in the Downtown neighborhoods have alley access at the rear of lots. Some of these exit as functioning alleys and others are merely existing rights-of-way yet to be improved with actual alleys. In these areas, increased residential densities and narrower lots can be accommodated, along with reduced sideyards and larger building areas. This is due to the fact that lots are accessed via the alley at the rear and do not require the minimum 10' wide setback to accommodate a side driveway to access a rear garage.

NEIGHBORHOOD FRAMEWORK

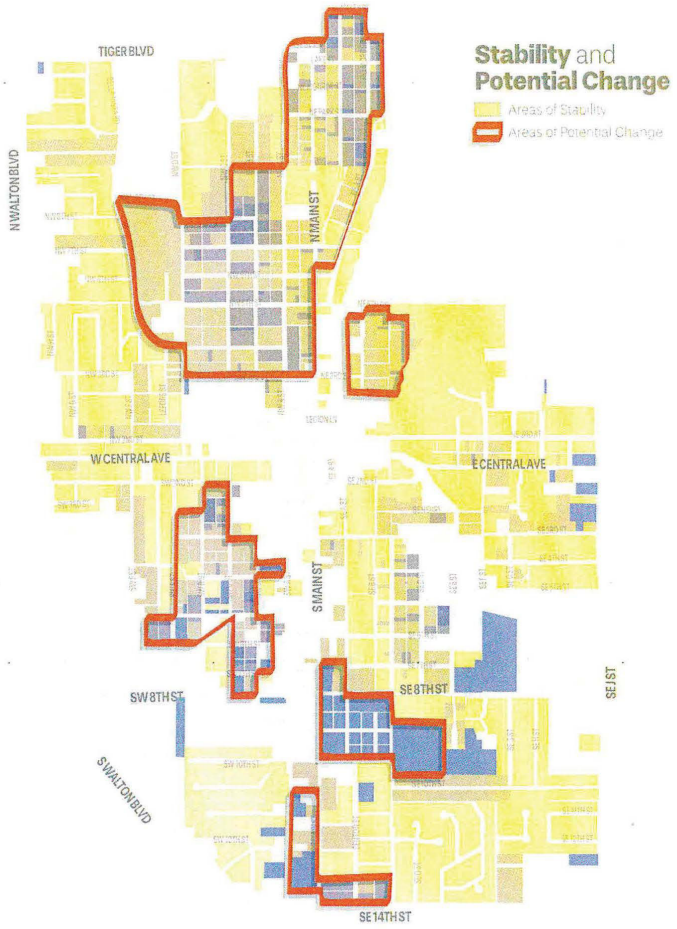
When the four core principles are applied, and all of the existing conditions and factors are taken into consideration, a framework of seven distinct areas are created. This framework establishes the basic foundation for the Downtown Neighborhoods Plan. The seven areas that comprise the framework include:

Areas of Stability

- **Residential Preservation Areas.** Existing residential areas where redevelopment and subdivision into higher residential density is not anticipated.
- **Downtown Core and Gateway Corridors.** Represent the primary commercial/mixed-use components within the area that set much of the tone and character of the neighborhood areas.
- **Corridor Commercial Areas.** The more traditional commercial areas along the corridors and the perimeter of the Downtown Neighborhoods area.

Areas of Change

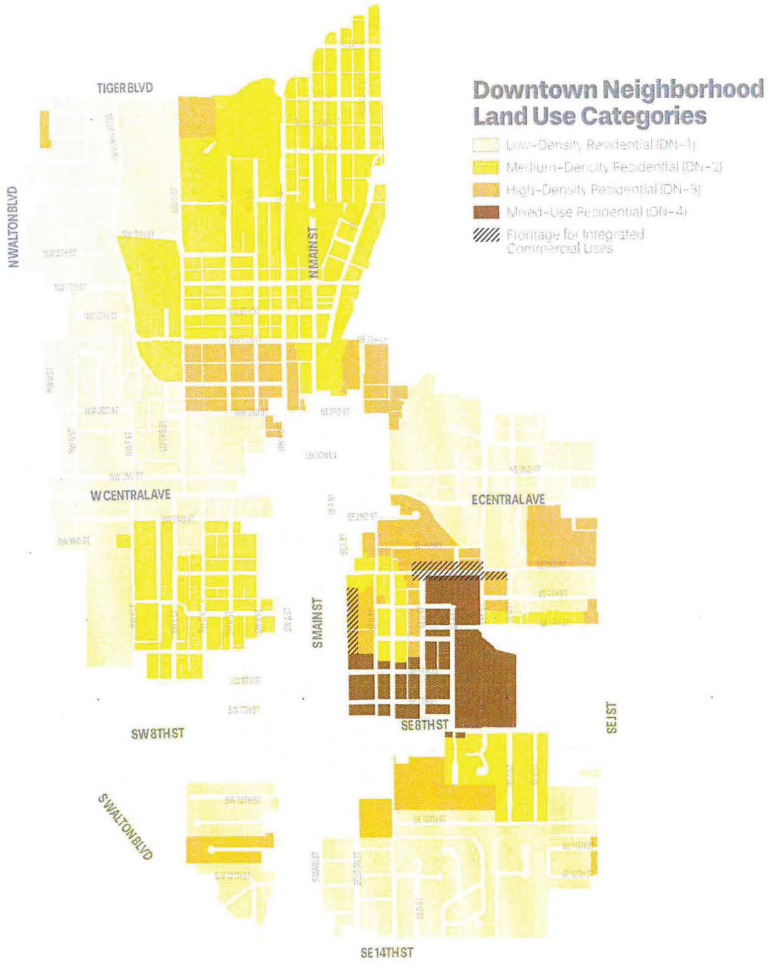
- **Southeast Downtown Plan Area.** Infused with cultural and institutional investment, this area includes the Experience District, Arts District, and Market District.
- **High Density Residential Area.** Areas immediately adjacent to the Downtown Core and Gateway Corridors, planned for the highest density and range of housing types, including multi-family.
- **Secondary Residential Density Area.** Areas typically defined by smaller lot single-family with a mix of townhomes and duplex developments.
- **Transitional Residential Area.** A small area on the western edge of the study area accommodating a higher density and mix of residential uses due to its proximity to new institutional and cultural development.



DOWNTOWN NEIGHBORHOOD "DISTRICTS"

The basic framework for this area served as the foundation for the development of four distinct residential districts within the Downtown Neighborhoods Subarea. While the commercial areas of the framework (Downtown Core, Gateway Corridors, and Commercial Corridors) are addressed in other sections of the Bentonville Community Plan, the four residential areas and their respective plans and strategies for improvement are provided on the following pages.

The overall purpose of the Downtown's residential neighborhoods is to accommodate residential development and redevelopment that meets the specific objectives of the area surrounding Downtown Bentonville with regards to density, character, and access, in a context that is unique to this portion of the community. The approach is to establish the building types and character that reinforces the uniqueness of the areas, supports and accommodates appropriate reinvestment, and provides the densities necessary to support downtown commerce and culture.



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-2, DOWNTOWN MEDIUM-DENSITY RESIDENTIAL (PROJECT NUMBER: RZ20--0060).

WHEREAS, Pinnacle Villas, 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-2, Downtown Medium-Density Residential to be used in accordance with city zoning laws and state laws, which property is described as follows:

LOT'S 2 & 3, BLOCK 5, CLARK'S SECOND ADDITION TO THE CITY OF BENTONVILLE, ARKANSAS, AS SHOWN IN PLAT RECORD "Q" AT PAGE 502, EXCEPT 60 FEET SQUARELY OFF THE EAST END.; and,

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held January 5, 2021 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Northwest Arkansas Democrat-Gazette for the time and in the manner required by law; and,

WHEREAS, the Planning Commission voted that the petition be denied and that said property be rezoned from its present classification of R-1, Single Family Residential to DN-2, Downtown Medium-Density Residential.

WHEREAS, the owners of said property appealed the Planning Commission decision to the City Council, and the City Council voted to approve the petition that said property be rezoned from its present classification of R-1, Single Family Residential to DN-2, Downtown Medium-Density 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-2, Downtown Medium-Density Residential to be used in accordance with the city zoning laws and state laws.

PASSED AND APPROVED this_____ day of _____, 2021.

APPROVED:

_____
Stephanie Orman, Mayor

ATTEST:

_____
Kirby Romines, City Clerk

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Planning**
Submitted by	**Shelli Kerr**
Phone	**(479)271-6822**

Item Type: (*Check All That Apply*)

☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☑ Resolution	☐ Bid Award

Recommendation/Suggested Action *(Enter recommendation in space below):*

A resolution to support the installation of artwork titled "Mull it Over" by artist Nina Chanel Abney on the Razorback Greenway behind 700 SE 5th Street. The artwork was commissioned by OzArt which will fund the installation. There is no cost to the city. Memo and proposal attached.

Estimated Cost	**0**
Is this Item Budgeted?	☐ Yes ☑ No

If no, please explain how item will be funded *(briefly explain in space below)* **:**

Artwork is being funded by a grant from the Walton Family Foundation in association with the Library Expansion Study.

MEMO

To: Mayor Stephanie Orman and Bentonville City Council
From: Shelli Kerr, AICP, Comprehensive Planning Manager
On behalf of: Bentonville Public Art Advisory Committee
CC date: February 9, 2021
RE: "Mull It Over" Trail Mural

OZ Art is seeking approval to install public art titled "*Mull It Over*" by Nina Chanel Abney to be painted on the Razorback Greenway at approximately 700 SE 5th Street.

The first phase of the artwork is on a private building, located at 700 SE 5th Street, facing the greenway. The proposal is to extend this artwork onto the trail.

Please see the attached proposal for the narrative about the artwork. Oz Art is funding installation and there is no cost to the city.

The artwork has been recommended for approval by the Public Art Advisory Committee (PAAC) and the Parks and Recreation Advisory Board (PRAB).

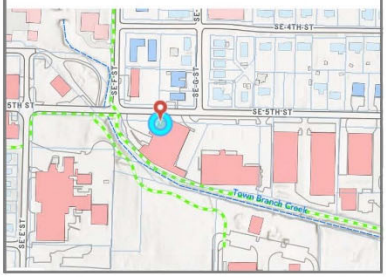
PAAC approved: 02/09/21

PRAB approved: 03/01/21

Proposed Artwork
Mull It Over



Proposed Display Site
Razorback Greenway behind 700 SE 5th St



From: noreply@civicplus.com
To: Shelli Kerr
Subject: Online Form Submittal: Public Art Proposal
Date: Thursday, February 4, 2021 12:40:20 PM

Public Art Proposal

Proposal for Public Art

Is the proposal independent or in response to a request for proposals?	Independent Proposal
Date	2/4/2021

CONTACT INFORMATION
Complete this section if someone other than the artist is completing the form, such as a curator or organization donating artwork to be placed on public property.

Name	Elizabeth Miller
Title	Art Collection Manager
Organization Name	OZ Art, LLC
Street Address	110 NW Second Street
City	Bentonville
State	AR
Zip Code	72712
Email Address	emiller@weimail.com
Phone Number	4796162375

ARTIST INFORMATION

Name	Nina Chanel Abney
Address	*Field not completed.*
City	*Field not completed.*
State	*Field not completed.*
Zip Code	*Field not completed.*

Email Address	*Field not completed.*
Phone Number	*Field not completed.*
Upload artist resume / CV	*Field not completed.*
Artist portfolio	*Field not completed.*
Artist website (if available)	https://ninachanel.com/
For Collaborative Proposals: ***Please use this section to provide information for partnering artists.***	
Name	*Field not completed.*
Address	*Field not completed.*
City	*Field not completed.*
State	*Field not completed.*
Zip Code	*Field not completed.*
Email Address	*Field not completed.*
Phone Number	*Field not completed.*
Upload artist resume/CV	*Field not completed.*
Artist portfolio	*Field not completed.*
Artist website (if available)	*Field not completed.*
ARTWORK DETAILS	
Title of artwork	Mull it Over
Medium	paint
Location	on Razorback Greenway at the base of existing mural located at approximately 700 SE 5th St
Height	0
Width and depth	510" x width of trail
Description of artwork	Artist painted the adjacent wall in 2020. This would be an

	extension of the artwork onto the trail. Mockup of final product is attached.
Upload narrative	Abney Project Brief.docx
Upload image of proposed artwork	Nina Chanel Abney trail mockup.jpeg
INSTALLATION AND MAINTENANCE	
Is the proposal for temporary or permanent display?	Temporary
If temporary, what is the requested display period?	3 years or more
Is the artwork already complete?	No
If artwork is complete, is it currently on display?	No
If artwork is currently on display, when will it be available?	*Field not completed.*
If artwork is not complete, how much time is needed for fabrication?	3-6 months
Is the artwork best suited for indoor or outdoor display?	Outdoor
Is a foundation required to install the artwork?	No
If a foundation is required, indicate the size and shape needed.	*Field not completed.*
Does the artwork require access to electricity?	No

Does the artwork require access to water?	No
What is the life expectancy of the artwork?	3-6 years
Are there any special maintenance needs for this artwork?	No
If yes, describe ongoing maintenance needs.	*Field not completed.*

BUDGET FOR PERMANENT DISPLAY

Complete this section if the proposal is for a permanent display. If not, type "0" in the space provided to ensure the application is complete.

Upload detailed budget	*Field not completed.*
Purchase price	0
Delivery and installation cost	0
Total budget for permanent display	0

BUDGET FOR TEMPORARY DISPLAY

Complete this section if the proposal is for a temporary display. If not, type "0" in the space provided to ensure the application is complete.

Upload detailed budget	*Field not completed.*
Annual lease amount	0
Annual insurance cost	0
Total annual cost	0
Installation cost	0
Deinstallation cost	0
Total cost	0

Purchase price	0
Can the lease amount be credited to the purchase price?	Not applicable
FUNDING	
What is the planned funding for this proposal?	Private funding
Is the artwork a donation to the City of Bentonville?	No

Email not displaying correctly? View it in your browser.

In 2020 OZ Art, in partnership with JustKids and the Unexpected mounted the statewide mural project Arkanvas where we installed 13 murals across the state in a 2 month period (www.arkanvas.com). Five of these artworks were in Bentonville. One of these artworks was targeted to be visible to those who use the Razorback Greenway, the idea being to add a further draw to use the already thriving trail. This artwork is located at approximately 700 SE 5th St., facing the Greenway and is by world renowned artist Nina Chanel Abney. The Artist included in her plans the idea to extend the artwork down onto the trail. Given our timeline in 2020, we were unable to address this portion of her proposal, but now, as we enter spring, we were hoping to revisit.

The design is quite simple, though would likely require the trail be re-routed to 5th street for the period of one week while the artwork is painted. We would plan to use Colortop base for the paint with an the Shark Grip additive to make the surface slip resistant. These are the same products we used to paint the basketball courts in Pine Bluff. OZ Art would pay for all costs associated with the artwork.



RESOLUTION NO. _____

A RESOLUTION ENDORSING THE INSTALLATION OF ARTWORK TITLED "MULL IT OVER" BY ARTIST NINA CHANEL ABNEY ON PUBLIC PROPERTY ON THE RAZORBACK GREENWAY BEHIND 700 SE 5TH STREET.

WHEREAS, the City Council of the City of Bentonville has established the importance of integrating public art into the daily lives of the citizens of Bentonville by adopting a Public Art Policy with Ordinance No. 2013 – 40 on May 14, 2013; and,

WHEREAS, the Public Arts Advisory Committee recommended approval of the artwork and location on February 09, 2021; and,

WHEREAS, the Parks and Recreation Advisory Board recommended approval of the artwork and location on March 1, 2021;

WHEREAS, Oz Art is funding the artwork and installation and there is no cost to the city;

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

Section 1: That the City Council of the City of Bentonville, Arkansas hereby endorses the installation of privately funded artwork, titled "Mull it Over" by artist Nina Chanel Abney on the Razorback Greenway behind 700 SE 5th Street.

PASSED and APPROVED this _____ day of _____, 2021.

APPROVED

_____
Stephanie Orman, Mayor

ATTEST:

_____
Kirby Romines, City Clerk

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Electric**
Submitted by	**Travis Matlock**
Phone	**479-271-5941**

Item Type: (*Check All That Apply*)

☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☑ Resolution	☐ Bid Award

Recommendation/Suggested Action *(Enter recommendation in space below):*

Resolution authorizing the Mayor and City Clerk to enter into Addendum #4 to the Wal-Mart Master Development Agreement to perform procurement and construction for the electric upgrades required for the WMT Campus Development for $49,666,401.40. This will be paid for by the developer and was approved by the Utility Board 4-0.

Estimated Cost	**$49,666,401.40**
Is this Item Budgeted?	☐ Yes ☑ No

If no, please explain how item will be funded *(briefly explain in space below)* **:**

The developer will pay the costs of the electric imporvements for the campus. A budget adjustment will recognize the money from the developer.

ADDENDUM 4
TO
MASTER DEVELOPMENT AGREEMENT
GLOBAL HOME OFFICE PROJECT

PROCUREMENT AND CONSTRUCTION FOR THE 161 KV OPTION FOR THE ELECTRICAL DEVELOPMENT AGREEMENT FOR GLOBAL HOME OFFICE

This PROCUREMENT AND CONSTRUCTION FOR THE 161 KV OPTION FOR THE ELECTRICAL DEVELOPMENT AGREEMENT FOR GLOBAL HOME OFFICE (this "Addendum 4") is made as of the ____ day of _____, 2021 (the "Effective Date"), by and between the CITY OF BENTONVILLE, ARKANSAS, with offices at 117 West Central, Bentonville, Arkansas 72712 ("City") and WALMART INC., a Delaware corporation, with offices at 2001 SE 10th Street, Bentonville, Arkansas 72716 ("Walmart"). City and Walmart shall collectively be referred to herein as the "Parties."

W I T N E S S E T H

WHEREAS, Walmart and the City are parties to that certain Master Development Agreement-Global Home Office Project, dated July 14, 2020 ("Master Development Agreement"), and pursuant to Section 1 of the Master Development Agreement this Addendum 4 is incorporated into the Master Development Agreement as an Addendum (as defined therein) for all purposes. Unless expressly set forth herein, the terms of the Master Development Agreement shall control;

WHEREAS, pursuant to Addendum 1 to the Master Development Agreement ("Addendum 1"), Walmart and the City agreed to the Engineer Services Agreement and subsequent Change Orders regarding the design of City Work for the New Substation B and Substation E Upgrades as further described in the Utility Package which is further included and modified in Exhibit "A", attached hereto (collectively the City Work shall include the approved designs by Ampirical pursuant to Addendum 1, the items set forth in this Addendum 4 and Exhibit "A" attached hereto). Unless otherwise defined, capitalized terms herein shall have such meaning as set forth in Addendum 1; and

WHEREAS, the City and Walmart desire Ampirical to perform and construct the City Work and enter into this Addendum 4 to set forth their mutual responsibilities and obligations in regards to the City Work.

NOW, THEREFORE, for and in consideration of the mutual exchange of the covenants and agreements hereinafter set forth, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. New Substation B Property. Walmart shall convey to City the New Substation B Property by special warranty deed, in the form attached hereto as Exhibit "B" on or before one hundred twenty (120) days from the Effective Date.

2. Procurement and Construction Agreement. Within five (5) days following the Effective Date, the City shall engage Ampirical Solutions, L.L.C. ("Ampirical") pursuant to that certain Agreement Between Owner and Engineer (On the Basis of a Stipulated Price)(Project: WMT Substation/T-Line Relocation)("Procurement and Construction Agreement") for construction of the City Work on a fixed price basis ("P&C Costs").

3. Payment of P&C Costs. Attached hereto as Exhibit "D" is Ampirical's milestone date payment schedule for P&C Costs ("Ampirical Milestones"). Walmart shall pay the City, on or before thirty (30) days prior to the stated Ampirical Milestones dates, the scheduled payment due on Ampirical Milestones dates, as set forth on Exhibit "D". Walmart's maximum aggregate payments to the City for P&C Costs under the Procurement and Construction Agreement shall not exceed $49,666,401.00 ("Maximum Amount"). The City shall enforce the Procurement and Construction Agreement pursuant to the terms therein, and not default, amend, alter or request a Change Order without the prior written consent of Walmart. In the event Walmart approves a Change Order which reduces the costs to the City under the Procurement and Construction Agreement, the Maximum Amount under this Section 3 shall be reduced by an amount equal to the amount of such reduction of costs under the Procurement and Construction Agreement. If requested by Walmart, the City shall exercise the termination right set forth in Article 14 of the Terms and Conditions of the Procurement and Construction Agreement. The Parties hereby expressly agree that the Walmart payments shall not be used for any other costs and expenses other than the P&C Costs for the City Work.

4. Minimum Electrical Capacity for Walmart's Use. In addition to the City Work set forth on Exhibit "A", the City Work shall consist of construction of Substation B and expanded Substation E to provide a minimum of no less than thirty-eight (38) megawatts of electricity (as determined by Walmart's engineer) separately from Substation B and Substation E for Walmart's exclusive use during and following completion of the Walmart Global Home Office Project ("Walmart's Global Home Office").

5. Conveyance of Existing Substation B Property to Walmart. Upon completion of the City Work and as a condition to Walmart's obligations to pay the final payments under Section 3 (i) Walmart shall obtain a Phase I Environmental Site Assessment, and Phase II Environmental Site Assessment (if necessary)(collectively the "ESAs") of the Existing Substation B Property at the City's expense, (ii) the City shall remediate, at the City's sole cost and expense, all environmental conditions reflected in the ESAs to the reasonable satisfaction of Walmart, and (iii) the City shall convey the Existing Substation B Property to Walmart by special warranty deed, in the form attached hereto as Exhibit "B".

6. Compliance by City. City shall cause such action necessary and required to be taken to be in full compliance and meet all requirements set forth in applicable codes, laws, and ordinances, including, without limitation, those required by city, county, state, and federal governmental authorities.

7. Performance by City. The City shall cause the City Work to be substantially completed on or before July 2022 (the period of time commencing on the Effective Date through December 2022 is herein referred to as the "Construction Term". Notwithstanding anything herein

contained to the contrary, if in the reasonable opinion of Walmart, City has not commenced or is not proceeding with due diligence to perform its obligations hereunder in a workmanlike manner according to the provisions of this Addendum 4 to fully complete the City Work on or before the expiration of the Construction Term, then Walmart shall notify City in writing, in accordance with this Addendum 4, of such default, specifying the nature and circumstances of the default with particularity. If City shall continue to be in default under any of the provisions of this paragraph for sixty (60) days, or in the event that such default may not be reasonably cured within sixty (60) days, such additional time as is necessary to cure such default, or if City has failed to proceed with due diligence to cure such default, then Walmart shall have the right at its sole election and upon twenty-one (21) days advance written notice to City, to terminate this Addendum 4 as provided herein and City shall refund to Walmart an amount equal to the Walmart payments to the City as of the date of such termination, or pursue all such other rights or remedies at law.

8. New Substation B Connection and Maintenance of Substations and Substation Connections. During the Construction Term, the City shall install (i) conduit with two (2) feeders and 12.47 Kilovolt equipment to connect New Substation B to the medium voltage switchgear at both north and south central utility plants for the Global Home Office Project (the "New Substation B Connection"), and conduit with two (2) feeders and 12.47 Kilovolt equipment to connect Substation E Upgrades to the medium voltage switchgear at both north and south central utility plants for the Global Home Office Project (the "Expanded Substation E Connection", collectively with the New Substation B Connection, the "Substation Connections"). The Substation Connections shall be of a quality to allow constant transmission or conveyance of the required voltage and ampacity of electricity to the Walmart Property. Substation B shall be located on the New Substation B Property. The City shall maintain the New Substation B, Substation E, Substation E Upgrades and Substation Connections. The Substation Connections upon and across the Walmart Property and other property owned by Walmart ("Additional Walmart Property") shall be placed at locations and depths mutually agreed upon by Parties. Walmart shall grant easements (the "Walmart Property Easements") to the City for purposes of and City shall be responsible for the installation (funded by Walmart pursuant to this Addendum 4) (unless Walmart agrees to make such installation in discussion with both the City and Walmart), maintenance, repair and replacement of the portions of the Substation Connections upon the Walmart Property and Additional Walmart Property, at the City's sole cost and expense. The City shall connect electric lines to the medium voltage switchgear at each central utility plant located on Walmart's Property. The City shall provide notice to Walmart prior to the City's commencement of any work within the Walmart Property Easements, except in the case of an emergency. The City shall have access to the New Substation B at all times, and at no time shall Walmart construct any barriers preventing the City access. Excluding any Walmart Property Easements as described above, the City shall acquire all necessary rights of way and easements for the portion of the Substation Connections between the New Substation B, Substation E and the Walmart Property. If necessary the City shall exercise the City's right of eminent domain to acquire all necessary rights of way and easements between the New Substation B, Substation E and the Walmart Property. City hereby agrees that any portion of the Substation Connections upon the Walmart Property and Additional Walmart Property shall remain free of any lien of any character or nature whatsoever.

9. No Implied Obligation. It is expressly agreed that nothing contained in this Addendum 4 shall be construed to contain a covenant, either expressed or implied, to either

commence the construction of a building or the operation of a business or thereafter continuously operate a business on the Walmart Property.

10. Notices. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be mailed by certified or registered mail, return receipt requested and postage prepaid, or reputable overnight delivery service with proof of delivery, addressed as follows:

If to City:	Travis Matlock, PE Electric Utility Director City of Bentonville 608 SE 3rd Street Bentonville, Arkansas 72712
With a copy to:	Camille Thompson City Attorney City of Bentonville 117 West Central Bentonville, Arkansas 72712
If to Walmart:	Walmart Inc. 2608 SE J Street Bentonville, Arkansas 72716-0550 Attn: Myles Cochran, Managing Counsel Realty Operations
With a copy to:	Kutak Rock, LLP 5111 West JB Hunt Drive, Suite 300 Rogers, Arkansas 72758 Attn: Terry W. Pool

Notice shall be deemed to have been given upon receipt. Refusal of delivery for any reason shall be deemed receipt.

11. Modification. No modification of this Addendum 4 shall be valid or binding unless such modification is in writing, duly dated and signed by both parties.

12. No Partnership. This Addendum 4 does not create any obligation or relationship such as a partnership, joint venture, or other similar legal relationship under the laws of any state or the federal government. Any correspondence or other references to "partners" or other similar terms will not be deemed to alter, amend or change the relationship between the parties hereto unless there is a formal written Addendum 4 specifically detailing the rights, liabilities, and obligations of the parties as to a new, specifically defined legal relationship.

13. Binding. It is mutually understood and specifically agreed that this Addendum 1 is binding upon the respective heirs, successors, administrators, executors, and assigns of the parties hereto.

14. Choice of Law; Forum. This Addendum 4 shall be interpreted and construed in accordance with the laws of the State of Arkansas, and any dispute with respect to it and the rights and duties thereby created shall be litigated in U.S. District Court for the Western District of the State of Arkansas.

15. Entire Agreement. This Addendum 4, including the above Recitals which are incorporated herein, and the Master Development Agreement contains the entire agreement of the parties, and all prior communications, oral or written, are without any force and effect as it is the specific intent of the parties that this Addendum 4 and the Master Development Agreement sets forth the terms on which the parties have mutually agreed. Each party specifically agrees that it enters into this Addendum 4 based on its own understanding of the terms hereof and does not rely, in whole or in part, on any interpretation or representation of the other party, except as provided in the Master Development Agreement. Each party agrees that this Addendum 4 is the result of good faith arm's length negotiations. The Master Development Agreement and this Addendum 4 supersedes any prior agreements between the parties concerning New Substation B or the New Substation B Property, and no oral statements, representations or prior written matter relating to the subject matter hereof, but not contained in the Master Development Agreement or this Addendum 4, shall have any force or effect. ANY REPRESENTATION OF WALMART'S AGENTS OR ANY THIRD PARTY WHICH IS NOT INCORPORATED IN THE MASTER DEVELOPMENT AGREEMENT OR THIS ADDENDUM 4 SHALL NOT BE BINDING UPON WALMART AND SHOULD BE CONSIDERED AS UNAUTHORIZED. This Addendum 4 shall not be amended or added to in any way except by written instruments executed by both Parties and their respective successors in interest.

[*Signature Page Follows*]

IN WITNESS WHEREOF, this Addendum 1 has been executed on the date above written.

CITY

CITY OF BENTONVILLE,
ARKANSAS

By:_____
Name:_____
Title:_____

WALMART

WALMART INC.,
a Delaware corporation

By:_____
Name:_____
Title:_____

EXHIBIT "A"
City Work

In addition to such City Work described in this Addendum 4, the City Work shall include the following:

- Existing Substation "E" (910 SE "J" St.) will be expanded by adding an additional substation transformer and 4 substation breakers.
- Existing Substation "B" will be relocated and removed from the 69 kV loop, and the 69 kV line that currently runs down 8th St. to the existing Substation "B" location will be demolished. The new Substation "B" will be converted to a 161 kV substation, and be placed just east of the North CUP on the Walmart Global Home Office.
- An underground 161 kV transmission line will run along Moberly Ln., the abandoned railroad tracks, and MLK Blvd. to feed the newly converted Substation "B".
- All overhead distribution lines located within the Walmart Global Home Office will be relocated to the "edges" along SE "J" St, E. Central Ave., and SE Moberly.
- A dedicated underground circuit will run from the relocated Substation "B", down MLK, along 8th and provide a tertiary back up to the EDC located at 805 SE Moberly Lane.
- Each substation (B and E) will have two (2) dedicated substation breakers supplying electricity to the Walmart Global Home Office. There will be one (1) breaker from Substation B and one (1) breaker from Substation E to each Central Utility Plan (North and South) with a normally open switch located within Walmart's switchgear.
- Each substation (B and E) will have one (1) 24/32/40 MVA transformer dedicated to the Walmart Global Home Office load during normal operations. The City reserves the right to utilize these dedicated transformers to serve other distribution loads under contingency or maintenance scenarios with Walmart's prior written approval.
- There will be one (1) 36/48/60 MVA autotransformer placed at Substation "B" that will be connected to the 69 kV loop.
- The City will also serve the Walmart Global Home Office load from the other transformer in each substation (B and E) during maintenance or contingency.

EXHIBIT "B"
Form of New Substation B Special Warranty Deed

This document prepared by and upon recordation return to:	Deliver Tax Bills to:
_____	_____
_____	_____
_____	_____
_____	_____

SPECIAL WARRANTY DEED

KNOW ALL BY THESE PRESENTS:

That **WALMART INC.**, a Delaware corporation ("Grantor"), for and in consideration of the sum of Ten and NO/100 Dollars ($10.00) and other good and valuable consideration, in hand paid by **CITY OF BENTONVILLE** ("Grantee"), the receipt whereof is hereby acknowledged, does hereby forever grant, bargain, sell, convey, and confirm unto Grantee, and unto Grantee's successors and assigns forever, all of Grantor's right, title, and interest in and to the real property situated in the County of Benton, State of Arkansas, together with all improvements and fixtures of any kind thereon and all appurtenances thereto (the "Property"), being more particularly described as set forth in Exhibit "A", annexed hereto and incorporated herein for all purposes by this reference.

TO HAVE AND TO HOLD said Property unto Grantee, and Grantee's successors and assigns, forever, with all tenements, appurtenances, and hereditaments thereunto belonging.

Grantor hereby covenants with said Grantee that Grantor will forever warrant and defend the title to said Property against the lawful claims of all persons claiming by, through, or under Grantor, but none other, subject to any and all matters of record.

[*Signature Page Follows*]

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed effective as of this ____ day of _____, 20___.

GRANTOR:

WALMART INC.

By: _____
Name:_____
Title: _____

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF BENTON

In said County and State, on this day, before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ to me personally known or satisfactorily proven, who being by me duly sworn did say that he/she is the _____ of Walmart Inc., a Delaware corporation, and that he/she was duly authorized in such capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he/she had so signed, executed, and delivered the foregoing instrument for the consideration, uses, and purposes therein mentioned and set forth.

WITNESS MY HAND and notarial seal subscribed and affixed in said County and State, this ___ day of _____, 20_____.

_____
Notary Public

My commission expires:

_____

Exhibit A to New Substation B Special Warranty Deed

[New Substation B Property to be provided]

EXHIBIT "C"
Form of Existing Substation B Special Warranty Deed

This document prepared by and upon recordation return to:	Deliver Tax Bills to:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

SPECIAL WARRANTY DEED

KNOW ALL BY THESE PRESENTS:

That the **CITY OF BENTONVILLE, ARKANSAS** ("Grantor"), for and in consideration of the sum of Ten and NO/100 Dollars ($10.00) and other good and valuable consideration, in hand paid by **WALMART INC.**, a Delaware corporation ("Grantee"), the receipt whereof is hereby acknowledged, does hereby forever grant, bargain, sell, convey, and confirm unto Grantee, and unto Grantee's successors and assigns forever, all of Grantor's right, title, and interest in and to the real property situated in the County of Benton, State of Arkansas, together with all improvements and fixtures of any kind thereon and all appurtenances thereto (the "Property"), being more particularly described as set forth in Exhibit "A", annexed hereto and incorporated herein for all purposes by this reference.

TO HAVE AND TO HOLD said Property unto Grantee, and Grantee's successors and assigns, forever, with all tenements, appurtenances, and hereditaments thereunto belonging.

Grantor hereby covenants with said Grantee that Grantor will forever warrant and defend the title to said Property against the lawful claims of all persons claiming by, through, or under Grantor, but none other, subject to any and all matters of record.

[*Signature Page Follows*]

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed effective as of this ____ day of _____, 20___.

GRANTOR:

CITY OF BENTONVILLE, ARKANSAS

By: _____
Name:_____
Title: _____

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF BENTON

In said County and State, on this day, before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ to me personally known or satisfactorily proven, who being by me duly sworn did say that he/she is the _____ of the CITY OF BENTONVILLE, ARKANSAS, and that he/she was duly authorized in such capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he/she had so signed, executed, and delivered the foregoing instrument for the consideration, uses, and purposes therein mentioned and set forth.

WITNESS MY HAND and notarial seal subscribed and affixed in said County and State, this ___ day of _____, 20_____.

_____
Notary Public

My commission expires:

_____

Exhibit A to Existing Substation B Special Warranty Deed

[Existing Substation B Property to be provided]

EXHIBIT "D"

Ampirical Milestones Dates

Bentonville Electric Utility Department: Walmart Substation/Transmission Line Relocation - Wal-Mart (Ampirical Project No. 20081)								
Milestone No.	Baseline Milestone Completion Date	Asset/ WO Name	Milestone Category	Milestone	Milestone Description	% of Contract WO	Total Milestone Payment	Project Totals
1	2/10/2021	Performance & Payment Bond	Bond	Performance & Payment Bond	Purchase Performance & Payment Bonds for WMT T-Line/Substation Relocation Project	1%	$ 452,937	$ 452,937
2	2/10/2021	Project 1: Substation B Relocation	Contract	Contract Execution	Contract signed / executed by both the owner and contractor. This Milestone should be used by the contract partner to cover initial spend between contract execution and completion of downstream milestones.	10%	$ 1,228,248	$ 12,282,484
3	3/1/2021	Project 1: Substation B Relocation	Procurement	Major Material Purchase Orders Executed	Contractor has executed Major Material purchase orders	30%	$ 3,678,745	
4	6/1/2021	Project 1: Substation B Relocation	Construction	Contractor Mobilization	Contractor mobilized to site to commence construction activities	35%	$ 4,291,869	
5	11/12/2021	Project 1: Substation B Relocation	Procurement	Material Received at Site	100% of Electrical and Relay Major Material received at site	20%	$ 2,452,497	
6	5/22/2022	Project 1: Substation B Relocation	Construction	Substantial Completion	Contractor and Owner agree in writing that Substantial Completion has been achieved and a punchlist has been established to reach Final Completion	5%	$ 613,124	
7	2/10/2021	Project 2: Substation E Upgrade	Contract	Contract Execution	Contract signed / executed by both the owner and contractor. This Milestone should be used by the contract partner to cover initial spend between contract execution and completion of downstream milestones.	10%	$ 645,373	$ 6,453,732
8	3/1/2021	Project 2: Substation E Upgrade	Procurement	Major Material Purchase Orders Executed	Contractor has executed Major Material purchase orders	30%	$ 1,936,120	
9	4/12/2021	Project 2: Substation E Upgrade	Construction	Contractor Mobilization	Contractor mobilized to site to commence construction activities	35%	$ 2,258,806	
10	11/12/2021	Project 2: Substation E Upgrade	Procurement	Material Received at Site	100% of Electrical and Relay Major Material received at construction site or laydown area	20%	$ 1,290,748	
11	2/27/2022	Project 2: Substation E Upgrade	Construction	Substantial Completion	Contractor and Owner agree in writing that Substantial Completion has been achieved and a punchlist has been established to reach Final Completion	5%	$ 322,687	
17	2/10/2021	Project 4: Relocating Existing 15kV & 69kV Distribution and Transmission Lines - 8th/J Street to Substation B; 161kV UG/OH Installation	Contract	Contract Execution	Contract signed / executed by both the owner and contractor. This Milestone should be used by the contract partner to cover initial spend between contract execution and completion of downstream milestones.	10%	$ 1,748,350	$ 17,483,500
18	3/1/2021	Project 4: Relocating Existing 15kV & 69kV Distribution and Transmission Lines - 8th/J Street to Substation B; 161kV UG/OH Installation	Procurement	Major Material Purchase Orders Executed	Contractor has executed Major Material purchase orders	30%	$ 5,245,050	
19	5/10/2021	Project 4: Relocating Existing 15kV & 69kV Distribution and Transmission Lines - 8th/J Street to Substation B; 161kV UG/OH Installation	Construction	Contractor Mobilization	Contractor mobilized to site to commence construction activities	35%	$ 6,119,225	
20	9/13/2021	Project 4: Relocating Existing 15kV & 69kV Distribution and Transmission Lines - 8th/J Street to Substation B; 161kV UG/OH Installation	Procurement	Material Received at Site	100% of Underground Cable, Above Grade Major Equipment, Vaults, Transmission/Distribution Poles, and Overhead Conductor received at construction site or laydown area	10%	$ 3,496,700	
21	5/22/2022	Project 4: Relocating Existing 15kV & 69kV Distribution and Transmission Lines - 8th/J Street to Substation B; 161kV UG/OH Installation	Construction	Substantial Completion	Contractor and Owner agree in writing that Substantial Completion has been achieved and a punchlist has been established to reach Final Completion	5%	$ 874,175	
22	2/10/2021	Project 5: 15kV Feeder to the East Data Center - Underground	Contract	Contract Execution	Contract signed / executed by both the owner and contractor. This Milestone should be used by the contract partner to cover initial spend between contract execution and completion of downstream milestones.	10%	$ 505,669	$ 5,056,694
23	4/12/2021	Project 5: 15kV Feeder to the East Data Center - Underground	Procurement	Major Material Purchase Orders Executed	Contractor has executed Major Material purchase orders	30%	$ 1,517,008	
24	8/18/2021	Project 5: 15kV Feeder to the East Data Center - Underground	Construction	Contractor Mobilization	Contractor mobilized to site to commence construction activities	35%	$ 1,769,843	
25	8/31/2021	Project 5: 15kV Feeder to the East Data Center - Underground	Procurement	Material Received at Site	100% of Underground Cable, Above Grade Major Equipment, and Vaults received at construction site or laydown area	20%	$ 1,011,339	
26	5/22/2022	Project 5: 15kV Feeder to the East Data Center - Underground	Construction	Substantial Completion	Contractor and Owner agree in writing that Substantial Completion has been achieved and a punchlist has been established to reach Final Completion	5%	$ 252,835	
27	2/10/2021	Project 6: North/South CUP 15kV Feeders - Underground	Contract	Contract Execution	Contract signed / executed by both the owner and contractor. This Milestone should be used by the contract partner to cover initial spend between contract execution and completion of downstream milestones.	10%	$ 795,705	$ 7,957,054
28	3/1/2021	Project 6: North/South CUP 15kV Feeders - Underground	Procurement	Major Material Purchase Orders Executed	Contractor has executed Major Material purchase orders	30%	$ 2,387,116	
29	9/13/2021	Project 6: North/South CUP 15kV Feeders - Underground	Construction	Contractor Mobilization	Contractor mobilized to site to commence construction activities	35%	$ 2,784,969	
30	9/30/2021	Project 6: North/South CUP 15kV Feeders - Underground	Procurement	Material Received at Site	100% of Underground Cable, Above Grade Major Equipment, and Vaults received at construction site or laydown area	20%	$ 1,591,411	
31	5/22/2022	Project 6: North/South CUP 15kV Feeders - Underground	Construction	Substantial Completion	Contractor and Owner agree in writing that Substantial Completion has been achieved and a punchlist has been established to reach Final Completion	5%	$ 397,853	
							WMT TOTAL:	$ 48,666,401

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO ENTER INTO ADDENDUM NO. 4 TO THE WALMART GLOBAL HOME OFFICE MASTER DEVELOPMENT AGREEMENT.

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

Section 1: That the Mayor and Clerk be and are hereby authorized to enter into an amendment to the Master Development Agreement with Wal-Mart regarding the Global Home Office Project to provide for procurement and construction services related to electrical upgrades as set forth in the agreement attached hereto as Exhibit A.

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

PASSED and APPROVED this _____ day of _____, 2021.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Electric**
Submitted by	**Travis Matlock, PE**
Phone	**479-271-5941**

Item Type: (*Check All That Apply*)

☑ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☐ Resolution	☐ Bid Award

Recommendation/Suggested Action *(Enter recommendation in space below):*

Budget adjustment to recognize $49,666,401.40 from Wal-Mart to cover the cost of the procurement and construction of the electric upgrades associated with the WMT Campus project. This was approved by the Utility Board 4-0.

Estimated Cost	**$49,666,401.40**
Is this Item Budgeted?	☐ Yes ☑ No

If no, please explain how item will be funded *(briefly explain in space below)* **:**

This is for the procurement and construction portion of the WMT Campus. The developer is funding this portion as they did with the engineering portion.

Budget Adjustment Request

Date of City Council Meeting	3/9/2021
Department	Electric
Submitted by	Travis Matlock, PE
Phone	479-271-5941

Purpose of Budget Adjustment *(Enter purpose in space below):*

Budget adjustment to recognize $49,666,401.40 from Wal-Mart to cover the costs of the procurement and construction portion of the Ampicial agreement for the Wal-Mart Campus electric improvements. This was approved by the Utility Board 4-0.

General Ledger Account Information*				
Org (Department)	Object	Account Description	Revenue + (-)	Expense + (-)
503010.00	34410.00	Billed Services	$ 49,666,401.40	
503010.00	47310.00	Improvements Other than Electric		$ 49,666,401.40
		Totals	$ 49,666,401.40	$ 49,666,401.40
		Net Impact on Fund Balance	$	-

*Final Account Number will be determined by Accounting Department after approval and purchase

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Electric**
Submitted by	**Travis Matlock, PE**
Phone	**479-271-5941**

Item Type: (*Check All That Apply*)

☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☑ Resolution	☐ Bid Award

Recommendation/Suggested Action *(Enter recommendation in space below):*

Resolution authorizing the Mayor and City Clerk to enter into a agreement with Ampirical to perform equipment procurement and construction for the electric upgrades required for the WMT Campus Development for $59,294,471.00. This will be paid for by the 2 different sources. $49,666,401.40, from WMT, $9,628,069.60 from the Walton Family Foundation. This was approved by the Utility Board 4-0.

Estimated Cost	**$59,294,471.00**
Is this Item Budgeted?	☐ Yes ☑ No

If no, please explain how item will be funded *(briefly explain in space below)* **:**

A grant from each entity (Wal-Mart Stores, Inc. and the WFF), to the City of Bentonville will cover the costs of these projects.

M E M O R A N D U M

DATE: March 9, 2021

TO: **City Council, Mayor Orman**

FROM: Travis Matlock, Electric Utility Director

RE: **Engineering For Electric Upgrades for the WMT Campus**

Electric Dept. staff recommends entering into an agreement with Ampirical to perform the procurement and construction for the required electric upgrades for the WMT Campus $59,294,471.00.

In August 2020, the City Council approved an agreement with Ampirical to perform the engineering portion of the electric upgrades. This agreement is still in effect as the engineering is still proceeding, but the procurement and construction phase will begin with the ordering of the large lead time items such as substation transformers (current lead time of 8-10 months).

This agreement will also cover the procurement and construction of the OH to UG portion of the 8th Street project that is being funded by a grant from the Walton Family Foundation (agreement approved in August 2020).

BEUD, Ampirical, Wal-Mart, and Wal-Mart's engineer are working very closely throughout this whole process and feel confident that the end product will provide Wal-Mart with the required electric capacity and be a benefit to the City has a whole. The current schedule of construction puts the electric upgrades substantially complete by July 2022, with a total completion date of December 2022.

This agreement will cover all the procurement and construction for everything mentioned. WMT will pay for the Campus portion ($49,666,401.40), the WFF will pay the 8th St conversion ($9,628,069.60).

This item was approved by the Utility Board 4-0.

AGREEMENT
BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A STIPULATED PRICE

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Agreement Between Owner and Contractor on the Basis of a Stipulated Price.
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AGREEMENT
BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A STIPULATED PRICE

THIS AGREEMENT is by and between [City of Bentonville] ("Owner"), and Ampirical Solutions, L.L.C.] ("Contractor").

PROJECT INFORMATION

Project: [WMT Substation/T-line Relocation]

Construction Contract: ***[WMT Substation/T-line Relocation Contract]*** ("Contract")

Contractor: Contractor shall perform the Construction services for the Work, which consists generally of making physical improvements at the Site, and is the result of performing or furnishing of labor, the furnishing and incorporating of materials and equipment into the Work (including any correction of defective Construction), and the furnishing of services (other than Design Professional Services) and documents, all as required by the Contract Documents and Construction Drawings and Construction Specifications.

Authorized Representatives: Owner and Contractor each hereby designates a specific individual authorized to act as representative with respect to the performance of responsibilities under this Contract. Such an individual shall have authority to transmit instructions, receive formal notices, receive information, and render decisions relative to this Contract on behalf of the respective party that the individual represents.

Owner's Authorized Representatives:

Stephanie Orman
Mayor, City of Bentonville
117 W. Central Ave.
Bentonville, AR 72712
479-271-5966
sorman@bentonvillear.com

Travis Matlock, PE
Electric Utility Director
City of Bentonville
3200 Municipal Drive
Bentonville, AR 72712
Office: 479-271-5941
Email: tmatlock@bentonvillear.com

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Contractor's Authorized Representatives:

Matthew B. Saacks
President
Ampirical Solutions, L.L.C.
4 Sanctuary Blvd. Suite 100
Mandeville, LA 70471
Office: 985-809-5245
Email: msaacks@ampirical.com

Scott Curry, PE
Project Manager
Ampirical Solutions, L.L.C.
4 Sanctuary Blvd. Suite 100
Mandeville, LA 70471
Office: 985.231.6910
Cell: 504.495.9793
Email: scurry@ampirical.com

Owner and Contractor further agree as follows:

ARTICLE 1 – THE WORK

1.01 *General Description of Work*

A. Contractor shall complete all Work as specified or indicated in the Contract and Exhibit C - Technical Specifications and Scope of Work.

ARTICLE 2 – CONTRACT TIMES

2.01 *Time of the Essence*

A. All time limits for Contractor's attainment of Milestones, if any, Substantial Completion, and completion and readiness for final payment, as stated in the Contract, are of the essence of the Contract.

2.02 *Contract Times: Dates*

A. Contractor will substantially complete the Work on or before [July 31, 2022].

B. Contractor will have the Work completed and ready for final payment, in accordance with Paragraph 13.06 of the General Conditions, on or before [December 31, 2022].

C. Contractor shall attain Milestones in accordance with Exhibit B - Project Milestone Schedule.

ARTICLE 3 – CONTRACT PRICE

3.01 *Stipulated Sums*

A. Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents a lump sum of: $$59,294,471, subject to adjustment under the Contract.

3.02 *Changes in Contract Price Based on Cost of the Work*

A. If the value of Work covered by a Change Order or an adjustment in the Contract Price is determined on the basis of Cost of the Work, and involves Work performed under

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Construction Subcontracts, the allowable mark-ups on lower tier invoices shall be limited to 10%.

ARTICLE 4 – PAYMENT PROCEDURES

4.01 *Submittal and Processing of Milestone Payments*

A. Milestone payments shall be made according to the Milestone values established in Exhibit B.

B. Contractor may invoice for a completed Work Milestone once Owner has provided concurrence in writing that said Milestone has reached successful completion.

C. Owner agrees to pay Contractor for completed Work Milestones within 30 days of receipt of Invoice for completed Work.

D. Invoices to the Owner shall be sent by electronic mail to _____.

E. Payment to Contractor shall be made in accordance with the following wiring instructions:

1. Bank Name:
2. Account Number:
3. Routing Number for ACH Payments:

ARTICLE 5 – INTEREST

5.01 *Interest Rate*

A. All amounts not paid when due shall bear interest at the rate of [ ] per day, not to exceed [ ] of the total amount due.

ARTICLE 6 – CONTRACTOR'S REPRESENTATIONS

6.01 *Representations*

A. Contractor makes the following representations for Owner's reliance:

1. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
2. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
3. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
4. Contractor has carefully studied all: (a) reports of explorations and tests of subsurface conditions at or adjacent to the Site, and all drawings of physical conditions relating to existing surface or subsurface structures at the Site, if any, that Owner has identified or made available to Contractor, especially with respect to Technical Data in such reports and drawings, and (b) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site, that Owner has identified or made available to Contractor, especially with respect to Technical Data in such reports and drawings.

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5. Contractor has considered the information known to Contractor itself, and to Construction Subcontractors that Contractor has selected as of the Effective Date; information commonly known to construction professionals and contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings (if any) identified in the Contract Documents or otherwise made available to Contractor, with respect to the effect of such information, observations, and documents on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.

6. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary prior to entry into the Contract at the Contract Price, subject to the Contract Times.

7. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

8. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

9. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 7 – CONTRACT DOCUMENTS

7.01 *Contents*

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to [ ], inclusive).
2. Performance bond (pages [ ] to [ ], inclusive).
3. Payment bond (pages [ ] to [ ], inclusive).
4. Other bonds.
   a. [ ] (pages [ ] to [ ], inclusive).
5. General Conditions (pages [ ] to[ ], inclusive).
6. Contractor's Proposal.
7. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
   a. Work Change Directives.
   b. Change Orders.
   c. Record Drawings and Record Specifications

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d. Permits, Easements, Right-of-Way Agreements, and/or any documents that Owner is required to provide to Contractor under this Agreement and/or the General Conditions to this Agreement

8. Other Exhibits to this Agreement (enumerated as follows):

a. Exhibit A – Ampirical Labor Rates

b. Exhibit B – Project Milestone Schedule

c. Exhibit C – Technical Specifications and Scope of Work

d. Exhibit D – WMT T-Line/Substation Relocation – 161kV Option Budgetary Estimate (Dated November 16, 2020)

B. The documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 7.

D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 8 – MISCELLANEOUS

8.01 *Terms*

A. Terms used in this Agreement will have the meanings stated in the General Conditions and Supplementary Conditions.

8.02 *Assignment of Contract*

A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on the other party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract.

8.03 *Successors and Assigns*

A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, and its successors, assigns, and legal representatives, in respect to all covenants, agreements, and obligations contained in the Contract.

8.04 *Severability*

A. Any provision or part of the Contract held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor.Contractor's Certifications

B. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.05:

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1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

C.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on [ ] (which is the Effective Date of the Contract).

OWNER:	CONTRACTOR:
City of Bentonville	Matthew B. Saacks
By: Stephanie Orman	By: President
Title: Mayor, City of Bentonville	Title: Ampirical Solutions, L.L.C.
Attest:	Attest:
Title:	Title:
Address for giving notices:	Address for giving notices:
117 W. Central Avenue	4 Sanctuary Boulevard, Suite 100
Bentonville, AR 72712	Mandeville, LA 70471
	License No.:

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(where applicable)

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STANDARD GENERAL CONDITIONS

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STANDARD GENERAL CONDITIONS

TABLE OF CONTENTS

Page

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY 1

1.01 Defined Terms 1

1.02 Terminology 6

ARTICLE 2 – PRELIMINARY MATTERS 6

2.01 Delivery of Bonds and Evidence of Insurance 6

2.02 Copies of Documents 6

2.03 Conceptual Documents 7

2.04 Before Starting the Work 7

2.05 Authorized Representatives 8

2.06 Initial Conference 8

2.07 Review of Schedules 8

2.08 Electronic Transmittals 8

ARTICLE 3 – DOCUMENTS: INTENT, AMENDING, REUSE 9

3.01 Contract Documents 9

3.02 Reference Standards 9

3.03 Resolving Discrepancies 9

3.04 Ownership and Reuse of Documents 10

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK 10

4.01 Commencement of Contract Times 10

4.02 Starting the Work 10

4.03 Progress Schedule 10

4.04 Delays in Ampirical's Progress 11

ARTICLE 5 – SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS 12

5.01 Availability of Lands 12

5.02 Use of Site and Other Areas 12

5.03 Reference Points 13

5.04 Differing Site Conditions 13

5.05 Underground Facilities 14

5.06 Hazardous Environmental Conditions at Site 15

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ARTICLE 6 – BONDS AND INSURANCE 17
6.01 Performance, Payment, and Other Bonds 17
6.02 Insurance – General Provisions 17
6.03 Ampirical's Insurance 19
6.04 Owner's Liability Insurance 21
6.05 Property Insurance 21
6.06 Receipt and Application of Property Insurance Proceeds 22
ARTICLE 7 – AMPIRICAL'S RESPONSIBILITIES 22
7.01 Design Professional Services 22
7.02 Construction 22
7.03 Supervision and Superintendence of Construction 22
7.04 Labor; Working Hours 23
7.05 Services, Materials, and Equipment 23
7.06 "Or Equals" and Substitutions 23
7.07 Concerning Project Design Professionals, Construction Subcontractors, Suppliers, and Others 24
7.08 Patent Fees and Royalties 25
7.09 Permits and Utility Charges 26
7.10 Taxes 26
7.11 Laws and Regulations 26
7.12 Record Documents 26
7.13 Safety and Protection 27
7.14 Safety Representative 27
7.15 Hazard Communication Programs 28
7.16 Emergencies 28
7.17 Post-Construction Phase 28
7.18 Ampirical's General Warranty and Guarantee 28
7.19 Indemnification 29
ARTICLE 8 – SUBMITTALS 30
8.01 Ampirical's Preparation of Submittals 30
8.02 Owner's Review of Submittals 31
ARTICLE 9 – OTHER CONSTRUCTION 32
9.01 Other Work 32

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9.02 Coordination 32
9.03 Legal Relationships 33
ARTICLE 10 – OWNER'S RESPONSIBILITIES 33
10.01 General 33
10.02 Insurance 34
10.03 Limitations on Owner's Responsibilities 34
10.04 Undisclosed Hazardous Environmental Condition 35
10.05 Owner's Site Representative 35
10.06 Owner's Consultants and Managers 35
10.07 Safety Programs 35
10.08 Permits and Approvals 35
ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK 35
11.01 Amending and Supplementing Contract Documents 35
11.02 Authorized Changes in the Work 36
11.03 Unauthorized Changes in the Work 36
11.04 Changes Involving the Design 36
11.05 Change of Contract Price 37
11.06 Change of Contract Times 37
11.07 Execution of Change Orders 37
11.08 Notice to Sureties 37
ARTICLE 12 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE CONSTRUCTION 38
12.01 Access to Construction 38
12.02 Tests, Inspections, and Approvals 38
12.03 Uncovering Construction 39
12.04 Defective Construction 39
12.05 Owner May Correct Defective Construction 40
12.06 Costs 40
12.07 Owner's Acceptance of Defective Construction 40
12.08 Owner May Stop Construction 40
ARTICLE 13 – PAYMENTS TO AMPIRICAL; COMPLETION 41
13.01 Progress Payments 41
13.02 Ampirical's Warranty of Title 42

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13.03 Substantial Completion 43
13.04 Partial Use or Occupancy 43
13.05 Final Inspection 44
13.06 Final Payment 44
13.07 Waiver of Claims 45
13.08 Correction Period 45
ARTICLE 14 – SUSPENSION OF WORK AND TERMINATION 46
14.01 Owner May Suspend Work 46
14.02 Owner May Terminate for Cause 46
14.03 Owner May Terminate for Convenience 47
14.04 Ampirical May Stop Work or Terminate 47
ARTICLE 15 – DISPUTES 47
15.01 Methods and Procedures 47
ARTICLE 16 – MISCELLANEOUS 48
16.01 Giving Notice 48
16.02 Computation of Times 48
16.03 Cumulative Remedies 49
16.04 Limitation of Damages 49
16.05 No Waiver 49
16.06 Survival of Obligations 49
16.07 Controlling Law 49
16.08 Headings 49

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STANDARD GENERAL CONDITIONS

This document provides the Standard General Conditions applicable to the Agreement or Agreements between Bentonville Electric Utilities Department ("Owner" or "BEUD") and Ampirical Solutions, L.L.C. ("Ampirical") related to [*WMT Substation/T-line Relocation*].

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Contract Documents and printed with initial capital letters, the following terms have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda:* Written or graphic instruments issued by Owner prior to the opening of Proposals which clarify, correct, or change the Request for Qualifications, Request for Proposals, or the proposed Contract Documents, including the Conceptual Documents.

2. *Agreement:* The written instrument, executed by Owner and Ampirical, that sets forth the Contract Price and Contract Times, identifies the parties, and designates the specific items that are Contract Documents.

3. *Application for Payment:* The form which is to be used by Ampirical during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Authorized Representative:* The individual designated by a party to represent it with respect to this Contract, as indicated in the Agreement.

5. *Change Order:* A document that is signed by Ampirical and Owner and authorizes an addition, deletion, or revision in the Work, or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.

6. *Claim:* A demand or assertion by Owner or Ampirical seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A request or proposal for a Change Order is not a Claim.

7. *Conceptual Documents:* The documents prepared by or for the Owner to describe the Work to be performed, issued to Proposers during the counterparty selection process, and expressly identified in the Agreement.

8. *Constituent of Concern:* Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other Laws or Regulations regulating, relating to, or imposing liability or

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standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

9. *Construction:* The part of the Work that consists generally of making physical improvements at the Site, and is the result of performing or furnishing of labor, the furnishing and incorporating of materials and equipment into the Work (including any correction of defective Construction), and the furnishing of services (other than Design Professional Services) and documents, all as required by the Contract Documents and Construction Drawings and Construction Specifications, as duly modified.

10. *Construction Drawings:* Documents prepared by or for Ampirical, and approved by Owner for purposes of allowing Ampirical to proceed with the Construction or specific portions of the Construction, and consisting of drawings, diagrams, illustrations, schedules, and other data that graphically show the scope, extent, and character of the Construction (or specific portions of the Construction) to be performed by or for Ampirical. Construction Drawings are not Contract Documents.

11. *Construction Specifications:* Documents prepared by or for Ampirical, and approved by Owner for purposes of allowing Ampirical to proceed with the Construction or a specific portion of the Construction, and consisting of written requirements for materials, equipment, systems, standards, workmanship, and administrative procedures as applied to the Construction (or a specific portion of the Construction). Construction Specifications are not Contract Documents.

12. *Construction Subcontract:* A written agreement between Ampirical and a Construction Subcontractor for provision of all or a portion of the Construction, and any delegated Design Professional Services.

13. *Construction Subcontractor:* An individual or entity (other than a Supplier) having a direct contract with Ampirical or with any other Construction Subcontractor for the performance of a part of the Construction, and any delegated Design Professional Services.

14. *Contract:* The entire and integrated written agreement between Owner and Ampirical concerning the Work.

15. *Contract Documents:* Those items so designated in the Agreement, and which together comprise the Contract.

16. *Contract Price:* The money that Owner has agreed to pay Ampirical for completion of the Work in accordance with the Contract Documents.

17. *Contract Times:* The numbers of days or the dates stated in the Agreement to (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.

18. *Contractor:* An individual or entity with which Owner enters into a Construction Contract.

19. *Design Professional Services:* That part of the Work comprised of the furnishing of engineering, surveying, architecture, and other design services, and including but not limited to providing research, analysis, and conclusions regarding engineering and related matters; exercising professional judgment with respect to technical issues; the preparation of plans, reports, calculations, models, schematics, drawings, specifications, Design Submittals, the Construction Drawings, Construction Specifications, and other instruments of service; other services included in the Contract Documents and required

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to be performed by or under the responsible charge of licensed design professionals; and the review of shop drawings, observation of construction, response to requests for information or interpretation, analysis of the technical aspects of Change Orders, and other engineering and related professional services provided by or for licensed design professionals during Construction.

20. *Design Submittal:* A Submittal that pursuant to Laws and Regulations or this Contract must be prepared by or under the supervision of a licensed engineer or other licensed design professional, including drawings, specifications, Construction Drawings, Construction Specifications, and revisions to such documents (but not including Record Documents).

21. *Effective Date of the Contract:* The date indicated in the Agreement on which the Contract becomes effective, but if no such date is indicated it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

22. *Engineer:* Ampirical Solutions, L.L.C. is the Engineer that will provide engineering and related professional services as the Project Design Professional.

23. *Hazardous Environmental Condition:* The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.

24. *Laws and Regulations; Laws or Regulations:* Any and all applicable laws, statutes, rules, regulations, ordinances, binding resolutions, codes, decrees, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

25. *Liens:* Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.

26. *Milestone:* A principal event in the performance of the Work that the Contract requires Ampirical to achieve by an intermediate completion date or by a time prior to Substantial Completion of Construction.

27. *Notice to Proceed*: A written notice by Owner to Ampirical fixing the date on which the Contract Times will commence to run and on which Ampirical shall start to perform the Work.

28. *Owner:* The individual or entity with which Ampirical has contracted regarding the Work, and which has agreed to pay Ampirical for the performance of the Work, pursuant to the terms of the Contract. Bentonville Electric Utilities Department is the Owner.

29. *Owner's Consultant:* An individual or entity with which the Owner has contracted to furnish services (typically including planning, preparation of Conceptual Documents, and advisory services) to Owner with respect to the Project, and which is identified as such in the Agreement.

30. *Owner's Site Representative:* A representative of Owner at the Site, as indicated in Paragraph 10.05.

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31. *Project:* The total undertaking to be accomplished for Owner by engineers, consultants, Ampirical, subcontractors, and others, including planning, study, design, construction, testing, start-up, and commissioning, and of which the Work to be performed under the Contract Documents is a part.

32. *Project Design Professionals:* The Engineer and any other independent entities or individuals, or employees of Ampirical, engaged by Ampirical or a Construction Subcontractor to provide Design Professional Services with respect to a portion of the Work.

33. *Proposal:* The documents submitted by Ampirical in response to the Request for Proposals, setting forth technical concepts, proposed prices, and other conditions for the Work to be performed, and stating any proposed revisions, modifications, clarifications, exceptions, or supplements to the proposed Contract Documents.

34. *Proposer:* An entity that submits a Statement of Qualifications or Proposal to Owner.

35. *Record Documents:* The record copy of all Construction Drawings, Construction Specifications, Addenda, Change Orders, Work Change Directives, and approved Submittals maintained by Ampirical at the Site, including any annotations to such documents made by Ampirical during Construction.

36. *Record Drawings and Record Specifications:* Documents depicting the completed Project, or a specific portion of the completed Project, based on or comprised of the Record Documents delivered to Owner by Ampirical at the completion of the Construction.

37. *Request for Proposals:* The document prepared by or for Owner specifying and describing Owner's objectives, the procedures to be followed in preparing and submitting a Proposal, and the process for evaluating Proposals and awarding a contract.

38. *Request for Qualifications:* The document prepared by or for Owner requesting that Proposers submit a Statement of Qualifications with respect to their candidacy for performance of the Work.

39. *Schedule of Values:* A schedule, prepared and maintained by Ampirical, allocating portions of the Contract Price to various portions of the Work, and used as the basis for reviewing Ampirical's Applications for Payment.

40. *Site:* Lands or areas indicated in the Contract Documents as being furnished by Owner upon which Construction is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for use of Ampirical.

41. *Statement of Qualifications:* The document submitted by a Proposer in response to the Request for Qualifications, including any completed forms, attachments, and exhibits.

42. *Submittal*: A written or graphic document, prepared by or for Ampirical, which the Contract Documents require Ampirical to submit to the Owner. Submittals may include reports, preliminary drawings and specifications, cost estimates, proposed Construction Drawings and Construction Specifications, progress schedules, cash flow projections, Schedules of Values, shop drawings, product data, samples, delegated designs, certifications, proposed modifications to the Construction Drawings and Construction Specifications, results of tests and evaluations, results of source quality control testing and inspections, results of field or Site quality control testing and evaluations, sustainable design information, information on special procedures, operations and maintenance

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data, sustainable design closeout information, record documents, records of spare parts and extra stock materials, and other such documents required by the Contract Documents. Submittals, whether approved or accepted by Owner or not, are not Contract Documents. Claims, notices, Change Orders, Applications for Payment, and requests for information/interpretation are not Submittals.

43. *Substantial Completion:* The time at which the Construction (or a specified part thereof) has progressed to the point where it is sufficiently complete, in accordance with the Contract Documents, so that the Construction (or the specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Construction refer to Substantial Completion thereof.

44. *Supplementary Conditions:* The part of the Contract Documents which amends or supplements these General Conditions.

45. *Supplier:* A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Ampirical or with any Construction Subcontractor to furnish materials or equipment to be incorporated in the Work by Ampirical or a Construction Subcontractor, and any lessor of rental equipment used by Ampirical or a Construction Subcontractor during Construction at the Site.

46. *Technical Data:* Data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding (a) subsurface conditions at the Site, (b) physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), or (c) environmental conditions at the Site, that are set forth in any geotechnical or environmental report prepared for the Project and relied upon by Ampirical in agreeing to a price (either stipulated, or a Guaranteed Maximum Price) that includes Construction.

47. *Underground Facilities:* All underground lines, pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems, including but not limited to those that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, fire or police signal systems, or traffic or other control systems; and any encasements containing such facilities or systems.

48. *Underground Facilities Data:* Information and data shown or indicated in the Contract Documents or otherwise provided to Ampirical by Owner with respect to existing Underground Facilities at or adjacent to the Site.

49. *Unit Price Work:* Work to be paid for on the basis of unit prices.

50. *Work:* The entire design and construction or the various separately identifiable parts thereof required to be performed or furnished by Ampirical under the Contract Documents. Work includes and is the result of performing or furnishing Design Professional Services and Construction required by the Contract Documents and all labor, services, and documentation necessary to produce such Design Professional Services and Construction; furnishing, installing, and incorporating all materials and equipment into such Construction; and related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

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51. *Work Change Directive:* A written directive to Ampirical, issued on or after the Effective Date of the Contract, signed by Owner, ordering an addition, deletion or revision in the Work.

1.02 *Terminology*

A. The words and terms discussed in Paragraph 1.02.B are not defined terms that require initial capital letters, but when used in the Contract Documents have the indicated meanings.

B. *Intent of Certain Terms or Adjectives:*

1. The word "day" shall constitute a calendar day of 24 hours measured from midnight to the next midnight.

2. The word "defective," when modifying the word "Construction" refers to Construction that is unsatisfactory, faulty, or deficient in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to Owner's final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion) provided that the defect was not caused by Owner.

3. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

4. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials or equipment or equipment complete and ready for intended use.

5. The words "perform" or "provide" when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

6. When "furnish," "install," "perform," or "provide" is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Ampirical, "provide" is implied.

7. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with that meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

A. *Bonds*: When Ampirical delivers the executed Agreements to Owner, Ampirical shall also deliver to Owner such Bonds as Ampirical may be required to furnish in accordance with Paragraph 6.01.A.

B. *Evidence of Insurance*: Before any Work is started, Ampirical and Owner shall each deliver to the other those certificates of insurance that Ampirical and Owner respectively are required to purchase and maintain in accordance with Article 6.

2.02 *Copies of Documents*

A. Owner shall furnish to Ampirical four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document

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format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.

2.03 *Conceptual Documents*

A. *Ampirical's Review of Conceptual Documents:*

1. Ampirical acknowledges that the Conceptual Documents furnished by Owner are preliminary and incomplete, and subject to stated limitations and reservations.

2. Ampirical shall carefully review, analyze, and verify the contents and suitability of the Conceptual Documents before proceeding with the Work (including but not limited to the Design Professional Services).

3. Ampirical shall promptly report in writing to Owner any conflict, error, ambiguity, or discrepancy that Ampirical may discover in the Conceptual Documents, whether during such review or at any later point.

4. Upon receipt of a report from Ampirical that there is a conflict, error, ambiguity, or discrepancy in the Conceptual Documents, Owner shall either provide a written interpretation, clarification, or correction to Ampirical, or authorize Ampirical to correct or resolve the issue under a Change Order providing an equitable adjustment in Contract Times or Contract Price, or both.

5. Ampirical shall not proceed with any Work affected by a reported conflict, error, ambiguity, or discrepancy in the Conceptual Documents until the issue is resolved.

B. Subject to the foregoing review and reporting obligations, Ampirical may use the Conceptual Documents as a partial basis for performing or furnishing Design Professional Services, including the preparation of Design Submittals such as the Construction Drawings and Construction Specifications, but despite any such use of the Conceptual Documents Ampirical nonetheless shall be responsible to Owner for the quality and soundness of the Design Professional Services.

2.04 *Before Starting the Work*

A. *Preliminary Schedules:* Within 14 days after commencement of the Contract Times (unless otherwise specified in the Contract Documents), Ampirical shall submit the following to Owner for Owner's timely review:

1. A Level II Schedule indicating dates of engineering, procurement, and construction activities, submittals, and milestones as summary tasks. Summary tasks will expand upon the Level I Schedule activities submitted with the project estimate and will interconnected to identify the project's critical path. Level II Schedule and all subsequent project schedules shall be developed utilizing Primavera's P6 software. Schedules shall be submitted in PDF and .xer formats;

2. A Project Milestone Schedule (separate from but in agreement with the Level II Schedule) outlining project milestone completion dates and dollar values. Milestone schedule shall indicate the percentage of the total Contract Price held by each Milestone's dollar value. Milestone schedule shall be submitted in Excel format, so Milestones can be tracked and updated throughout the project; and

3. A preliminary cash flow projection estimating that portion of the Contract Price to be due during each month of performance.

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2.05 *Authorized Representatives*

A. The Authorized Representative for each party has been designated in the Agreement. A party may change its Authorized Representative at any time by giving notice to the other party of the name, mailing and delivery addresses, e-mail address, and telephone numbers of the new Authorized Representative.

2.06 *Initial Conference*

A. Within 20 days after the Contract Times start to run, Ampirical will arrange a conference attended by Owner and Ampirical and others as appropriate to establish a working understanding among the parties as to the Work and to discuss the design concepts, schedules referred to in Paragraph 2.04.A, procedures for handling Submittals, processing Applications for Payment, maintaining required records, and other matters.

2.07 *Review of Schedules*

A. Not less than 10 days before submission of the first Application for Payment (unless otherwise provided in the Contract Documents), Ampirical will arrange a conference attended by Ampirical, Owner, and others as appropriate to review and discuss the schedules submitted in accordance with Paragraph 2.04.A. Ampirical shall have an additional 10 days after the conference to make corrections and adjustments and to complete and resubmit the schedules for Owner's acceptance. No progress payment shall be made to Ampirical until Ampirical submits schedules that comply with the following requirements:

1. Ampirical's progress schedule shall provide an orderly progression of the Work to completion within any specified Milestones and the Contract Times.
2. Ampirical's schedule of Submittals shall provide a workable arrangement for submitting, reviewing, and processing Submittals in accordance with Article 8.
3. Ampirical's Schedule of Values shall provide a reasonable allocation of the Contract Price to component parts of the Work.

2.08 *Electronic Transmittals*

A. Except as otherwise stated elsewhere in the Contract, the Owner and Ampirical may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Submittals, in electronic media or digital format, either directly, or through access to a secure Project website.

B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner and Ampirical shall jointly develop such protocols.

C. Unless expressly stated otherwise elsewhere in this Contract, Ampirical shall not be obligated to furnish documents (including but not limited to Construction Drawings, Construction Specifications, or Record Drawings and Record Specifications) to Owner in any executable, native-file format.

D. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

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ARTICLE 3 – DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Contract Documents*

A. The Contract Documents are complementary; what is called for by one is as binding as if called for by all.

B. It is the intent of the Contract Documents to require the design and construction of a functionally complete project, including procurement of required materials and equipment.

C. Ampirical shall prepare or furnish Construction Drawings and Construction Specifications that are in accord with the Contract Documents and that describe a functionally complete Project to be constructed in accordance with such Construction Drawings and Construction Specifications, as duly modified.

D. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

E. Ampirical will furnish or perform all labor, documentation, services (including professional services), materials, and equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result whether or not specifically called, for at no additional cost to Owner.

3.02 *Reference Standards*

A. *Standards, Specifications, Codes, Laws or Regulations:*

1. Reference to standards, specifications, manuals or codes of any technical society, organization or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect on the Effective Date except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard, specification, manual, or code, or instruction of a Supplier, shall be effective to change the duties and responsibilities of Owner, Ampirical, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents, nor shall it be effective to assign to Owner or its officers, directors, members, partners, employees, agents, consultants, or subcontractors any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Resolving Discrepancies*

A. If there is a discrepancy between (1) the Conceptual Documents or other Contract Documents issued with the Request for Qualifications or Request for Proposals and (2) the Proposal, the Proposal will control.

B. If there is a discrepancy between (1) the Contract Documents and (2) the Construction Drawings and Construction Specifications, the Contract Documents will control unless Ampirical gave notice of the discrepancy in a Submittal, and Owner approved the Submittal, pursuant to the provisions of Article 8.

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3.04 *Ownership and Reuse of Documents*

A. All documents prepared for or furnished to Owner by Ampirical pursuant to this Contract (including but not limited to Design Submittals) are instruments of service. With respect to such documents:

1. Ampirical shall have and retain the ownership, title, and property rights, including copyright, patent, intellectual property, and common law rights, in the documents.

2. During the course of the Project, Ampirical will provide copies of Design Submittals to Owner for purposes of review and comment. Owner may retain copies of such documents for its records.

3. Owner may use its copy of the Record Drawings and Record Specifications for Owner's purposes in operating and maintaining the constructed facilities.

4. Upon Owner's termination of this Contract for cause pursuant to Paragraph 14.02, Owner shall receive a limited, non-exclusive license to use any completed Design Submittals in continuing the Project, subject to the limitations in this Paragraph 3.04.

5. The documents prepared or furnished by Ampirical under this Contract, regardless of ownership, transfer, license, completion status, or termination of the Contract, are for Ampirical's use, and are not intended or represented to be suitable for use on the Project by Owner or any party other than Ampirical, or for reuse by Owner or others on extensions of the Project or on any other project, except as otherwise stated in this Contract. Any use or reuse by Owner or others on Owner's behalf will be at Owner's sole risk, and without liability or legal exposure to Ampirical, the Project Design Professionals, or their subconsultants, and Owner shall indemnify and hold harmless Ampirical, the Project Design Professionals, and their subconsultants from all claims, damages, losses and expenses, including attorneys' fees, arising out of or resulting from any such use or reuse.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times*

A. The Contract Times will commence to run on the Effective Date of the Contract.

4.02 *Starting the Work*

A. Ampirical shall start to perform the Work as of the Effective Date of the Contract. No Construction shall be done at the Site prior to the Effective Date of the Contract.

4.03 *Progress Schedule*

A. Owner may rely on the progress schedule established in accordance with Paragraph 2.04, as duly adjusted, in planning and conducting ongoing operations and other work at the Site.

B. Ampirical shall adhere to the progress schedule established in accordance with Paragraph 2.04 as it may be adjusted from time to time, as provided below:

1. Ampirical shall submit to Owner proposed adjustments in the progress schedule that will not change the Contract Times (or Milestones). Owner shall accept such adjustments provided that Owner, in planning and conducting ongoing operations and other work at the Site, has not reasonably relied on the schedule element that is proposed to be

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adjusted. If Owner has so relied, then Owner and Ampirical shall promptly meet and seek a resolution that addresses the objectives of both parties, or adjust the Contract Price.

2. Ampirical shall submit proposed adjustments in the progress schedule that will change the Contract Times (including Milestones) in accordance with the requirements of Paragraph 11.06. Such adjustments may only be made by a Change Order.

C. *Continuing the Work:* Ampirical shall continue the Work and adhere to the progress schedule during all disputes or disagreements with Owner. No undisputed Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as Ampirical and Owner may otherwise agree in writing.

4.04 *Delays in Ampirical's Progress*

A. If Owner or anyone for whom Owner is responsible delays, disrupts, or interferes with the performance or progress of the Work, then Ampirical shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Ampirical's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Ampirical's ability to complete the Work within the Contract Times.

B. Ampirical shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference within the control of Ampirical. Delay, disruption, and interference attributable to and within the control of a Project Design Professional, Construction Subcontractor, or Supplier shall be deemed to be delays within the control of Ampirical.

C. If Ampirical's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Ampirical, and those for which they are responsible, then Ampirical shall be entitled to an equitable adjustment in Contract Times. Ampirical's entitlement to such an adjustment of the Contract Times is conditioned on such adjustment being essential to Ampirical's ability to complete the Work within the Contract Times. Such an adjustment shall be Ampirical's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;

2. Abnormal weather conditions;

3. Acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 9);

4. Acts of war or terrorism; and

5. Declared pandemics.

D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.

E. Paragraph 9.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

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F. Ampirical shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Ampirical.

G. If Ampirical seeks an adjustment in Contract Price or Contract Times under this paragraph, Ampirical shall submit a request for a Change Order to Owner within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

A. Owner shall furnish the Site. Owner shall notify Ampirical of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Ampirical will have to comply in performing the Work.

B. Upon reasonable written request, Owner shall furnish Ampirical with a current statement of record legal title and legal description of the lands upon which the Construction is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws or Regulations.

C. Ampirical shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas:*

1. Ampirical shall confine construction equipment, the storage of materials and equipment, and the operations of construction workers to the Site and other areas permitted by Laws or Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Ampirical shall assume full responsibility for any damage to any land or area adjacent to the Site, or to the owner or occupant thereof, resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of Work, Ampirical shall promptly settle with such other party by negotiation, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law.

3. To the fullest extent permitted by Laws or Regulations, Ampirical shall indemnify and hold harmless Owner against all claims, costs, losses and damages (including, but not limited to, fees of engineers, architects, attorneys and other professionals and court and arbitration or other dispute resolution costs) arising out of or resulting from any claim brought by any such owner or occupant against Owner, or any other party indemnified hereunder to the extent caused by or based upon Ampirical's performance of the Construction.

4. Ampirical shall not assume responsibility, and shall not owe any defense or indemnity to Owner for claims asserted by any property owner or occupant arising out of any dispute regarding the metes, bounds or legal and/or physical description and/or definition of the Site.

5. In the event that Owner requests or demands that Ampirical provide defense or indemnity for any claims, costs, losses or damages pursuant to this Article, upon

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Ampirical's acceptance of such request or demand, Owner agrees that Ampirical shall have the right to assume full control of Owner's defense against any such claims, costs, losses or damages, utilizing counsel chosen by Ampirical, and Owner agrees to waive any conflicts of interest related to Ampirical's defense of those claims.

B. *Removal of Debris:* During the performance of the Construction, Ampirical shall keep the premises free from accumulations of waste materials, rubbish, and other debris resulting from the Construction. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws or Regulations.

C. *Cleaning:* Prior to Substantial Completion, Ampirical shall clean the Site and make it ready for utilization by Owner. At completion of Construction, Ampirical shall remove all tools, appliances, construction equipment, temporary construction and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading Structures:* Ampirical shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Ampirical subject any part of the Construction or adjacent property to stresses or pressures that will endanger it.

5.03 *Reference Points*

A. Ampirical shall be responsible for laying out the Work and shall protect and preserve reference points and property monuments established by Owner, and shall make no changes or relocations of such reference points or monuments without the prior written approval of Owner. Ampirical shall report to Owner whenever any reference point or property monument is lost or destroyed, or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

5.04 *Differing Site Conditions*

A. Ampirical shall promptly, and before the conditions are disturbed, give a written notice to Owner of (i) subsurface or latent physical conditions at the Site (whether discovered during investigation of the Site or during Construction) which differ materially from those indicated in the Contract Documents, or in any Technical Data, or (ii) physical conditions at the Site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as physical and/or logistical obstructions to Ampirical's performance of the Work.

B. Owner will investigate the Site conditions promptly after receiving the notice. Ampirical shall supplement the notice by promptly submitting to Owner any additional information regarding schedule and cost impacts, and a specific request for a Change Order. Owner shall then make a determination regarding the site condition and the impact, if any, on Contract Price and Contract Times. If the conditions do materially so differ and cause an increase or decrease in Ampirical's cost of, or the time required for, performing any part of the Work, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the Contract Price or Times modified in writing by Change Order in accordance with Article 11.

C. No request by Ampirical for an equitable adjustment under this Paragraph 5.04 shall be allowed unless Ampirical has given the written notice required.

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D. The provisions of this Paragraph 5.04 are not intended to apply to a Hazardous Environmental Condition or Underground Facility uncovered or revealed at the Site.

5.05 *Underground Facilities*

A. *Procedure for Identifying Underground Facilities:* Promptly after the Effective Date of the Contract, Ampirical shall review the Underground Facilities Data furnished by Owner and use ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as a basis for establishing a procedure ("Underground Facilities Procedure") for the further identification, investigation, and mapping of Underground Facilities at or adjacent to the Site. Ampirical shall establish and use the Underground Facilities Procedure to aid in the provision of Design Professional Services and the performance of Construction, and to reduce and manage risks associated with Underground Facilities. Such Underground Facilities Procedure shall take into account the Site and the nature of the Project.

1. The Underground Facilities Procedure shall include a plan to keep Underground Facilities information current as Ampirical proceeds with the provision of Design Professional Services, and to add new or relocated Underground Facilities information to the base utility or Site drawings.

2. To manage the potential impact of design changes on Underground Facilities, Ampirical shall modify or reapply the Underground Facilities Procedure as the design progresses and changes.

B. *Ampirical's Responsibilities:* Unless otherwise expressly provided in the Contract, Ampirical shall have full responsibility for the following; and, subject to the provisions of Paragraphs 5.05.C, D, and E, the cost of all of the following will be included in the Contract Price:

1. Establishing and executing the Underground Facilities Procedure referred to in Paragraph 5.05.A, including updating, modification, and reapplication duties;

2. Coordinating the Work with the owners (including Owner) of such Underground Facilities, during the provision of Design Professional Services and Construction;

3. Verifying the actual location of specific Underground Facilities through exposure, as needed for the Design Professional Services;

4. Complying with applicable state and local utility damage prevention Laws and Regulations during Construction; and

5. The safety and protection of all existing Underground Facilities at the Site, and repairing any damage to such Underground Facilities resulting from the Construction, subject to the provisions of Paragraph 5.05.D.

C. *Results of Ampirical's Execution of Underground Facilities Procedure:* If, during the execution of the Underground Facilities Procedure referred to in Paragraph 5.05.A, Ampirical identifies an Underground Facility that was not shown or indicated in the Underground Facilities Data, or was not shown or indicated with reasonable accuracy, causing an increase or decrease in Ampirical's cost of, or the time required for, providing Design Professional Services or performing the Construction, then Ampirical shall submit to Owner a request for a Change Order seeking an equitable adjustment to the Contract Price or Times under this clause. Such request shall be made within 30 days of the identification of the Underground Facility in question.

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D. *Underground Facility Found During Construction*: If Ampirical believes that an Underground Facility that is uncovered, exposed, or revealed at the Site during Construction was not shown or indicated in the Underground Facilities Data, or was not shown or indicated with reasonable accuracy, and also that such Underground Facility was not identified or mapped with reasonable accuracy despite Ampirical's adequate establishment and execution of the Underground Facilities Procedure referred to in Paragraph 5.05.A, then Ampirical shall promptly give written notice to Owner, and supplement the notice by submitting to Owner a request for a Change Order seeking an equitable adjustment to the Contract Price or Times under this clause. Such request shall be made within 30 days of the uncovering or revealing of the Underground Facility in question.

1. *Owner's Review:* Owner will investigate the Underground Facility found during Construction promptly after receiving the notice. If Owner concurs with Ampirical that the Underground Facility that is uncovered, exposed, or revealed at the Site was not shown or indicated in the Underground Facilities Data, or was not shown or indicated with reasonable accuracy, and further was not identified or mapped with reasonable accuracy despite Ampirical's adequate establishment and execution of the Underground Facilities Procedure referred to in Paragraph 5.05.A, causing an increase or decrease in Ampirical's cost of, or the time required for, performing any part of the Work, whether or not changed as a result of the actual location, then an equitable adjustment shall be made under this clause and the Contract Price or Times modified in writing by Change Order in accordance with Article 11. If Owner does not concur with Ampirical, then Owner shall so indicate in writing, with a specific explanation of the reason for non-concurrence.

2. No request by Ampirical for an equitable adjustment under Paragraph 5.05.D shall be allowed unless Ampirical has given the written notice required.

E. *Inadequate Establishment or Execution of Underground Facilities Procedure:* If Ampirical does not establish an Underground Facilities Procedure that is (1) adequate for the Site and the nature of the Project and (2) consistent with the guidelines set forth in ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," or Ampirical does not adequately execute a duly established Underground Facilities Procedure, then Ampirical shall bear all costs associated with the presence of an Underground Facility that was not identified or located with reasonable accuracy, including but not limited to delay, redesign, relocation, and increased Construction costs, if such Underground Facility would have been identified and located with reasonable accuracy by an adequate and properly executed Underground Facilities Procedure that was consistent with ASCE 38.

5.06 *Hazardous Environmental Conditions at Site*

A. *Reliance by Ampirical on Technical Data Authorized:* Ampirical may rely on the accuracy of the Technical Data with respect to environmental conditions at the Site.

B. Ampirical shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

C. Ampirical shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Ampirical, Project Design Professionals, Construction Subcontractors, Suppliers, or anyone else for whom Ampirical is responsible, and for any

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associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

D. If Ampirical encounters, uncovers, or reveals a Hazardous Environmental Condition (whether during Site investigation or during Construction) whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Ampirical or anyone for whom Ampirical is responsible creates a Hazardous Environmental Condition, then Ampirical shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.16); and (3) notify Owner (and promptly thereafter confirm such notice in writing). Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take corrective action, if any, and take such actions as are necessary to permit Owner to timely obtain required permits and provide Ampirical the written notice required by Paragraph 5.06.E. If Ampirical or anyone for whom Ampirical is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.

E. Ampirical shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Ampirical either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

F. If after receipt of such written notice Ampirical does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then the portion of the Work that is in the area affected by such condition shall be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 9.

G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Ampirical, Project Design Professionals, Construction Subcontractors, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Contract Documents or the Technical Data, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Ampirical or by anyone for whom Ampirical is responsible. Nothing in this Paragraph 5.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. To the fullest extent permitted by Laws and Regulations, Ampirical shall indemnify and hold harmless Owner and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to Ampirical's failure to control, contain, or remove a Constituent of Concern brought to the Site by Ampirical or by anyone for whom Ampirical is responsible, or to a Hazardous

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Environmental Condition created by Ampirical or by anyone for whom Ampirical is responsible. Nothing in this Paragraph 5.06.H shall obligate Ampirical to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

A. Ampirical shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Ampirical's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due, or until completion of the correction period specified in Paragraph 13.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the Supplementary Conditions, or other specific provisions of the Contract. Ampirical shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.

B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

C. Ampirical shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.

D. If the surety on a bond furnished by Ampirical is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Ampirical shall promptly notify Owner and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.

E. If Ampirical has failed to obtain a required bond, Owner may exclude the Ampirical from the Site and exercise Owner's termination rights under Article 14.

F. Upon request to either Owner or Ampirical from any Construction Subcontractor, Project Design Professional, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, the recipient of the request shall provide a copy of the payment bond to such person or entity.

6.02 *Insurance – General Provisions*

A. Owner and Ampirical shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.

B. All insurance required by the Contract to be purchased and maintained by Owner or Ampirical shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits

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and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.

C. All insurance required by the Contract to be purchased and maintained by Ampirical shall be primary and without contribution by insurance maintained by Owner.

D. Ampirical shall require (a) its Construction Subcontractors and Engineer (and any other Project Design Professional that is an independent individual or entity) to purchase and maintain commercial general liability, automobile liability, workers' compensation, employer's liability, professional liability (as applicable), and umbrella or excess liability insurance, and (b) its Construction Subcontractors to purchase and maintain contractor's pollution liability insurance. All such required insurance shall meet the same requirements for the applicable category of insurance established in this Contract for Ampirical, unless otherwise indicated in the Supplementary Conditions.

E. Ampirical shall deliver to Owner, with copies to each additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Ampirical has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Ampirical shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, documentation of applicable self-insured retentions (if permitted) and deductibles, and evidence of insurance required to be purchased and maintained by Ampirical's Construction Subcontractors, Engineer, and any other Project Design Professional that is an independent individual or entity. Ampirical may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

F. Owner shall deliver to Ampirical, with copies to each additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Ampirical or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

G. Failure of Owner or Ampirical to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Ampirical to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.

H. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

I. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.

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J. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Ampirical or Ampirical's interests.

K. The insurance and insurance limits required herein shall not be deemed as a limitation on Ampirical's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Ampirical's Insurance*

A. *Workers' Compensation and Employer's Liability:* Ampirical shall purchase and maintain workers' compensation and employer's liability insurance for claims under workers' compensation, disability benefits, and other similar employee benefit acts.

B. *Commercial General Liability—Claims Covered:* Ampirical shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Ampirical, on an occurrence basis, against:

1. Claims for damages because of bodily injury, sickness or disease, or death of any person other than Ampirical's employees.
2. Claims for damages insured by reasonably available personal injury liability coverage.
3. Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.

C. *Commercial General Liability—Form and Content:* Ampirical's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:

1. Products and completed operations coverage:
2. Blanket contractual liability coverage, to the extent permitted by law.
3. Broad form property damage coverage.
4. Severability of interests.
5. Underground, explosion, and collapse coverage.
6. Personal injury coverage.
7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 04-13 and CG 20 37 04-13 (together). If Ampirical demonstrates to Owner that the specified ISO endorsements are not commercially available, then Ampirical may satisfy this requirement by providing equivalent endorsements.

D. *Commercial General Liability—Excluded Content:* The commercial general liability insurance policy, including its coverages, endorsements, and incorporated provisions, shall not include any of the following:

1. Any provisions resulting in the erosion of insurance limits by defense costs.
2. Any limitation or exclusion based on the nature of Ampirical's work.
3. Any professional liability exclusion broader in effect than ISO form CG 22 79 4-13.

E. *Automobile liability:* Ampirical shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property

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damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis. Coverage shall be provided for all owned, hired, and non-owned autos.

F. *Umbrella or excess liability:* Ampirical shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall be procured on a "follow the form" basis as to each and every one of the underlying policies. Ampirical may meet the combined limits of insurance (underlying policy plus applicable umbrella or excess) specified for employer's liability, commercial general liability, and automobile liability through the primary policies alone, or through combinations of the primary insurance policies and an umbrella or excess liability policy that follows the form of the underlying policy, as specified herein.

G. *Contractor's pollution liability insurance:* Ampirical shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Ampirical's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.

H. *Additional insureds:* Ampirical's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as the Owner as additional insured Owner and entities identified as required additional insureds in the Supplementary Conditions and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Ampirical shall obtain all necessary endorsements to support these requirements.

I. *Professional liability insurance:*

1. Ampirical shall be responsible for purchasing and maintaining professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which Ampirical is legally liable.

2. Any professional liability insurance required under this Contract shall be maintained throughout the duration of the Contract and for a minimum of three years after Substantial Completion. For each claims-made professional liability policy furnished and maintained to satisfy the requirements of this Paragraph 6.03.I, the retroactive date on the policy shall pre-date the commencement of furnishing services on the Project.

J. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:

1. Include at least the specific coverages provided in this Article.

2. Be written for not less than the limits of coverage provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.

3. Contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 30 days written notice (10 days' prior written notice in the event of nonpayment) has been given to the Owner.

4. Remain in effect at least until final payment and Ampirical's departure from the Site (and longer if expressly required elsewhere in this Contract), and at all times thereafter when Ampirical may be correcting, removing, or replacing defective Construction as a warranty

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or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.

6.04 *Owner's Liability Insurance*

A. In addition to the liability insurance required to be provided by Ampirical, the Owner, at Owner's option and expense, may purchase and maintain Owner's own liability insurance to protect Owner against claims which may arise with respect to the Project.

B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Ampirical, and Ampirical cannot rely upon Owner's liability policies for any of Ampirical's obligations to the Owner or third parties.

6.05 *Property Insurance*

A. *Builder's Risk:* Unless otherwise provided in the Supplementary Conditions, Ampirical shall purchase and maintain builder's risk insurance upon the Construction on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

1. Include the Owner, Ampirical, and all Construction Subcontractors as insureds. For purposes of the remainder of this Paragraph 6.05 and Paragraph 6.06, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."

2. Be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Construction and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If any of the specified perils or cause of loss are not commercially available or available at a sublimited amount, such insurance may be provided through other insurance policies acceptable to Owner and Ampirical or not required to be provided as agreed upon by Owner and Ampirical.

3. Extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier) if commercially available.

4. Extend to cover damage or loss to insured property while in transit if commercially available.

5. Provide primary coverage for all losses and damages caused by the perils or causes of loss covered.

B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days written notice (10 days' prior written notice in the event of nonpayment) has been given to the Owner.

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C. *Deductibles:* The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.

D. *Additional Insurance:* If Ampirical elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Ampirical's expense.

E. *Insurance of Other Property:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Ampirical, a Construction Subcontractor, or an employee of Ampirical or a Construction Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

F. *Loss of Use and Delay in Start-up:* Unless otherwise expressly stated elsewhere in this Contract, the Owner is responsible, at its option, for purchase and maintenance of insurance to protect Owner against the loss of use or delays in start-up caused by property damage.

6.06 *Receipt and Application of Property Insurance Proceeds*

A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.

ARTICLE 7 – AMPIRICAL'S RESPONSIBILITIES

7.01 *Design Professional Services*

A. Ampirical shall provide the Design Professional Services needed to successfully perform and complete the Work required under this Contract.

B. *Standard of Care:* The standard of care for all Design Professional Services performed or furnished by Ampirical under this Contract will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality.

7.02 *Construction*

A. Ampirical shall perform and furnish the Construction pursuant to the Contract Documents, the Construction Drawings, and the Construction Specifications, as duly modified.

B. Ampirical shall keep Owner advised as to the progress of the Construction.

7.03 *Supervision and Superintendence of Construction*

A. Ampirical shall supervise, inspect, and direct the Construction competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to provide the Construction in accordance with the Contract Documents. Ampirical shall be solely responsible for the means, methods, techniques, sequences, and procedures of Construction.

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B. At all times during the progress of Construction, Ampirical shall assign a competent resident superintendent who shall not be replaced without written notice to Owner except under extraordinary circumstances.

7.04 *Labor; Working Hours*

A. Ampirical shall provide competent, suitably qualified personnel to perform the Work as required by the Contract Documents. Ampirical shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise indicated in the Contract Documents, and in the absence of any Laws or Regulations to the contrary, Ampirical may perform the Construction on legal holidays, during any or all hours of the day, and on any or all days of the week, at Ampirical's sole discretion.

7.05 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Ampirical shall furnish or cause to be furnished and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified by Owner or in the Construction Drawings or Construction Specifications, and unless specified otherwise shall be new and of good quality. All warranties and guarantees specifically called for by the Contract Documents shall expressly run to the benefit of Owner.

C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise provided in the Contract Documents.

7.06 *"Or Equals" and Substitutions*

A. If an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, then during the preparation of the proposed Construction Drawings and Construction Specifications, the Ampirical may request that Owner authorize the use of other items of material or equipment, or items from other proposed suppliers, by including the proposed items in the proposed Construction Drawings or Construction Specifications, with required notice to Owner that the Submittal contains a variation from the Contract Documents. Owner in its sole discretion may approve the use of the item if Owner determines that the item is functionally equal to that named and sufficiently similar so that no change in related Work will be required, taking into consideration whether the item:

1. Is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

2. Will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;

3. Has a proven record of performance and availability of responsive service; and

4. Is not objectionable.

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B. *Effect of Owner's Determination:* Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.

C. *Substitutes:* During the preparation of the proposed Construction Drawings and Construction Specifications, Ampirical may propose a substitute to an item of material or equipment that is required to be furnished by the Contract Documents. Any such proposal shall be made in a transmittal to Owner that is separate from and independent of any Design Submittals. The proposal shall describe the advantages, disadvantages, and changes in Contract Price or Contract Time associated with the proposed substitute. Approval of the proposed substitute shall be at Owner's sole discretion. If approved, the substitute item shall be incorporated in the Construction Drawings and Construction Specifications.

D. *Design Professional Review:* Before Ampirical transmits its proposal to Owner, the Project Design Professional that designed the portion of the Work affected by the proposed "or equal" or substitute shall review and approve the proposal.

E. *Construction Drawings and Construction Specifications:* "Or equal" or substitute proposals with respect to items of material or equipment that are required in the Construction Drawings and Construction Specifications shall be considered proposed modifications of the Construction Drawings and Construction Specifications, and shall be governed by the provisions of Paragraph 8.02.H.

7.07 *Concerning Project Design Professionals, Construction Subcontractors, Suppliers, and Others*

A. Ampirical may retain Project Design Professionals, Construction Subcontractors, and Suppliers for the performance of parts of the Work. Such Project Design Professionals, Construction Subcontractors, and Suppliers must be acceptable to Owner.

B. Ampirical shall retain specific Project Design Professionals, Construction Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required to do so by the Contract Documents as of the Effective Date.

C. Prior to entry into any binding, Construction Subcontract, or purchase order, Ampirical shall submit to Owner the identity of the proposed Project Design Professional, Construction Subcontractor, or Supplier (unless Owner has already deemed such proposed contractual party acceptable, during the bidding process or otherwise). Such proposed contractual party shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.

D. Owner may require the replacement of any Project Design Professional, Construction Subcontractor, Supplier, or other entity retained by Ampirical to perform any part of the Work solely on the basis of substantive, reasonable objection after due investigation. Ampirical shall submit an acceptable replacement for the rejected Project Design Professional, Construction Subcontractor, Supplier, or other entity.

E. If Owner requires the replacement of any Project Design Professional, Construction Subcontractor, Supplier, or other entity retained by Ampirical to perform any part of the Work, then Ampirical shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement.

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F. No acceptance by Owner of Engineer or of any Project Design Professional, Construction Subcontractor, Supplier, or other entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.

G. Ampirical shall be fully responsible to Owner for all acts and omissions of the Project Design Professionals, Construction Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work, just as Ampirical is responsible for Ampirical's own acts and omissions.

H. Ampirical shall be solely responsible for scheduling and coordinating the services and work of the Project Design Professionals, Construction Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.

I. Ampirical shall restrict all Project Design Professionals, Construction Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating directly with Owner, except in case of an emergency or a matter involving public health, safety, or welfare, or as otherwise expressly allowed herein.

J. Nothing in the Contract Documents:

1. Shall create for the benefit of any Project Design Professional, Construction Subcontractor, Supplier, or other third-party individual or entity any contractual relationship between Owner and such third-party individual or entity; nor

2. Shall create any obligation on the part of Owner to pay or to see to the payment of any money due any Project Design Professional, Construction Subcontractor, Supplier, or other third-party individual or entity except as may otherwise be required by Laws and Regulations.

7.08 *Patent Fees and Royalties*

A. Ampirical shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which, to the best of its knowledge is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Conceptual Documents or other Contract Documents for use in the performance of the Construction, and if to the actual knowledge of Owner its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, then Owner has disclosed the existence of such rights to Ampirical in the Conceptual Documents or other Contract Documents.

B. To the fullest extent permitted by Laws or Regulations, Ampirical shall indemnify and hold harmless Owner and Owner's Consultant, and the officers, directors, partners, employees or agents, and other consultants of each and any of them from and against all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or resulting from any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the specification or incorporation in the Work of any invention, design, process, product or device, except those required by the Contract Documents.

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C. To the fullest extent permitted by Laws or Regulations, Owner shall indemnify and hold harmless Ampirical and its officers, directors, members, partners, employees or agents, Project Design Professionals, Construction Subcontractors, and Suppliers from and against all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or resulting from any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product or device required by the Contract Documents, but not identified by Owner as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

7.09 *Permits and Utility Charges*

A. The Contract Documents allocate responsibility for obtaining and paying for specified permits, licenses, certificates of occupancy, and approvals of governmental authorities having jurisdiction over the Work. Each party shall assist the other, when necessary, in obtaining such permits, licenses, certificates, and approvals.

B. Ampirical shall pay all charges of utility owners for temporary service to the Work. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work, and for capital costs related thereto.

7.10 *Taxes*

A. Ampirical shall pay all sales, consumer, use, and other similar taxes required to be paid by Ampirical in accordance with the Laws or Regulations of the place of the Project which are applicable during the performance of the Work.

7.11 *Laws and Regulations*

A. Ampirical shall give all notices required by and comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, Owner shall not be responsible for monitoring Ampirical's compliance with any Laws or Regulations.

B. Changes in Laws or Regulations that occur after the date on which Ampirical committed to the Contract Price (whether by negotiation or making an offer or proposal) and affect the cost or time of performance shall be the subject of an equitable change in Contract Price or Contract Times.

7.12 *Record Documents*

A. Ampirical shall maintain the Record Documents in good order, in a safe place at the Site. Ampirical shall annotate the Record Documents to show all changes and clarifications made (whether in the field or otherwise) during performance of Construction. The Record Documents, as annotated, will be available to Owner for reference. Upon completion of the Construction, Ampirical shall deliver the Record Documents, as annotated, to Owner.

B. After receipt and review of the Record Documents from Ampirical upon completion of Construction, the Owner may comment on any possible inaccuracies. After Owner and Ampirical collaboratively address any such comments, the Record Documents shall be deemed to be Record Drawings and Record Specifications.

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C. The Record Drawings and Record Specifications are Contract Documents, and are binding upon Ampirical with respect to its obligations to comply with the Contract Documents, including but not limited to correction period responsibilities and warranty obligations.

7.13 *Safety and Protection*

A. Ampirical shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Construction Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Ampirical shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

1. All persons on the Site or who may be affected by the Work;
2. All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
3. Other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and Underground Facilities not designated for removal, relocation, or replacement in the course of Construction.

B. Ampirical shall comply with applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Ampirical shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.

C. Ampirical shall comply with the applicable requirements of Owner's safety programs that Owner has provided to Ampirical, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.

D. Ampirical shall inform Owner of the specific requirements of Ampirical's safety program with which Owner and its employees and representatives must comply while at the Site.

E. Ampirical's duties and responsibilities for safety and for protection of the Construction shall continue until such time as all the Work is completed, Owner has issued a notice to Ampirical in accordance with Paragraph 14.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion), and Ampirical has left the Site.

F. Ampirical's duties and responsibilities for safety and protection shall resume whenever Ampirical or any Construction Subcontractor, Supplier, or other representative returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.14 *Safety Representative*

A. Ampirical shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

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7.15 *Hazard Communication Programs*

A. Ampirical shall be responsible for coordinating any exchange of safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.16 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Ampirical is obligated to act to prevent threatened damage, injury or loss. Ampirical shall give Owner prompt written notice if Ampirical believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If a change in the Contract Documents is required because of the action taken by Ampirical in response to such an emergency, a Work Change Directive or Change Order will be issued.

7.17 *Post-Construction Phase*

A. Ampirical shall:

1. Provide assistance in connection with the start-up and testing of any equipment or system.

2. Assist Owner in training staff to operate and maintain the Work.

7.18 *Ampirical's General Warranty and Guarantee*

A. Ampirical warrants and guarantees to Owner that Ampirical will perform and complete the Construction as required by the Contract Documents, and that all Construction will be in accordance with the Contract Documents, the Construction Drawings, and the Construction Specifications (as duly modified in accordance with the Contract), and will not be defective.

B. Ampirical's warranty and guarantee hereunder excludes defects or damage caused by:

1. Abuse, modification or improper maintenance or operation by persons other than Ampirical, Construction Subcontractors, or Suppliers or any other individual for whom Ampirical is responsible; or

2. Normal wear and tear under normal usage.

C. None of the following will constitute an acceptance by Owner of Work that is not in accordance with the Contract Documents or a release of Ampirical's obligation to perform the Work in accordance with the Contract Documents, unless expressly stated otherwise in writing:

1. Observations by Owner;

2. The making of any progress or final payment;

3. The issuance of a certificate of Substantial Completion;

4. Use or occupancy of the Work or any part thereof by Owner;

5. Any review and approval of a Submittal;

6. Any inspection, test, or approval by others; or

7. Any correction of defective Construction by Owner.

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7.19 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, Ampirical shall indemnify and hold harmless Owner and its officers, directors, members, partners, employees, agents, consultants, and subcontractors, from losses, damages, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions relating to or resulting from the performance or furnishing of the Work, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Ampirical, a Project Design Professional, any Construction Subcontractor, any Supplier, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Nothing contained herein shall constitute a waiver of Bentonville's statutory immunity.

B. In any and all claims or actions against Owner, Owner's Consultant, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Ampirical, a Project Design Professional, any Construction Subcontractor, any Supplier, any individual or entity directly or indirectly employed or retained by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.19.A, subject to the provisions of Paragraph 16.04, shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Ampirical, a Project Design Professional, or any Construction Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. Ampirical shall not owe any duty to Owner for defense or indemnity for any claim against Owner for breach of contract asserted by any third party when such claim asserts, identifies, alleges and/or suggests any independent fault of Owner, including but not limited to any act or omission constituting breach of contract, negligence, gross negligence, strict liability and/or intentional misconduct.

D. Owner shall defend, indemnify and hold hamrless Ampirical and its officers, directors, members, partners, employees, agents, consultants, and subcontractors, from losses, damages, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions relating to or resulting from the performance of any "Other Work" as defined in Article 9.01.

E. The indemnification obligations of Ampirical under Paragraph 7.19.A shall not extend to the liability of Owner's Consultant, other consultants or design professionals of Owner, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, designs, or specifications.

F. In the event that Owner requests or demands that Ampirical provide defense or indemnity for any claims, costs, losses or damages pursuant to this Article, upon Ampirical's acceptance of such request or demand, Owner agrees that Ampirical shall have the right to assume full control of Owner's defense against any such claims, costs, losses or damages, utilizing counsel

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chosen by Ampirical, and Owner agrees to waive any conflicts of interest related to Ampirical's defense of those claims

ARTICLE 8 – SUBMITTALS

8.01 *Ampirical's Preparation of Submittals*

A. Design Submittals shall be prepared by Ampirical.

B. The appropriate Project Design Professional shall review and approve each Submittal (including but not limited to all Design Submittals), other than those Submittals not involving technical or engineering matters, before Ampirical's transmittal of such Submittal to Owner. Such review and approval shall account for the following, as appropriate:

1. That any items covered by such Submittal will, after installation or incorporation in the Construction, comply with the information and requirements in the Contract Documents and the Construction Drawings and Construction Specifications, as duly modified, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents, Construction Drawings, and Construction Specifications, as duly modified.

2. That if the Submittal includes any proposed modification of the Contract Documents, Construction Drawings, or Construction Specifications, or any proposed variation from the requirements of such documents, such proposed modification or variation is acceptable based on the standards of the engineering profession (or other applicable design profession), and if implemented will be supported by signing or sealing by a licensed design professional, as necessary.

C. Before Ampirical's transmittal of a Submittal to Owner, Ampirical shall, as applicable:

1. Review and coordinate the Submittal with other Submittals and with the requirements of the Work, the Contract Documents, the Construction Drawings, and the Construction Specifications, as duly modified;

2. Determine and verify all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal, and confirm that the Submittal is complete with respect to all related data included in the Submittal;

3. Determine and verify the suitability of proposed materials and equipment with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation; and

4. Determine and verify all information relative to Ampirical's responsibilities for the means, methods, techniques, sequences, and procedures of construction, and for safety precautions and programs incident thereto.

D. Ampirical shall give Owner specific written notice of any proposed modification of the Contract Documents, Construction Drawings, or Construction Specifications, and any variations that a Submittal may have from the requirements of the Contract Documents, Construction Drawings, and Construction Specifications, as duly modified. This notice shall be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Submittal in drawing form, by a specific notation made on the drawing itself.

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E. Each Submittal shall bear a stamp or specific written certification by Ampirical that it has satisfied its obligations under the Contract Documents with respect to preparation of the Submittal, and that Ampirical approves the Submittal.

F. All Submittals must be acceptable based on compliance with form and content requirements of the Contract Documents. Ampirical shall submit Design Submittals for Owner's review and approval. Other Submittals shall not require express approval, except as indicated in the Supplementary Conditions or elsewhere in the Contract Documents.

8.02 *Owner's Review of Submittals*

A. Owner will review all Submittals, and may comment on any Submittal. Any response to a Submittal by Owner shall be in accordance with the schedule of required Submittals accepted by Owner as required by Paragraph 2.07, and the provisions of the Contract Documents.

B. For those Submittals requiring Owner's review and approval, Owner's response will be in writing and will indicate either that Owner approves the Submittal or rejects the Submittal. Owner may also include comments regarding the approved or rejected Submittal. For those Submittals that do not require approval, the Submittal shall be deemed acceptable to Owner unless Owner responds with a timely objection or adverse comment.

C. Unless a specific provision of the Contract Documents expressly provides otherwise, Owner's review of a Submittal will be to determine if the Submittal complies with and is consistent with the Contract Documents. If Owner concludes that a Submittal requiring approval complies with and is consistent with the Contract Documents, the Owner shall approve such Submittal.

D. Owner's approval, rejection, or acceptance of a Submittal will not extend to the means, methods, techniques, sequences, or procedures of Construction, or to safety precautions or programs incident thereto.

E. Owner's review, comments, approval, rejection, or acceptance of Submittals shall not relieve Ampirical from responsibility for (1) performance of the Work in accordance with the Contract Documents, (2) the scheduling and progress of the Work, (3) the means, methods, sequences, techniques, and procedures of Construction, and safety precautions and programs incident thereto, or (4) any variation from the requirements of the Contract Documents, unless Ampirical has in a separate written communication at the time of submission called Owner's attention to each such variation, and Owner has given written approval of each such variation; nor shall Owner's review, comments, approval, rejection, or acceptance of a Submittal impose any such responsibility on Owner.

F. Construction tasks and expenditures by Ampirical prior to Owner's review and approval or acceptance of any Submittal will be at the sole risk of Ampirical.

G. In reviewing, approving, rejecting, accepting, or commenting on any Design Submittal, Owner does not assume responsibility for the design, for any deficiencies in the Design Submittal or in the Design Professional Services by which they were prepared, or for constructability, cost, or schedule problems that may arise in connection with the Design Submittal.

H. The parties acknowledge that Ampirical's design responsibilities continue after commencement of Construction. During the course of Construction, Ampirical may propose modifications to the Construction Drawings and Construction Specifications. Owner shall approve such proposed modifications if (1) they comply with and are consistent with the

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Contract Documents, (2) Ampirical has demonstrated that the modification is minor in character, or will not be detrimental to the quality and function of the Work, (3) the appropriate Project Design Professional has reviewed and approved the proposed modification with respect to any technical or engineering matters, and (4) Owner has not relied on the previously-approved Construction Drawings and Construction Specifications, such that the proposed modification would be detrimental to the Owner's interests. At its option, Owner may also approve more substantial or divergent proposed modifications, provided that the appropriate Project Design Professional has reviewed and approved the proposed modification with respect to any technical or engineering matters.

ARTICLE 9 – OTHER CONSTRUCTION

9.01 *Other Work*

A. In addition to and apart from the Work to be performed and furnished by Ampirical under the Contract Documents, the Owner may perform other construction work at or adjacent to the Site during the course of the Project. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.

B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Ampirical written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work at or adjacent to the Site, Owner shall provide such information to Ampirical.

C. Ampirical shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and to Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Ampirical shall do all cutting, fitting, and patching of the Construction that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Ampirical shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Ampirical may cut or alter others' work with the written consent of Owner and the others whose work will be affected.

9.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Ampirical prior to the start of any such other work:

1. The identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;

2. An itemization of the specific matters to be covered by such authority and responsibility; and

3. The extent of such authority and responsibilities.

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B. If the Supplementary Conditions do not identify the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors, Owner shall have sole authority and responsibility for such coordination.

9.03 *Legal Relationships*

A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Construction or to the property of Ampirical or the Construction Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Construction, through actions or inaction, then Ampirical shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Ampirical in the Contract Documents, and any provisions in Laws or Regulations concerning utility action or inaction, or related remedies. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Ampirical assigning to Owner all Ampirical's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Ampirical's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Ampirical's ability to complete the Work within the Contract Times.

B. Ampirical shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Ampirical fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Ampirical, and assign to such other contractor or utility owner the Owner's contractual rights against Ampirical with respect to the breach of the obligations set forth in this paragraph.

ARTICLE 10 – OWNER'S RESPONSIBILITIES

10.01 *General*

A. Owner shall do the following in a timely manner so as not to delay the services of Ampirical:

1. If requested in writing by Ampirical, furnish reasonable evidence satisfactory to Ampirical that sufficient funds are available and committed for the entire cost of the Project. Unless such reasonable evidence is furnished, Ampirical is not required to commence or continue any Work, or may, if such evidence is not presented within a reasonable time, stop Work upon 15 days' notice to the Owner;

2. Make payments to Ampirical promptly when they are due, as provided in Paragraph 13.01 and 13.06;

3. Furnish the Site as set forth in Paragraph 5.01; arrange for safe access to and make all provisions for Ampirical to enter upon public and private property as may reasonably be required for Ampirical to perform Work under the Contract.

4. Furnish to Ampirical, as required for performance of the Work, the following, all of which Ampirical may use and rely upon in performing services under this Agreement:

a. Environmental assessment and impact statements;

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b. Property, boundary, easement, right-of-way, and other special engineering surveys or data;

c. Property descriptions;

d. Zoning, deed, and other land use restrictions;

e. Utility and topographic mapping and surveys;

f. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; any information or data known to Owner concerning underground facilities at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data;

g. Any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site;

h. Engineering surveys to establish reference points which in Owner's judgment are necessary to enable Ampirical to proceed with the Work;

i. Assistance to Ampirical in filing documents required to obtain necessary permits, licenses, and approvals of governmental authorities having jurisdiction over the Project; and

j. Permits, licenses, and approvals of government authorities that the Contract Documents expressly require Owner to obtain.

5. Provide information known to Owner relating to the presence of materials and substances at the Site that could create a Hazardous Environmental Condition.

B. If an obligation ascribed to Owner in Paragraph 10.01.A is expressly assigned to Ampirical, in the description of the Work or elsewhere in the Contract Documents, then such express assignment to Ampirical shall supersede the provision in Paragraph 10.01.A.

C. Examine all studies, reports, alternate solutions, sketches, drawings, specifications, proposals, Submittals (including Design Submittals), and other documents presented by Ampirical (including obtaining advice of an attorney, insurance counselor, and other consultants as Owner deems appropriate with respect to such examination), and if a decision is required with respect to any such document, render such decision in writing pursuant to any specific schedule, or if no specific schedule pertains, within a reasonable time after receipt of the document.

10.02 *Insurance*

A. Owner's responsibilities with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

10.03 *Limitations on Owner's Responsibilities*

A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Ampirical's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Ampirical to comply with Laws or Regulations applicable to the furnishing or performance of the Work.

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Owner will not be responsible for Ampirical's failure to perform the Work in accordance with the Contract Documents.

10.04 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility with respect to undisclosed Hazardous Environmental Conditions uncovered or revealed at the Site is set forth in Paragraph 5.06.

10.05 *Owner's Site Representative*

A. Owner may furnish an Owner's Site Representative to observe the performance of Construction. The duties, responsibilities and limitations of authority of any such Owner's Site Representative and assistants will be as provided in the Supplementary Conditions.

10.06 *Owner's Consultants and Managers*

A. Owner's Site Representative, if any, is identified in the Agreement.

B. Owner shall advise Ampirical of the identity and scope of services of any other independent consultants or managers retained by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, constructability review, program management, project management, or contract administration.

C. Neither Owner's Site Representative, nor any other consultant or manager retained by Owner, has any duties, responsibilities, or authorities with respect to Ampirical, unless expressly provided in this Contract. Owner's consultants and managers shall not supervise, direct, or have control or authority over, nor be responsible for, Ampirical's means, methods, techniques, sequences, or procedures of construction or the safety precautions and programs incident thereto, or for any failure of Ampirical to comply with Laws or Regulations applicable to the furnishing or performance of the Work; and will not be responsible for Ampirical's failure to perform the Work in accordance with the Contract Documents.

10.07 *Safety Programs*

A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Ampirical's safety programs of which Owner has been informed pursuant to Paragraph 7.13.D.

B. Owner shall inform Ampirical of any specific requirements of safety or security programs that are applicable to Ampirical while at the Site.

10.08 *Permits and Approvals*

A. Owner shall obtain reviews, approvals, certificates, and permits from governmental authorities having jurisdiction over the Project as indicated in the Contract Documents.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended or supplemented by a Change Order or a Work Change Directive.

1. *Change Orders:* If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish

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amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.

2. *Work Change Directives*: The Work modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order. When a Work Change Directive is issued, the parties will promptly meet to attempt to negotiate the Work Change Directive's effect, if any, on the Contract Times and Contract Price. The effect, if any, on Contract Times and Contract Price, together with the Work Change Directive's addition, deletion, or revision to the Work, will be set forth in a subsequently issued Change Order.

B. Either Owner or Ampirical may propose or request a Change Order. With respect to certain events, this Contract may indicate specific times in which such requests or proposals must be submitted to the other party. With respect to all other events, the request or proposal shall be submitted to the other party within 30 days of the event giving rise to the request or proposal.

11.02 *Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, and notwithstanding any other provision of the Contract, Owner may, at any time or from time to time, order or authorize additions, deletions, or revisions in the Work within the general scope of the Contract. Such changes may be accomplished by a Change Order, if Owner and Ampirical have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Ampirical shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Ampirical to undertake work that Ampirical reasonably concludes cannot be performed in a manner consistent with Ampirical's safety or professional obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

A. Ampirical shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any Work performed that is not required by the Contract Documents, as duly amended, except in the case of an emergency as provided in Paragraph 7.16, or in the case of uncovering Construction as provided in Paragraph 12.03.A.3.

11.04 *Changes Involving the Design*

A. To the extent a change, whether proposed by Ampirical or Owner, ordered by Owner, or set forth in a proposed Change Order or in a Work Change Directive, involves the design (as set forth in the Construction Drawings, Construction Specifications, or otherwise) or other engineering or technical matters, such changes must be reviewed and approved by the applicable Project Design Professional. The review and approval may occur at the time the change occurs, or as part of Ampirical's provision of Professional Design Services in response to the change.

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11.05 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Claim regarding an adjustment in the Contract Price shall be presented by written notice to the other party in accordance with Paragraph 15.01.

B. If the Parties cannot agree on a lump sum price, then the value of any Work covered by a Change Order or of any adjustment in the Contract Price will be determined based on the Time and Materials based rate included with the Contract Documents.

11.06 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Claim regarding an adjustment of the Contract Times shall be presented by written notice to the other party pursuant to Paragraph 15.01.

B. Ampirical's entitlement to an adjustment of the Contract Times under this Contract is conditioned on such adjustment being essential to Ampirical's ability to complete the Work within the Contract Times.

11.07 *Execution of Change Orders*

A. Owner and Ampirical shall execute appropriate Change Orders covering:

1. Changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;

2. Changes in Contract Price resulting from an Owner set-off, unless Ampirical has duly contested such set-off;

3. Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's correction of defective Work under Paragraph 12.05 or Owner's acceptance of defective Work under Paragraph 12.07, or (c) agreed to by the parties (all subject to the need for review and approval by the applicable Project Design Professional pursuant to Paragraph 11.04); and

4. Changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Article 15.

B. If Owner or Ampirical refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notice to Sureties*

A. If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times) is required by the provisions of any Bond to be given to a surety, the giving of any such notice will be Ampirical's responsibility. The amount of each applicable Bond will be adjusted to reflect the effect of any such change.

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ARTICLE 12 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE CONSTRUCTION

12.01 *Access to Construction*

A. Owner, Owner's Consultant, Owner's Site Representative, and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Construction at reasonable times for their observation, inspecting, and testing. Ampirical shall provide them proper and safe conditions for such access and advise them of Ampirical's Site safety procedures and programs so that they may comply therewith as applicable.

12.02 *Tests, Inspections, and Approvals*

A. Ampirical shall be responsible for arranging, obtaining, and paying for all inspections and tests required:

1. By the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
2. By Laws and Regulations, unless the Contract Documents or Laws and Regulations expressly allocate responsibility for a specific inspection or test to Owner;
3. To attain Owner's acceptance of materials or equipment to be incorporated in the Construction;
4. By manufacturers of equipment furnished under the Contract Documents;
5. To meet the requirements of the Construction Drawings and Construction Specifications;
6. For testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Construction; and
7. For acceptance of materials, mix designs, or equipment submitted for approval prior to Ampirical's purchase thereof for incorporation in the Construction.

B. Owner shall be responsible for arranging, obtaining, and paying for all inspections and tests expressly required by the Contract Documents or Laws and Regulations to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Construction shall be governed by the provisions of Paragraph 12.03.

C. All inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Ampirical.

D. If the Contract Documents require the Construction (or part thereof) to be approved by Owner or another designated individual or entity, then Ampirical shall assume full responsibility for arranging and obtaining such approvals.

E. Ampirical shall give Owner reasonable notice of the planned schedule for all required inspections, tests, and approvals.

F. Ampirical shall give Owner timely notice of readiness of the Construction (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.

G. Each party shall provide the other with copies of any certificates of inspection or approval obtained with respect to tests and inspections.

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H. Both parties may rely on the results of inspections and tests, performed pursuant to this paragraph and the governing provisions of the Contract Documents, Laws and Regulations, and the Construction Drawings and Construction Specifications.

I. If any Construction (or the construction work of others) that is required to be inspected, tested, or approved is covered by Ampirical without written concurrence of Owner, then Contractor shall, if requested by Owner, uncover such Construction for observation. Such uncovering shall be at Ampirical's expense unless Ampirical has given Owner timely notice of Ampirical's intention to cover the same and Owner has not acted with reasonable promptness in response to such notice.

12.03 *Uncovering Construction*

A. If Owner considers it necessary or advisable that covered Construction be observed by Owner or inspected or tested by others, then Ampirical, at Owner's request, shall uncover, expose or otherwise make available for observation, inspection, or testing, as Owner may require, that portion of the Construction in question, furnishing all necessary labor, material, and equipment.

1. If the Construction had been covered contrary to the written request of Owner or a requirement of the Contract Documents, then uncovering it for Owner's observation and re-covering it shall be at Ampirical's expense, regardless of whether it is defective.

2. If it is found that the covered Construction is defective, Ampirical shall pay all costs and damages caused by or resulting from such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement, re-covering, or reconstruction (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, all court or arbitration or other dispute resolution costs, and all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price.

3. If the covered Construction is not found to be defective, Ampirical shall be allowed an increase in the Contract Price and an extension of the Contract Times (or Milestones), or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, re-covering, and reconstruction, subject to the provisions of Paragraph 12.03.A.1.

12.04 *Defective Construction*

A. It is Ampirical's obligation to assure that the Construction is not defective.

B. Owner shall give Ampirical prompt written notice of all defective Construction of which Owner has actual knowledge. Owner may reject, accept, or correct defective Construction.

C. Promptly after receipt of written notice of defective Construction, unless Owner expressly indicates that it will accept the defective Construction, Ampirical shall correct all such defective Construction, whether or not fabricated, installed, or completed; or, if Owner has rejected the defective Construction, remove it from the Project and replace it with Construction that is not defective.

D. When correcting defective Construction, Ampirical shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Construction.

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12.05 *Owner May Correct Defective Construction*

A. If Ampirical fails within a reasonable time after written notice from Owner to correct defective Construction or to remove and replace rejected Construction, or if Ampirical fails to perform the Construction in accordance with the Contract Documents, or if Ampirical fails to comply with any other provision of the Contract Documents, Owner may, after 7 days' written notice to Ampirical, correct and remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 12.05 Owner shall proceed expeditiously. In connection with such corrective and remedial action, Owner may exclude Ampirical from all or part of the Site, take possession of all or part of the Construction, and suspend Ampirical's services related thereto, and incorporate in the Construction all materials and equipment stored at the Site or for which Owner has paid Ampirical but which are stored elsewhere. Ampirical shall allow Owner, Owner's Consultant, Owner's Site Representative, and Owner's other representatives, agents, employees, and contractors, access to the Site to enable Owner to exercise the rights and remedies under this paragraph.

12.06 *Costs*

A. Ampirical shall bear all costs arising out of or relating to the correction, removal, or replacement of defective Construction.

B. Ampirical shall not be allowed an extension of the Contract Times (or Milestones) because of any delay in the performance of the Work attributable to defective Construction.

12.07 *Owner's Acceptance of Defective Construction*

A. If, instead of requiring correction or removal and replacement of defective Construction, Owner prefers to accept it, Owner may do so. If such acceptance is proposed prior to final payment, it shall be subject to confirmation by the applicable Project Design Professional that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety. Ampirical shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) attributable to Owner's evaluation of and determination to accept such defective Construction. If any such acceptance occurs prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents, and Owner shall be entitled to an appropriate decrease in the Contract Price reflecting the diminished value of the Construction so accepted.

12.08 *Owner May Stop Construction*

A. If Construction is defective, or Ampirical fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform Construction in such a way that the completed Construction will conform to the Contract Documents, Owner may order Ampirical to stop Construction or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop Construction will not give rise to any duty on the part of Owner to exercise this right for the benefit of Ampirical or any other party.

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ARTICLE 13 – PAYMENTS TO AMPIRICAL; COMPLETION

13.01 *Progress Payments*

A. *Basis for Progress Payments:* The Project Milestone Schedule established as provided in Paragraph 2.04 will serve as the basis for progress payments.

B. *Application for Progress Payment:* On or about the date established in the Agreement for submission of each application for progress payment (but not more often than once a month), Ampirical shall submit to Owner for review an Application for Payment filled out and signed by Ampirical covering the Work completed as of the date indicated on the Application and accompanied by supporting documentation as required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect Owner's interest therein, all of which will be satisfactory to Owner.

1. Written approval of Milestone completion shall be included with monthly invoice requesting payment for applicable Milestone.

C. *Payment of Obligations:*

1. Beginning with the second Application for Payment, each Application shall include an affidavit of Ampirical stating that all previous progress payments received on account of the Work have been applied on account to discharge Ampirical's legitimate obligations associated with prior Applications for Payment.

2. If Ampirical contends that it has withheld payment of underlying obligations for good cause, then Ampirical shall inform Owner of the identity of the entity from which Ampirical has withheld payment, the amount of the withholding, and the reason for the withholding.

D. The amount of retainage with respect to progress payments shall be 5% of the Contract Price, which shall be the final payment Milestone based on the completed Work.

E. *Review of Applications:*

1. Owner will, within 10 days of receipt of each Application for Payment, either indicate in writing its acceptance of the Application and state that the Application is being processed for payment, or return the Application to Ampirical indicating in writing its reasons for refusing to accept the Application.

F. Not more than 10 days after accepting such Application the amount will become due and when due will be paid by Owner to Ampirical.

1. If Owner should fail to pay Ampirical at the time the payment of any amount becomes due, then Ampirical may, at any time thereafter, upon serving written notice that he will stop the Work within 7 days after receipt of the notice by Owner, and after such 7-day period, stop the Work until payment of the amount owing has been received. Written notice shall be deemed to have been duly served if sent by certified mail to the last known business address of Owner.

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2. Payments due but unpaid shall bear interest at the rate specified in the Agreement.

3. No Progress Payment nor any partial or entire use or occupancy of the Project by Owner shall constitute an acceptance of any Work not in accordance with the Contract Documents.

G. *Reduction in or Refusal to Make Payment:*

1. Owner may impose a set-off against the whole or any part of any such payment, or nullify any previous payment because of subsequently discovered evidence or the results of subsequent inspections or tests, to the extent that is reasonably necessary to protect Owner from loss because:

a. Claims have been made against Owner on account of Ampirical's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Ampirical's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from breach of warranty, workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;

b. Ampirical has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;

c. Ampirical has failed to provide and maintain required bonds or insurance;

d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Ampirical is responsible;

e. The Construction is defective, requiring correction or replacement;

f. Owner has been required to correct defective Construction in accordance with Paragraph 12.05, or has accepted defective Construction pursuant to Paragraph 12.07;

g. The Contract Price has been reduced by Change Orders; or

h. Liens have been filed in connection with the Work, except where Ampirical has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such liens, or in the event any lien is filed for payment of sums owed but not timely paid by Owner to Ampirical.

2. If Owner imposes any set-off against payment, Owner will give Ampirical immediate written notice stating the reasons for such action and the specific amount of the reduction, and promptly pay Ampirical any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Ampirical the amount so withheld, or any adjustment thereto agreed to by Owner and Ampirical, if Ampirical remedies the reasons for such action. The reduction imposed shall be binding on Ampirical unless it duly presents a written notice of Claim contesting the reduction.

13.02 *Ampirical's Warranty of Title*

A. Ampirical warrants and guarantees that title to all Construction, materials, and equipment covered by any Application for Payment, whether already incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

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13.03 *Substantial Completion*

A. When Ampirical considers the Work ready for its intended use Ampirical shall notify Owner in writing that the Work is substantially complete (except for items specifically listed by Ampirical as incomplete) and request that Owner issue a certificate of Substantial Completion. Promptly thereafter, Owner and Ampirical shall make an inspection of the Work to determine the status of completion. If Owner does not consider the Work substantially complete, Owner will notify Ampirical in writing giving the reasons therefor.

B. If Owner considers the Work substantially complete:

1. Owner and Ampirical will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Ampirical agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

2. Owner will prepare and deliver to Ampirical a certificate of Substantial Completion which shall fix the date of Substantial Completion. Owner shall attach to the certificate a punch list of items to be completed or corrected before final payment.

C. After Substantial Completion Ampirical shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Ampirical may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

D. Owner shall have the right to exclude Ampirical from the Site after the date of Substantial Completion subject to allowing Ampirical reasonable access to remove its property and complete or correct items on the punch list.

13.04 *Partial Use or Occupancy*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Construction which (1) has specifically been identified in the Contract Documents, or (2) Owner and Ampirical agree constitute a separately functioning and usable part of the Construction that can be used by Owner for its intended purpose without significant interference with Ampirical's performance of the remainder of the Construction, subject to the following:

1. Owner at any time may request Ampirical in writing to permit Owner to use or occupy any such part of the Construction that Owner believes to be ready for its intended use and substantially complete. If Ampirical agrees that such part of the Work is substantially complete, Ampirical and Owner will follow the procedures of Paragraph 13.03 for that part of the Construction.

2. Ampirical at any time may notify Owner in writing that Ampirical considers any such part of the Work ready for its intended use and substantially complete and request Owner to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner and Ampirical shall make an inspection of that part of the Work to determine its status of completion. If Owner does not consider that part of the Work to be substantially complete, Owner will notify

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Ampirical in writing giving the reasons therefor. If Owner considers that part of the Work to be substantially complete, the provisions of Paragraph 13.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy of part of the Construction will be accomplished prior to compliance with the requirements of Paragraph 6.05 regarding property insurance.

13.05 *Final Inspection*

A. Upon written notice from Ampirical that the entire Work or an agreed portion thereof is complete, Owner will make a final inspection with Ampirical and will notify Ampirical in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Ampirical shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

13.06 *Final Payment*

A. *Application for Payment:*

1. After Ampirical has completed all such corrections to the satisfaction of Owner and delivered in accordance with the Contract Documents all maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance, certificates of inspection, and Record Documents, Ampirical may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (unless previously delivered) by:

   a. All documentation called for in the Contract Documents;

   b. Consent of the surety, if any, to final payment;

   c. Satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment;

   d. A list of all disputes that Ampirical believes are unsettled; and

   e. Complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.

3. In lieu of such releases or waivers of Liens specified in Paragraph 13.06.A.2, and as approved by Owner, Ampirical may furnish receipts or releases in full and an affidavit of Ampirical that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed, and (b) all payrolls, material and equipment bills and other indebtedness connected with the Work for which Owner might in any way be responsible, or which in any way might result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Project Design Professional, Construction Subcontractor, or Supplier fails to furnish such a release or receipt in full, Ampirical may furnish a Bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

B. *Final Payment and Acceptance:* If Owner is satisfied that the Work has been completed and Ampirical's other obligations under the Contract Documents have been fulfilled, Owner will, within 10 days after receipt of the final Application for Payment, give written notice to Ampirical that the Work is acceptable. Otherwise, Owner will return the Application to

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Ampirical, indicating in writing the reasons for refusing to process final payment, in which case Ampirical shall make the necessary corrections and resubmit the Application.

C. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment.

D. *Payment Becomes Due*: The amount will become due and will be paid by Owner to Ampirical 30 days after the presentation to Owner of the acceptable Application and accompanying documentation, in appropriate form and substance and with Owner's notice of acceptability.

13.07 *Waiver of Claims*

A. The making of final payment will not constitute a waiver by Owner of claims or rights against Ampirical. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 13.05, from Ampirical's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from unresolved disputes or Claims presented by Owner, or from Ampirical's continuing obligations under the Contract.

B. The acceptance of final payment by Ampirical will constitute a waiver by Ampirical of all claims and rights against Owner other than those pending matters that have been duly submitted to dispute resolution under the provisions of Article 15,and any rights to assert claims for indemnity arising after the acceptance by Ampirical of final payment.

13.08 *Correction Period*

A. If within one year after the date of Substantial Completion of the entire Work or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Construction is found to be defective, Ampirical shall promptly, without cost to Owner and in accordance with Owner's written instructions, (1) correct such defective Construction, or, if it has been rejected by Owner, remove it from the Site and replace it with Construction that is not defective, and (2) satisfactorily correct or remove and replace any damage to other Construction or the work of others resulting therefrom. If Ampirical does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Construction corrected or the rejected Construction removed and replaced, and all costs, losses, and damages caused by or resulting from such removal and replacement (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, all court or arbitration or other dispute resolution costs, and all costs of repair or replacement of work of others) will be paid by Ampirical.

B. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Conceptual Documents.

C. Where defective Construction (and damage to other Construction resulting therefrom) has been corrected, or removed or replaced, under this Paragraph 13.08, the correction period hereunder with respect to such Construction will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

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ARTICLE 14 – SUSPENSION OF WORK AND TERMINATION

14.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 days by notice in writing to Ampirical, which will fix the date on which Work will be resumed. Ampirical shall resume the Work on the date so fixed. Ampirical shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension.

14.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events justifies termination for cause:

1. Ampirical's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the progress schedule as duly adjusted).

2. Ampirical's disregard of Laws or Regulations of any public body having jurisdiction.

3. Ampirical's violation in any substantial way of provisions of the Contract Documents.

B. If one or more of the events identified in Paragraph 14.02.A occurs, Owner may, after giving Ampirical (and the surety, if any) 7 days' written notice, terminate the services of Ampirical, take possession of any completed Design Submittals prepared by or for Ampirical (subject to the limited license and indemnification provisions of Paragraph 3.04), exclude Ampirical from the Site, take possession of the Work, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Ampirical but which are stored elsewhere, and finish the Work as Owner may deem expedient. In such case Ampirical shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds all costs, losses and damages sustained by Owner arising out of or resulting from completing the Work (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) such excess will be paid to Ampirical. If such costs, losses and damages exceed such unpaid balance, Ampirical shall pay the difference to Owner. Such costs, losses and damages incurred by Owner will be incorporated in a Change Order. When exercising any rights or remedies under this paragraph Owner shall not be required to obtain the lowest price for the Work performed.

C. Notwithstanding Paragraph 14.02.B, Ampirical's services will not be terminated if Ampirical begins, within 7 days of receipt of notice of intent to terminate, to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.

D. Where Ampirical's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Ampirical then existing or which may thereafter accrue. Any retention or payment of moneys due Ampirical by Owner will not release Ampirical from liability.

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14.03 *Owner May Terminate for Convenience*

A. Upon 7 days' written notice to Ampirical, Owner may, without cause and without prejudice to any other right or remedy of Owner, elect to terminate the Contract. In such case, Ampirical shall be paid (without duplication of any items) for:

1. Completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. Expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;

3. Amounts paid in settlement of terminated contracts with Project Design Professionals, Construction Subcontractors, Suppliers and others (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs incurred in connection with such terminated contracts); and

4. Reasonable expenses directly attributable to termination.

B. Ampirical shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

14.04 *Ampirical May Stop Work or Terminate*

A. If, through no act or fault of Ampirical, the Work is suspended for a period of more than 90 days by Owner or under an order of court or other public authority, Owner fails to act on any Application for Payment within 30 days after it is submitted, or Owner fails for 30 days to pay Ampirical any sum finally determined to be due, then Ampirical may, upon 7 days' written notice to Owner, and provided Owner does not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 14.03.A. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Owner has failed for 30 days to pay Ampirical any sum finally determined to be due, Ampirical may upon 7 days' written notice to Owner stop the Work until payment is made of all such amounts due Ampirical, including interest thereon. The provisions of this paragraph are not intended to preclude Ampirical from obtaining an increase in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Ampirical's stopping Work as permitted by this paragraph.

ARTICLE 15 – DISPUTES

15.01 *Methods and Procedures*

A. *Notice of Claim:* If Owner and Ampirical are not in agreement regarding a proposed or requested Change Order, other proposed adjustment of Contract Price or Contract Times, a Work Change Directive issued by Owner, or any other relief proposed or requested under the Contract, then either party may provide written notice of a Claim to the other party. Such notice of Claim shall be given within 90 days of: the proposal or request for a Change Order; such other proposed adjustment of Contract Price or Contract Times; the issuance of the Work Change Directive; or the proposal or request for other relief under the Contract. The notice of Claim shall be given within the 90 days regardless of whether the other party has responded

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to such proposal, request, or issuance, and regardless of whether discussions or negotiations are in progress; provided, however, that the parties may extend the time to give such notice of Claim by mutual written agreement. The notice of Claim shall include a statement of position, specification of the remedy sought, and supporting documentation.

B. *Response:* Within 30 days of the date of notice of Claim, the receiving party shall respond with a written statement of position and any supporting documentation.

C. *Direct Negotiations:* Owner and Ampirical agree to directly negotiate all Claims between them in good faith for a period of 60 days from the date of notice of Claim.

D. *Mediation:* If direct negotiations are unsuccessful in resolving a Claim, then Owner and Ampirical shall submit the unsettled Claim to mediation by a mutually agreeable mediator or mediation service. Owner and Ampirical agree to participate in the mediation process in good faith. The process shall be conducted on a confidential basis, and shall be completed within 120 days.

1. The fees and expenses, including filing fees, of the mediator and any mediation service shall be shared equally by Owner and Ampirical.
2. The mediation shall be held in the locality where the Project is located, unless another location is mutually agreed upon by the parties.
3. A settlement (if any) resulting from such mediation will be specifically enforceable under the prevailing law, by any court having jurisdiction.
4. Participation in the mediation process in good faith is a condition precedent to commencing final or binding dispute resolution.

E. If mediation is unsuccessful in resolving a Claim, then within 120 days of the completion of the mediation (1) the parties may mutually agree to a binding dispute resolution process of their choice, or (2) the claimant may give notice to the other that the claimant will seek to have the dispute resolved by a binding dispute resolution method established in this Contract, or if no such method has been established, by a court of competent jurisdiction. Failure by claimant to give such notice in a timely manner shall result in a waiver of the Claim.

ARTICLE 16 – MISCELLANEOUS

16.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice to the other party to this Contract, it will be deemed to have been validly given if delivered to the Authorized Representative of the other party:

1. In person, by a commercial courier service or otherwise; or
2. By registered or certified mail, postage prepaid; or
3. By e-mail, with the words "Formal Notice" or similar in the e-mail's subject line.

16.02 *Computation of Times*

A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

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16.03 *Cumulative Remedies*

A. Unless expressly stated otherwise in this Contract, the duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, or waiver of, any rights and remedies available to any or all of them which are otherwise imposed or available by:

1. Laws or Regulations; or
2. Any special warranty or guarantee; or
3. Other provisions of the Contract.

B. The provisions of Paragraph 16.03.A will be as effective as if repeated specifically in the Contract in connection with each particular duty, obligation, right and remedy to which they apply.

16.04 *Limitation of Damages*

A. In no circumstances will either Party, or any of their parent companies and Affiliates, or their respective members, shareholders, officers, directors, agents and employees, be liable to the other for any consequential, incidental, indirect, special, exemplary or punitive damages, including attorneys' and/or expert fees, loss of actual or anticipated profits, revenues or product, and increased cost of capital, arising out of the Agreement (collectively, "Consequential Damages"), provided that damages sought under third party indemnification claims do not constitute Consequential Damages. This waiver applies to claims arising out of breach of contract, guarantee, warranty, tort (including negligence and strict liability), product liability, indemnity, contribution, strict liability or any other legal or equitable theory.

B. Neither Party shall be liable to the other for any amount exceeding the Contract Price as a result of either Party's breach of the terms and conditions of this Agreement. Under no circumstances shall Ampirical be liable to Owner under this Agreement for any amount(s) exceeding in total Ampirical's required minimum limits of liability insurance.

16.05 *No Waiver*

A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

16.06 *Survival of Obligations*

A. All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion and acceptance of the Work and termination or completion of the Contract.

16.07 *Controlling Law*

A. The Contract Documents will be construed in accordance with the law of the place of the Project.

16.08 *Headings*

A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

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RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO ENTER INTO AN AGREEMENT WITH AMPIRICAL FOR EQUIPMENT PROCUREMENT AND CONSTRUCTION SERVICES RELATED TO THE ELECTRIC SYSTEM UPGRADES REQUIRED FOR THE WALMART GLOBAL HOME OFFICE DEVELOPMENT.

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

Section 1: That the Mayor and Clerk be and are hereby authorized to enter into an Agreement with Ampirical for equipment procurement and construction services related to the electric system upgrades required for the Walmart Global Home Office development, as set forth in the agreement attached hereto as Exhibit "A".

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

PASSED and APPROVED this _____ day of _____, 2021.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Electric**
Submitted by	**Travis Matlock**
Phone	**479-271-5941**

Item Type: (*Check All That Apply*)

☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☑ Resolution	☐ Bid Award

Recommendation/Suggested Action *(Enter recommendation in space below):*

A resolution to enter into an agreement with Futura Systems, Inc. for Field Pro Staking software which is Phase 2 of the overall software installation for $36,725.00. This is a 2021 budgeted item and was approved by the Utility Board 4-0.

Estimated Cost	**$36,725.00**
Is this Item Budgeted?	☑ Yes ☐ No

If no, please explain how item will be funded *(briefly explain in space below)* **:**

M E M O R A N D U M

DATE: March 9, 2021

TO: **City Council, Mayor Orman**

FROM: Travis Matlock, Electric Utility Director

RE: **Futura Software – Phase 2**

BEUD recommends entering into an agreement with Futura Software, Inc. for Field Pro Stake for $36,725.00. This is Phase 2 of the Futura software installation and is a 2021 budgeted item.

In October of 2020, City Council approved entering into an agreement with Futura Software, Inc. for phase 1 of the install which allowed for the conversion of our existing GIS information and the beginning of the installation of the overall mapping. Phase 2 is the staking package that will allow for design/drawing production.

This item was approved by the Utility Board 4-0.

FUTURA SYSTEMS

Quotation

Quote #: Q-02316-1
Date: 2/8/2021
Expires On: 3/22/2021

Futura Systems, Inc.

100 Ashford Center North Suite 360
Atlanta, GA 30338
Phone: (678) 906-2575
Email: sales@futuragis.com

Prepared For
Travis Matlock
Bentonville, City of
1000 SW 14th Street
Bentonville, AR 72712-5256
(479) 271-3135
tmatlock@bentonvillear.com

Bill To
Bentonville, City of
1000 SW 14th Street
Bentonville, AR 72712-5256

POINT OF CONTACT	PHONE	EMAIL	DELIVERY METHOD	PAYMENT METHOD
Andy Gappinger		andyg@futuragis.com		Net 30

Licenses

QTY	NAME	DESCRIPTION	UNIT PRICE	DISC (%)	EXTENDED
1	Field Pro License	License for the Field Pro app.	$10,000.000		$10,000.00
				Licenses Total Costs:	$10,000.00

Other Software

QTY	NAME	DESCRIPTION	UNIT PRICE	DISC (%)	EXTENDED
1	SAP Crystal Reports	License of SAP Crystal Reports	$500.000	100.00	$0.00
1	Microsoft Access	Required to run Futura Stake	$0.000		$0.00
				Other Software Total Costs:	$0.00

Recurring

QTY	NAME	DESCRIPTION	UNIT PRICE	DISC (%)	EXTENDED
1	Field Pro Basic	Field Pro Basic module	$500.000		$500.00
12	Futura Flex	Monthly support based on seats	$1,500.000		$1,500.00
1	Futura Stake	Monthly product support	$510.000		$510.00
1	Stake Base Support	Monthly base support for Futura Stake	$250.000		$250.00
				Recurring Total Costs:	$2,760.00

Services

QTY	NAME	DESCRIPTION	UNIT PRICE	DISC (%)	EXTENDED
1	Indigo Flex Module	Setup and configuration of the Indigo Flex dispatch module price based on complexity of the scope.	$5,000.000		$5,000.00
1	Flex Server Configuration	Flex server configuration and setup	$850.000		$850.00
1	Staking Configuration	Setup and implementation services.	$8,500.000		$8,500.00
1	Indigo Projects	Indigo Work order module set up and configuration	$5,000.000		$5,000.00
				Services Total Costs:	$19,350.00

Training

QTY	NAME	DESCRIPTION	UNIT PRICE	DISC (%)	EXTENDED
12	Field Pro Training	Field Pro remote training conducted on hourly basis	$125.000		$1,500.00
15	Flex Training	Flex remote training conducted on hourly basis	$125.000		$1,875.00
32	Stake Training	Stake onsite training conducted on hourly basis	$125.000		$4,000.00
				Training Total Costs:	$7,375.00

Monthly Recurring: $2,760.00

Upfront Cost: $36,725.00

ESRI Cost: $0.00

The City of Bentonville has the Esri Enterprise License Agreement. SAP Crystal Reports and Microsoft Access are required by FuturaStake and will be supplied by the City of Bentonville. Training hours are billed as-used.

Terms & Conditions
Pricing is valid for 30 days from date above, and does not include applicable sales tax or shipping charges.

Signature: _____ **Effective Date:** _____/_____/_____

Name (Print): _____ **Title:** _____
Please complete DocuSign to finalize quote and notify Andy Gappinger

FieldPro iPad Hardware Document

Futura FieldPro is designed to work with any of the iPads available on the Apple website.

http://www.apple.com/ipad/compare/

For the best possible experience Futura recommends the 10.5 inch iPad Pro (or newer) Wi-Fi + Cellular

Futura FieldPro is designed for iOS 13.1 and higher

Futura FieldPro is **not** compatible with iOS < 9.0 and iPads manufactured before March 7, 2012

GPS and iPad/FieldPro

Wi-Fi only iPad's do **not** include a GPS receiver. GPS is included in the Wi-Fi + Cellular model iPads only.

An external GPS, such as the ones below, can be used with a Wi-Fi Only or Wi-Fi + Cellular iPad.

- Trimble Pro Series: R2 GNSS, R1 GNSS
- EOS Arrow Series: Gold, 200, 100, Arrow Lite
- Bad Elf: GNSS Surveyor, GPS Pro+, GPS Pro

Server Requirements (if using seperate server for Flex)

- Windows Server 2012-2016
- MS SQL Server 2012-2016
- 4+ processor cores
- 24 GB RAM
- 500 GB – 1 TB disk

Client Requirements

- Browser – Chrome (latest version)

Field Devices

- iPad
  - iPad Pro 10.5",11" or 12.9" Wi-Fi + Cellular 64GB or 128GB
  - iPad Mini 4 Wi-Fi + Cellular 64GB or 128GB
  - iPads manufactured before March 7, 2012 are **not** compatible
  - An external GPS, such as the ones below, can be used with a Wi-Fi Only or Wi-Fi + Cellular iPad:
    - Trimble Pro Series: R2 GNSS, R1 GNSS
    - EOS Arrow Series: Gold, 200, 100, Arrow Lite
    - Bad Elf: GNSS Surveyor, GPS Pro +, GPS Pro
  - iOS
    - Minimum version 9.2.1
    - Recommended version: 13.3 (current as of 01/09/2020)

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO ENTER INTO AN AGREEMENT WITH FUTURA SYSTEMS, INC TO PROVIDE CERTAIN SOFTWARE FOR THE CITY OF BENTONVILLE.

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

Section 1: That the Mayor and Clerk be and are hereby authorized to enter into an agreement with Futura Systems, Inc. to provide Field Pro Staking software for the Bentonville Electric Utilities Department, as set forth in the agreement attached hereto as Exhibit "A".

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

PASSED and APPROVED this _____ day of _____, 2021.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Electric**
Submitted by	**Travis Matlock**
Phone	**479-271-5941**

Item Type: (*Check All That Apply*)

☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☐ Resolution	☑ Bid Award

Recommendation/Suggested Action *(Enter recommendation in space below):*

Bid award for the construction of Phase 1 of the fiber infrastructure to Source Power, LLC for $475,745.86. This is a 2021 budgeted item and was approved by the Utility Board 4-0.

Estimated Cost	**$475,745.86**
Is this Item Budgeted?	☑ Yes ☐ No

If no, please explain how item will be funded *(briefly explain in space below)* **:**

M E M O R A N D U M

DATE: March 9, 2021

TO: **City Council, Mayor Orman**

FROM: Travis Matlock, Electric Utility Director

RE: **Fiber Infrastructure install – Phase 1**

BEUD recommends awarding the bid for construction of Phase 1 of the fiber infrastructure to Source Power, LLC for $475,745.86 (see bid review). This is a 2021 budgeted item.

Source Power, LLC was not the low bidder on this project. However, the low bidder, ADB, did not submit the required qualifications. Per the engineer's analysis, BEUD recommends awarding to Source Power, LLC.

This item was approved by the Utility Board 4-0.

FIBER OPTIC CONSTRUCTION

MUNICIPAL COMPLEX TO S WALTON BLVD AND SE 28TH ST.

BENTONVILLE, AR

IFB-21-02

Bid Summary & Recommendation

(Revised)

February 16, 2021

Bid Summary

There were four bids submitted for the IFB for Fiber Optic Construction:

	City of Bentonville Electric Utilities Fiber Optic Construction Project IFB-21-02 Bid Analysis	scoring	ADB	BBC Electrical Services	Hutton Contracting	Source Power
1	Respondent Information	yes/no	yes	yes	yes	yes
2	Acknowledgement of Review of Bid Package	yes/no	yes	yes	yes	yes
3	Qualifications	1-10	2	8	8	10
4	Experience	1-10	6	6	6	10
5	References	1-10	4	6	6	10
6	Certificate of Insurance	yes/no	yes	yes	no	yes
7	Safety Records	yes/no	yes	yes	yes	yes
8	Proposed Duration and Schedule	yes/no	yes	yes	yes	yes
9	subtotal of scores		12	20	20	30
10	Bid Form - Signed and Dated		$ 475,055.00	$ 786,960.90	$ 1,783,775.60	$ 475,745.86
	Bid Compared to estimated Budget		Under 15%	Over 41%	Over 220%	Under 15%

Evaluation of Qualifications, Experience, and References

Response from ADB

Qualifications

ADB stated that they have a wealth of experience installing fiber optic cable throughout the Midwest and Southeast portions of the country over the past 25 years and that all projects constructed by ADB have been completed on time and within budget safely and to the complete satisfaction of their customers.

Experience

ADB offered three projects under the category of Experience. Each project showed the client, type of installation, schedule, and value. When reviewing the corresponding category of References, it was found that the first project, IFB 19-62 for City of Bentonville, AR, did not have a reference. The other two projects did have a corresponding reference. One project did not describe the type of material installed, one described a five-mile ADSS installation in power space, and the third described a FTTH installation.

References

ADB offered three references including Clarksville Light and Water, City Utilities of Springfield, MO, and City of Houston. Two of the references were for two of the projects listed under the category of Experience. A third reference, SpringNet for City Utilities of Springfield, MO did not have a corresponding project under the category of Experience.

Response from BBC Electrical Services

Qualifications

BBC stated that they employ IBEW Journeyman Lineman on all of their projects. They stated that all JLs go through an apprenticeship program of 7,000 hours of training. They described their project team including superintendent and general foreman, and operators.

Experience

BBC offered twelve projects for consideration. Five projects involved ADSS ranging from 8 to 21 miles in length, four projects involved an unspecified cable type, one project involved OPGW installation, one project involved 69kV with OPGW Static Wire, and one project involved a 62-mile static OPGW replacement.

References

BBC offered a Reference for each group of projects. The references included AEP Telecom, Show Me Power/Technology, Prairie Power, and Southwestern Power Administration.

Response from Hutton Contracting

Qualifications

Hutton provided qualifying experience for Superintendents with over 25 years of experience holding certificates of apprenticeship as Lineman Installer, a Foreman with 17 years of experience, and eight Linemen with experience ranging from four to ten years.

Experience

Hutton offered eight projects for the installation and rebuild of 69kV and 161kV transmission lines with one of the projects having (23 miles) of OPGW on a 161 kV line.

References

Hutton offered a Reference for each project submitted. The references included Northwest Electric Power Cooperative, Western Farmers Electric Cooperative, Northwest Electric Power Co-op, Southwestern Power Administration and Central Electric Power Cooperative.

Response from Source Power

Qualifications

Source Power provided

- Field Personnel Capability Qualifications for nine team members of their team illustrating experience, qualifications, education, responsibilities, training, certifications, and skills.
- Certificates for OTDR and CPRI Certification Training for two team members
- Extensive resume for Region Manager showing 35 years of progressively responsibility in electric utility industry
- Extensive resume for Safety & Training Manager

Experience

Source Power offered four projects for consideration. They offered projects for American Electric Power – AEP Texas, Guadalupe Valley Electric Cooperative (GVEC), and Public Service Company of Oklahoma. Each project showed the client name, project name, if it was on transmission or distribution, if structures were set and if anchors were placed, splicing and testing, start date, completion date, and if it was completed on time and within budget.

For American Electric – AEP Texas, Source Power has been awarded a 2-year Master Service Agreement for Telecommunication and Distribution type work. Source Power has five crews working throughout their system in Texas, Oklahoma, and Arkansas.

For GVEC, Source Power has been awarded a 2-year Master Service Agreement to perform construction for Overhead Distribution and Telecommunication services on their system. Source Power has two crews working throughout their system which have worked there for the past two years. They stated that their relationship with GVEC spans back more than ten years with key management personnel of Source Power.

For Public Service Company of Oklahoma, Source Power has been awarded a 2-year Master Service Agreement for Telecommunication and Distribution type work. Source Power has five crews working throughout their system in Texas, Oklahoma, and Arkansas.

References

Source Power offered a Reference for each project. They offered references from American Electric Power – AEP Texas, Guadalupe Valley Electric Cooperative (GVEC), and Public Service Company of Oklahoma.

Recommendation for Bid Award

TOP Engineers has evaluated the Bids that were submitted and provides the following evaluation:

1. ADB did not submit qualifications sufficient to properly evaluate its capabilities. They did demonstrate experience relevant to the project at hand. ADB did not offer a Reference for one of the three projects shown under the category of Experience and offered a Reference without an associated project. ADB bid cost is 15% below the estimated project cost. For these reasons, ADB is a viable option to consider but with additional conditions.

2. BBC Electrical Services has adequate qualifications but is 41% over the estimated project cost. For this reason, BBC Electrical was not seriously considered a viable option.

3. Hutton Contracting has adequate qualifications but is 220% over the estimated project cost. For these reasons, Hutton Contracting was not seriously considered a viable option.

4. Source Power has fulfilled what was requested in the IFB. Their qualifications, experience, and references were submitted in detail sufficient to ascertain their depth in all categories. Source Power bid cost is 15% below the estimated project cost. For these reasons, Source Power is a viable option to consider.

Recommendation for Bid Award – Source Power:

- Completeness of Bid Submittal
  - Indicates a thoroughness and respect for Client Requests.
  - Qualifications are excellent.
- Proven detailed experience that is directly pertinent with the requested bid requirements. It also indicated that the client reference was significant due to multiple multi-year Master Service Agreements.
- References contacted were highly complementary of the professionalism and performance experienced.
- Source Power bid cost is 15% lower than the estimated project cost. This is congruent with market expectations.

Final comments:

- TOP Engineers evaluated the IFB based on submitted content of each entity and interviews of their references.
- It is the professional opinion of TOP Engineers Plus that, based on the bids submitted, Source Power is the low qualified bidder and is a good selection that should serve the needs of the City of Bentonville for IFB-21-02.

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Inventory Control**
Submitted by	**Travis Matlock**
Phone	**479 271-3145**

Item Type: (*Check All That Apply*)

☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☐ Resolution	☑ Bid Award

Recommendation/Suggested Action *(Enter recommendation in space below):*

Bid award for pole mount transformers for January through June in 2021 to the second lowest bidder as shown on the attached bid tabulation in the amount of $340,061.00. Items will be ordered on 'as needed' basis and was approved by the Utility Board 4-0.

Estimated Cost	**$340,061.00**
Is this Item Budgeted?	☑ Yes ☐ No

If no, please explain how item will be funded *(briefly explain in space below)* **:**

M E M O R A N D U M

DATE: **MARCH 9, 2021**

TO: **City Council, Mayor Orman**

FROM: Travis Matlock, Electric Utility Director

RE: **Pole mount transformers bid #IFB-20-69**

These items in IFB-20-69, were originally awarded to Stuart Irby at the December 8, 2020 City Council Meeting; however, Bentonville later discovered in February that Irby did not meet BEUD specs, and Irby did not list the exceptions on the bid form. Because of that, Bentonville is cancelling the Purchase Orders originally issued to Irby and requesting approval to award these items to Techline, the second low bidder that meets BEUD specs. Techline confirmed that they will honor the prices submitted on the original bid form.

Techline Company in the amount of $340,061.00

This item was approved at the Utility Board 4-0.

Pole Mount Transformer
Bid #IFB-20-69

ITEM NO.	QTY	UNIT	OUR PART NUMBER	DESCRIPTION	IRBY GE	TECHLINE POWER PARTNERS	TECHLINE HOWARD	AECI ERMCO	Techline LOW TOTAL		
1	40	EA	2002	10 KVA 120/240 POLE MOUNT TRANS	$648.00	$687.00	$689.00	$650.00	$27,560.00		
2	40	EA	2008	15 KVA 120/240 POLE MOUNT TRANS	$714.00	$714.00	$790.00	$770.00	$28,560.00		
3	6	EA	2009	15 KVA 277/480 POLE MOUNT TRANS	$705.00	$729.00	$804.00	760	$4,374.00		
4	75	EA	2021	25 KVA 120/240 POLE MOUNT TRANS	$806.00	$790.00	$929.00	$915.00	$59,250.00		
5	6	EA	2022	25 KVA 240/480 POLE MOUNT TRANS	$794.00	$898.00	$1,122.00	$910.00	$5,388.00		
6	6	EA	2023	25 KVA 277/480 POLE MOUNT TRANS	$789.00	$802.00	$954.00	$915.00	$4,812.00		
7	6	EA	2032	37.5 KVA 120/240 POLE MOUNT TRANS	$870.00	$1,007.00	$1,187.00	$1,035.00	$6,042.00		
8	75	EA	2035	50 KVA 120/240 POLE MOUNT TRANS	$1,050.00	$1,181.00	$1,371.00	$1,310.00	$88,575.00		
9	6	EA	2036	50 KVA 277/480 POLE MOUNT TRANS	$1,091.00	$1,295.00	$1,504.00	$1,175.00	$7,770.00		
10	6	EA	2041	75 KVA 120/240 POLE MOUNT TRANS	$1,745.00	$1,543.00	$2,108.00	$1,870.00	$9,258.00		
11	6	EA	2042	75 KVA 277/480 POLE MOUNT TRANS	$1,480.00	$1,443.00	$1,939.00	$1,820.00	$8,658.00		
12	12	EA	2003	100 KVA 120/240 POLE MOUNT TRANS	$1,929.00	$2,228.00	$2,283.00	$2,150.00	$26,736.00		
13	6	EA	2004	100 KVA 277/480 POLE MOUNT TRANS	$1,735.00	$2,135.00	$2,263.00	$1,995.00	$12,810.00		
14	6	EA	2015	167 KVA 120/240 POLE MOUNT TRANS	$2,855.00	$3,755.00	$3,961.00	$3,345.00	$22,530.00		
15	6	EA	2025	250 KVA 120/240 POLE MOUNT TRANS		$5,123.00	$6,486.00	$5,450.00	$30,738.00		
16	6	EA	2026	250 KVA 277/480 POLE MOUNT TRANS		$4,755.00	$4,623.00	$4,850.00		$27,738.00	
									$312,323.00	$27,738.00	**$340,061.00**

Bid Tabulation
Formal Bid # 20-69 Revised
Single Phase Pole Mount Transformers

Item	Transformer Description	Irby GE Grid Solutions		Techline Power Partners		Techline Howard		AECI ERMCO	
		Bid Price	Evaluated Price	Bid Price	Evaluated Price	Bid Price	Evaluated Price	Bid Price	Evaluated Price
1	10KVA 120/240V			$ 687.00	$ 1,235.00	$ 689.00	$ 1,203.00		
2	15KVA 120/240V			$ 714.00	$ 1,470.00	$ 790.00	$ 1,482.00		
3	15KVA 277/480V			$ 729.00	$ 1,491.00	$ 804.00	$ 1,526.00		
4	25KVA 120/240V			$ 790.00	$ 1,908.00	$ 929.00	$ 2,003.00		
5	25KVA 240/480V			$ 898.00	$ 1,874.00	$ 1,122.00	$ 2,182.00		
6	25KVA 277/480V			$ 802.00	$ 1,904.00	$ 954.00	$ 2,028.00		
7	37.5KVA 120/240V			$ 1,007.00	$ 2,493.00	$ 1,187.00	$ 2,657.00		
8	50KVA 120/240V			$ 1,188.00	$ 3,076.00	$ 1,371.00	$ 3,135.00		
9	50KVA 277/480V			$ 1,295.00	$ 2,959.00	$ 1,504.00	$ 3,198.00		
10	75KVA 120/240V			$ 1,543.00	$ 4,109.00	$ 2,108.00	$ 4,568.00		
11	75KVA 277/480V			$ 1,443.00	$ 3,989.00	$ 1,939.00	$ 4,359.00		
12	100KVA 120/240V			$ 2,228.00	$ 5,358.00	$ 2,283.00	$ 5,399.00		
13	100KVA 277/480V			$ 2,135.00	$ 5,281.00	$ 2,263.00	$ 5,345.00		
14	167KVA 120/240V			$ 3,755.00	$ 8,405.00	$ 3,961.00	$ 8,463.00		
15	250KVA 120/240V			$ 5,123.00	$ 11,561.00	$ 6,486.00	$ 12,588.00		
16	250KVA 277/480V			$ 4,755.00	$ 11,285.00	$ 4,623.00	$ 10,665.00		

Notes:
If no exceptions were listed on bid form, BEUD assumes that units supplied will meet all specifications.
Any equipment received that does not meet spec will be returned at cost of supplier.
Irby quoting GE Grid Solutions was determined to not meet spec after award due to bidder not disclosing exceptions.
AECI quoting ERMCO refused to hold prices
Recommended Low Bidder for item 1 and 16 to Techline quoting Howard

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Inventory Control**
Submitted by	**Travis Matlock**
Phone	**479 271-3145**

Item Type: (*Check All That Apply*)

☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☐ Resolution	☑ Bid Award

Recommendation/Suggested Action *(Enter recommendation in space below):*

Bid award for single phase transformers for January through June in 2021 to the second lowest bidder as shown on the attached bid tabulation in the amount of $712,504.00. Items will be ordered on 'as needed' basis and was approved by the Utility Board 4-0.

Estimated Cost	**$712,504.00**
Is this Item Budgeted?	☑ Yes ☐ No

If no, please explain how item will be funded *(briefly explain in space below)* **:**

M E M O R A N D U M

DATE: **MARCH 9, 2021**

TO: **City Council, Mayor Orman**

FROM: Travis Matlock, Electric Utility Director

RE: **Single phase transformers bid #IFB-20-70**

These items in IFB-20-70, were originally awarded to Stuart Irby at the December 8, 2020 City Council Meeting; however, Bentonville later discovered in February that Irby did not meet BEUD specs, and Irby did not list the exceptions on the bid form. Because of that, Bentonville is cancelling the Purchase Orders originally issued to Irby and requesting approval to award these items to Techline, the second low bidder that meets BEUD specs. Techline confirmed that they will honor the prices submitted on the original bid form.

Techline Company in the amount of $712,504.00

This item was approved at the Utility Board 4-0.

1PH. TRANSFORMER
IFB-20-70

ITEM NO.	QTY	UNIT	OUR PART NUMBER	DESCRIPTION	IRBY GE	TECHLINE HOWARD	AECI ERMCO	techline low total
1	20	EA	2010	TRANS 15 KVA PAD MOUNT 1-PH.	$1,181.00	$1,315.00	$1,285.00	$26,300.00
2	75	EA	2024	TRANS 25 KVA PAD MOUNT 1 PH.	$1,295.00	$1,472.00	$1,500.00	$110,400.00
3	150	EA	2037	TRANS 50 KVA PAD MOUNT 1-PH.	$1,452.00	$1,832.00	$1,830.00	$274,800.00
4	50	EA	2043	TRANS 75 KVA PAD MOUNT 1-PH.	$1,843.00	$2,272.00	$2,280.00	$113,600.00
5	15	EA	2005	TRANS 100 KVA PAD MOUNT 1-PH.	$2,431.00	$3,042.00	$2,812.00	$45,630.00
6	30	EA	2016	TRANS 167 KVA PAD MOUNT 1-PH.	$3,065.00	$3,641.00	$3,965.00	$109,230.00
7	6	EA	2027	TRANS 250 KVA PAD MOUNT 1-PHASE		$5,424.00	$5,238.00	$32,544.00
								$712,504.00

Bid Tabulation
Formal Bid # 20-70 Revised
Single Phase Padmount Transformers

Item	Transformer Description	AECI ERMCO Bid Price	AECI ERMCO Evaluated Price	Irby GE Grid Solutions Bid Price	Irby GE Grid Solutions Evaluated Price	Techline Howard Bid Price	Techline Howard Evaluated Price
1	15KVA					$ 1,315.00	$ 2,009.00
2	25KVA					$ 1,472.00	$ 2,472.00
3	50KVA					$ 1,832.00	$ 3,544.00
4	75KVA					$ 2,272.00	$ 4,602.00
5	100KVA					$ 3,042.00	$ 5,814.00
6	167KVA					$ 3,641.00	$ 8,115.00
7	250KVA					$ 5,424.00	$ 11,698.00

Notes:
If no exceptions were listed on bid form, BEUD assumes that units supplied will meet all specifications.
Any equipment received that does not meet spec will be returned at cost of supplier.
Irby quoting GE Grid Solutions was determined to not meet spec after award due to bidder not disclosing exceptions.
AECI quoting ERMCO refused to hold prices
Recommended Low Bidder for items 1-7 to Techline quoting Howard

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Inventory Control**
Submitted by	**Travis Matlock**
Phone	**479 271-3145**

Item Type: (*Check All That Apply*)

☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☐ Resolution	☑ Bid Award

Recommendation/Suggested Action *(Enter recommendation in space below):*

Bid award for 3PH phase transformers for January through June in 2021 to the second lowest bidder as shown on the attached bid tabulation in the amount of $1,819,176.30. Items will be ordered on 'as needed' basis and was approved by the Utility Board 4-0.

Estimated Cost	**$1,819,176.30**
Is this Item Budgeted?	☑ Yes ☐ No

If no, please explain how item will be funded *(briefly explain in space below)* **:**

M E M O R A N D U M

DATE: **MARCH 9, 2021**

TO: **City Council, Mayor Orman**

FROM: Travis Matlock, Electric Utility Director

RE: **3ph transformers bid #IFB-20-71**

These items in IFB-20-71, were originally awarded to Stuart Irby at the December 8, 2020 City Council Meeting; however, Bentonville later discovered in February that Irby did not meet BEUD specs, and Irby did not list the exceptions on the bid form. Because of that, Bentonville is cancelling the Purchase Orders originally issued to Irby and requesting approval to award these items to Techline, the second low bidder that meets BEUD specs. Techline confirmed that they will honor the prices submitted on the original bid form.

Techline Company in the amount of $1,819,176.30

This item was approved at the Utility Board 4-0.

3PH TRANSFORMER
IFB-20-71

ITEM NO.	QTY	UOM	OUR PART NUMBER	DESCRIPTION	IRBY	TECHLINE	AECI	TL LOW TOTAL
1	4	EA	2033	TRANS 45 PM 3PHASE 120/208Y	$5,041.00	$5,102.00	$5,380.00	$20,408.00
2	4	EA	2034	TRANS 45 PM 3PHASE 277/480Y	$4,966.00	$5,150.00	$5,550.00	$20,600.00
3	10	EA	2044	TRANS 75 PM 3PHASE 120/208Y	$5,414.00	$5,880.00	$5,900.00	$58,800.00
4	10	EA	2045	TRANS 75 PM 3PHASE 277/480Y	$5,284.00	$5,554.00	$6,000.00	$55,540.00
5	20	EA	2011	TRANS 150 PM 3PHASE 120/208Y	$6,267.00	$7,352.00	$7,300.00	$147,040.00
6	6	EA	2012	TRANS 150 PM 3PHASE 277/480Y	$6,162.00	$7,635.00	$6,580.00	$45,810.00
7	15	EA	2019	TRANS 225 PM 3PHASE 120/208Y	$7,259.00	$8,702.02	$8,540.00	$130,530.30
8	10	EA	2020	TRANS 225 PM 3PHASE 277/480Y	$7,120.00	$8,840.00	$8,200.00	$88,400.00
9	15	EA	2030	TRANS 300 PM 3PHASE 120/208Y	$7,898.00	$10,072.00	$8,925.00	$151,080.00
10	10	EA	2031	TRANS 300 PM 3PHASE 277/480Y	$7,885.00	$9,769.00	$9,105.00	$97,690.00
11	10	EA	2038	TRANS 500 PM 3PHASE 120/208Y	$9,463.00	$12,468.00	$11,670.00	$124,680.00
12	10	EA	2039	TRANS 500 PM 3PHASE 277/480Y	$9,379.00	$13,913.00	$11,100.00	$139,130.00
13	10	EA	2046	TRANS 750 PM 3PHASE 120/208Y	$16,112.00	$17,328.00	$16,200.00	$173,280.00
14	10	EA	2047	TRANS 750 PM 3PHASE 277/480Y	$12,019.00	$16,107.00	$14,500.00	$161,070.00
15	1	EA	2006	TRANS 1000 PM 3PHASE 120/208Y	$18,823.00	$25,942.00	$20,730.00	$25,942.00
16	6	EA	2007	TRANS 1000 PM 3PHASE 277/480Y	$17,598.00	$19,984.00	$19,200.00	$119,904.00
17	4	EA	2013	TRANS 1500 PM 3PHASE 277/480Y DEADFRONT	$18,595.00	$26,881.00		$107,524.00
18	2	EA	2018	TRANS 2000 PM 3PHASE 277/480 DEADFRONT	$21,989.00	$34,098.00		$68,196.00
19	2	EA	2029	TRANS 2500 PM 3PHASE 277/480Y DEADFRONT	$34,154.00	$41,776.00		$83,552.00
								$1,819,176.30

Bid Tabulation
Formal Bid # 20-71 REVISED
Three Phase Transformers

Item	Transformer Description	Irby GE Grid Solutions		Techline Howard		AECI ERMCO	
		Bid Price	Evaluated Price	Bid Price	Evaluated Price	Bid Price	Evaluated Price
1	45 KVA PAD MOUNT 3PH 120/208Y			$ 5,102.00	$ 7,024.00		
2	45 KVA PAD MOUNT 3PH 277/480Y			$ 5,150.00	$ 6,954.00		
3	75 KVA PAD MOUNT 3PH 120/208Y			$ 5,880.00	$ 8,784.00		
4	75 KVA PAD MOUNT 3PH 277/480Y			$ 5,554.00	$ 8,460.00		
5	150 KVA PAD MOUNT 3PH 120/208Y			$ 7,352.00	$ 12,354.00		
6	150 KVA PAD MOUNT 3PH 277/480Y			$ 7,635.00	$ 12,697.00		
7	225 KVA PAD MOUNT 3PH 120/208Y			$ 8,702.00	$ 15,536.00		
8	225 KVA PAD MOUNT 3PH 277/480Y			$ 8,840.00	$ 15,734.00		
9	300 KVA PAD MOUNT 3PH 120/208Y			$ 10,072.00	$ 18,826.00		
10	300 KVA PAD MOUNT 3PH 277/480Y			$ 9,769.00	$ 18,159.00		
11	500 KVA PAD MOUNT 3PH 120/208Y			$ 12,468.00	$ 25,656.00		
12	500 KVA PAD MOUNT 3PH 277/480Y			$ 13,913.00	$ 26,079.00		
13	750 KVA PAD MOUNT 3PH 120/208Y			$ 17,328.00	$ 35,686.00		
14	750 KVA PAD MOUNT 3PH 277/480Y			$ 16,107.00	$ 33,135.00		
15	1000 KVA PAD MOUNT 3PH 120/208Y			$ 25,942.00	$ 49,076.00		
16	1000 KVA PAD MOUNT 3PH 277/480Y			$ 19,984.00	$ 40,594.00		
17	1500 KVA PAD MOUNT 3PH 277/480Y			$ 26,881.00	$ 56,901.00		
18	2000 KVA PAD MOUNT 3PH 277/480Y			$ 34,098.00	$ 73,682.00		
19	2500 KVA PAD MOUNT 3PH 277/480Y			$ 41,776.00	$ 88,966.00		

Notes:
If no exceptions were listed on bid form, BEUD assumes that units supplied will meet all specifications.
Any equipment received that does not meet spec will be returned at cost of supplier.
Irby quoting GE Grid Solutions was determined to not meet spec after award due to bidder not disclosing exceptions.
AECI quoting ERMCO refused to hold prices
Recommended Low Bidder for item 1-19 to Techline quoting Howard

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Water Department**
Submitted by	**Mike Bender**
Phone	**(479) 271-6873**

Item Type: (*Check All That Apply*)

☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☑ Resolution	☐ Bid Award

Recommendation/Suggested Action (*Enter recommendation in space below*):

Resolution requested by Staff for City Council approval authorizing the Mayor and City Clerk to enter into an agreement with Mueller Systems, LLC in an amount not to exceed $293,563.00 for material and labor to provide and install AMI network infrastructure. Funding will be from the Water Utility reserves. Payment to be made after system meets acceptance of operating at 98.5%. This item was approved by the Utility Board 3-1.

Estimated Cost	**$293,563.00**
Is this Item Budgeted?	☐ Yes ☑ No

If no, please explain how item will be funded (*briefly explain in space below*) :

Item will be funded with Water Utilities Reserves.

Memo

To: City Council, Mayor Orman

From: Mike Bender

CC:

Date: February 25, 2021

Re: Mueller Agreement to Upgrade AMI System

Staff is requesting approval of a resolution authorizing the Mayor and City Clerk to enter into an agreement with Mueller Systems, LLC in an amount not to exceed $293,563.00 for material and labor to provide and install Advanced Metering Infrastructure (AMI) within Bentonville's AMI system.

As you are aware, our AMI system provided by Mueller is not working as it was intended including issues with recording/reporting water usage resulting in significant volumes of unaccounted for water. The most important aspect of resolving issues related to unaccounted for water is to get all of our water meters reporting. As originally set up when the system was deployed in 2012, a majority of our water meters communicated through electric meters. Early in the project, communication through electric meters started to fail leaving the water meter reads stranded. This communication failure caused the communicating nodes at water meters to attempt to communicate more often than usual resulting in premature battery failure which leads to total inability of the node to communicate any water meter reads. Recently, the number of failing batteries increased at a startling rate where staff could not keep up with replacement of the nodes nor manual meter reads. The nodes are currently still under warranty and staff worked to get Mueller on site in October to provide material and labor to replace the failed nodes at their cost of material and labor. In addition, Mueller is providing labor to assist with reading water meters manually. To avoid water meters communicating through electric meters, it was necessary to reevaluate our existing AMI system. This included a new RF signal propagation study to determine infrastructure needed to upgrade our system. In addition, system technology is advancing and version 3 infrastructure that we currently have is approaching its end of life. As such, we are installing newer version 4 and version 6 nodes at the same time we are installing new multi-network collectors that will allow us to collect data from existing V3 and new V4/V6 nodes. This upgrade will allow us to move forward without having to replace the additional collectors in the very near future due to end of life. In addition,

this upgrade allows us to move forward towards two truly independent systems – one for water and one for electric. The improvements to the AMI system will not affect the functionality of the electric portion.

The estimated cost of this upgrade to our AMI system is $293,563.00. Per the agreement, payment will not be due until after our AMI system is accepted which is defined in the contract for the system to be reporting at 98.5% for specified time frames. Funds for this agreement will come from the Water Utilities Reserves.

Thank you for your consideration of this request.

Agreement

This Agreement ("Agreement") is entered into as of March __, 2021, ("Effective Date") by and between Mueller Systems, LLC, a Delaware limited liability company having its principal offices at 1200 Abernathy Road NE, Suite 1200 Atlanta, GA 30328 ("Mueller") and City of Bentonville, Arkansas ("City of Bentonville").

Recitals

WHEREAS, City of Bentonville entered into an agreement with Mueller Systems for an Advanced Metering Infrastructure ("AMI" or "System"); and

WHEREAS, City of Bentonville wishes to upgrade the System; and

WHEREAS, Mueller wishes to provide City of Bentonville with such AMI upgrade; and

WHEREAS, Mueller and the City of Bentonville desire to complete the AMI upgrade on the terms and conditions contained in this Agreement.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual promises, covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

Section 1: Quotation and Purchase Order

Mueller and City of Bentonville agree to the terms provided in Mueller quotation # 82764 as found in Exhibit A ("Quote 82764"), which is hereby incorporated. Additional endpoints outside of Quote # 82764 may result in additional infrastructure and labor costs to City of Bentonville at the then current list price or as negotiated between the parties. Upon the execution of this Agreement, City of Bentonville agrees to issue a purchase order to Mueller per the terms of Quote #82764. City of Bentonville agrees to pay in full within thirty (30) days after systems acceptance date.

Section 2: Definitions

"Electric Warranty Replacement Nodes" – All v3 nodes which are communicating through the electric meter.

"EULA" – The Mueller Systems Master Agreement as found in Exhibit B.

"Mi.Host/Sentryx" - The hosted software application software application.

"Phase 1 Warranty Replacement Nodes" – All non-responsive v3 water nodes identified by Mueller between November 2020 through Network Completion Notification to be replaced with v6 water nodes through a warranty replacement.

"Phase 2 Warranty Replacement Nodes" – All non-responses v3 water nodes identified by Mueller after Network Completion Notification through Final System Acceptance to be replaced with v6 water nodes through a warranty replacement.

"Proposed Propagation Study" - The proposed propagation study conducted by Mueller on September 3, 2020 as found in Exhibit C.

"Required Materials" – Includes, but is not limited to customer interface, swap file interface and billing interface.

Section 3: City of Bentonville Responsibilities

City of Bentonville agrees to perform the following at its sole cost and expense:

1. Ensure all existing meter pit lids have holes to allow thru-the-lid mounting ("TTL"). This includes confirming new pit lids contain such holes to allow for TTL installation.
2. Furnish usable AC power supply for Mueller's AMI Network installation.
3. Provide a secure storage facility for all AMI equipment, which shall be accessible to Mueller employees and subcontractors at all times.
4. Prepare meter pits to be free from dirt or debris for installation of new Mi.Net radios.
5. During the warranty replacement of the node, if a meter is identified as needing investigation, the Mueller field team will notify the City of Bentonville and it is the responsibility of the City of Bentonville to maintain the meter and replace as necessary.
6. Provide Mueller with all Required Materials for integration in a timely manner.
7. Upon the execution of this Agreement, Mueller will provide City of Bentonville with the network design document. Within ten (10) business days of receipt, City of Bentonville will review and provide comments or provide approval to proceed with network installation. If the City fails to provide comments or approval, approval will be deemed accepted by City of Bentonville.
8. Additional responsibilities as defined in Section 5 of this Agreement.

Section 4: Mueller Responsibilities

1. Mueller agrees to provide the following at its sole cost and expense:
    a. Replace Phase 1 Warranty Replacement Nodes. Replace Phase 2 Warranty Replacement Nodes.
    b. Replace Electric Warranty Replacement Nodes.
    c. Through the Lid Antenna's ("TTLA") for each Phase 1 Warranty Replacement Node, Phase 2 Warranty Replacement Node and Electric Warranty Replacement Node.
2. Mueller agrees to perform the following:
    a. Mueller or its designated subcontractor shall perform the installation services in accordance with that same or similar standard of care practiced by reasonable and prudent firms providing the same or similar services in the same geographic locality for warranty replacement node. For any warranty replacements, City of Bentonville must promptly notify Mueller of such non-conformance along with evidence which reasonably demonstrates the non-compliance. At Mueller's discretion, Mueller shall promptly re-perform the non-conforming Services.
    b. Provide Mi.Host/Sentryx and software monitoring and support services subject to the terms found in the EULA as found in Exhibit B, which is hereby incorporated in this Agreement.
    c. Provide the Propagation Study as found in Exhibit C, which is hereby incorporated into this Agreement.
    d. Mueller will review locations for network installation and provide the City of Bentonville with a network design document prior to conducting network installation. City of Bentonville must review and approve such network design document as highlighted in Section 3 of this Agreement.
    e. Upon City of Bentonville's acceptance of the network design document, which shall not be unreasonably withheld, Mueller will install the network equipment. If additional equipment is necessary to meet the accepted performance criteria, Mueller will install the additional equipment at its own expense.

3. The parties agree Mueller's warranty obligations and Mueller's liability are limited to the terms provided in Mueller Systems Product Warranty Statement, as found in Exhibit D, which is hereby incorporated into this Agreement.

Section 5: Performance Acceptance Tests

Mueller and City of Bentonville have agreed to the following tests and system performance levels:

1. Endpoint Communication Test: Once the network is installed per Section 4 of this Agreement, each Phase 1 Warranty Replacement Node will be validated to communicate with the network. If an installed Phase 1 Warranty Replacement Node is not communicating with the network, Mueller will investigate and correct the installation validating the Phase 1 Warranty Replacement Nodes are communicating. The installed Phase 1 Warranty Replacement Nodes will be confirmed to communicate with the network once the data is updated onto MiHost / Sentryx. This process is referred to as "Endpoint Communication Test". Mueller and City of Bentonville agree that this Endpoint Communication Test will be limited to the Phase 1 Warranty Replacement Nodes.
   Network Completion Notification: Upon completion of the Endpoint Communication Test, Mueller will provide City of Bentonville a notification of completion for network installation ("Network Completion Notification"). Within ten (10) business days of receipt of such Network Completion Notification, City of Bentonville will review and provide comments or provide approval to proceed. If the City fails to provide comments or approval, approval will be deemed accepted by City of Bentonville.
   a. Only Phase 1 Warranty Replacement Nodes will be included in the Cycle Acceptance Test (as described below) and the Systems Acceptance Test (as described below). Phase 2 Warranty Replacement Nodes will not be included in neither the Cycle Acceptance Test nor the System Acceptance Test. Mueller will target to install Phase 2 Warranty Replacement Nodes prior to the completion of Systems Acceptance Test.
2. Cycle Acceptance Test: Upon completion of Network Completion Notification., Mueller will provide the City of Bentonville with a start notification for each of the four (4) cycles identified by City of Bentonville in Exhibit E, which is hereby incorporated. Each cycle will be measured for five (5) consecutive days validating that Phase 1 Warranty Replacement Test Nodes communicate at a 98.5% read rate average over five (5) consecutive days. If a cycle achieves the specified read rate, Mueller will provide City of Bentonville a notification of completion of achieved read rates ("Cycle Completion Notification"). If a cycle has not achieved the 98.5% average read rate, then non-responding Phase 1 Warranty Replacement Nodes will be field evaluated by Mueller. During the field evaluation, photos of the situation will be taken of the Phase 1 Warranty Replacement Nodes and installation identifying the cause. If the cause is due to circumstances outside the control of Mueller, which include but are not limited to the examples listed below, the Phase 1 Warranty Replacement Nodes will be removed from the Cycle Acceptance Test and the cycle will be re-calculated. If after the re-calculation the cycle is performing equal to or above the 98.5% average read rate, Mueller will issue a Cycle Completion Notification If after re-calculation, the cycle is less than the expected 98.5% average read rate, Mueller will mitigate the Phase 1 Warranty Replacement Nodes in the cycle achieving the expected five (5) day 98.5% average read rate. Upon completion of the mitigation, Mueller will notify the City of Bentonville and repeat the Cycle Acceptance Test until Mueller can provide a Cycle Completion Notification for the impacted cycle.
   a. Examples of Circumstances outside the control of Mueller include, but are not limited to the following:
      i. Node has been removed from the location
      ii. Node is under water

iii. Node is under-ground where soil is either covering the pit or the node is completely submerged in the pit and covered by soil.
iv. Located at the bottom of the meter pit

3. System Acceptance Test – Once all cycles have been accepted, Mueller will begin the Systems Acceptance Test. The system will be measured for (90) consecutive days validating the Phase 1 Warranty Replacement Nodes communicate at 98.5% average read rate. If the system is measured at equal to or greater than 98.5% average read rate, the City of Bentonville will notify Mueller of system acceptance ("System Completion Notification"). If the route has not achieved the 98.5% average read rate, Phase 1 Warranty Replacement Nodes will be field evaluated by the City of Bentonville. During the field evaluation, photos of the situation will be taken of the Phase 1 Warranty replacement Nodes and installation identifying the cause. If the cause is due to circumstances outside the control of Mueller, which include but are not limited to the examples listed below, the non-responsive Phase 1 Warranty Replacement Node will be removed from the systems acceptance and the system test will be re-calculated. If after the re-calculation the system is performing equal to or above the 98.5% average read rate, the system will be accepted, and the City of Bentonville will notify Mueller of the systems acceptance. If after re-calculation, the route is under the expected 98.5% average read rate, Mueller will mitigate the Phase 1 Warranty Replacement Nodes achieving the expected 98.5% average read rate. Upon completion of the mitigation, Mueller will notify the City of Bentonville of System Acceptance Test start and the process will repeat until Mueller can provide a System Completion Notification.
    a. Examples of Circumstances outside the control of Mueller include, but are not limited to the following:
        i. Node has been removed from the location
        ii. Node is under water
        iii. Node is under-ground where soil is either covering the pit or the node is completely submerged in the pit and covered by soil.
        iv. Located at the bottom of the pit
4. Final System Acceptance – Upon issuance of a System Completion Notification by Mueller, a Final System Acceptance will be initiated measuring the performance of the entire system measured for (5) consecutive days validating that all water nodes communicate at a 98.5% read rate average over the five (5) consecutive days. If the system is measured at equal to or greater than 98.5% read rate, Mueller will provide the City of Bentonville of a Final System Notification. If the system has not achieved the 98.5% average read rate, water nodes will be field evaluated by the Mueller and the City of Bentonville. During the field evaluation, photos of the situation will be taken of the water node and installation identifying the cause and non-responding nodes will be replaced to meet the expected system performance of 98.5% average read rate. If the cause is due to circumstances outside the control of Mueller, which include but are not limited to the examples listed above, the water node will be removed from the Final System Acceptance and the system will be re-calculated. If after the re-calculation the system is performing equal to or above the 98.5% average read rate, the final system will be accepted, and Mueller will provide the City of Bentonville of Final System Notification. If after re-calculation, the system is less than the expected 98.5% average read rate, Mueller will mitigate the water nodes in the system achieving the expected five (5) day 98.5% average read rate. Upon completion of the mitigation, Mueller will notify the City of Bentonville of Final System Acceptance test start and the process will repeat until Mueller can provide a Final System Notification.
5. Upon Mueller's issuance of the Final System Notification, Mueller will invoice the City of Bentonville for the labor and infrastructure as specified in Quote #82764. Such payment shall be made within thirty (30) days of receipt and shall be deemed an acceptance of the System.

Section 6: Force Majeure.

Any delay or failure of Mueller to perform its obligations will be excused to the extent the delay or failure was caused by an event beyond Mueller's reasonable control, including, but not limited to, acts of God or the elements, civil insurrection, acts of war or terrorism, unusual health and safety situations, disease (including, but not limited to the COVID-19 pandemic), epidemics, quarantine restrictions, inability to obtain necessary labor, materials or manufacturing facilities, labor disputes, riots, boycotts, civil or military authority, transportation and/or supply distribution disruption, fires, floods, or other severe weather, governmental actions (including, but not limited to tariffs, embargos, trade war or similar charges), or another situation which by its nature could not have been reasonably foreseen by Mueller.

Section 7: Miscellaneous.

a. All persons executing this Agreement on behalf of a party warranty that they have the authority to execute this Agreement on behalf of that party.
b. The parties intend this writing to be the sole, final, complete, exclusive and integrated expression and statement of the terms of their contract. This Agreement supersedes all prior oral or written negotiations, representations, contracts or other documents that may be related to this Agreement. This Agreement may be amended only by a subsequent written contract approved and signed by both parties.
c. This Agreement will be governed by and construed in accordance with the laws of the State of Arkansas. The county and federal district court where City's office is located shall be venue for any state and federal court litigation concerning the enforcement or construction of this Agreement.
d. If any part of this Agreement is held to be void, invalid, illegal or unenforceable, then the remaining parts will continue in full force and effect and be fully binding, provided that each party still receives the benefits of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

City of Bentonville, Arkansas

Signature:_____

Name: _____

Title: _____

City of Bentonville, Arkansas

Signature:_____

Name: _____

Title: _____

Mueller Systems, LLC

Signature:_____

Name: _____

Title: _____

ACKNOWLEDGEMENT

STATE OF }
COUNTY OF }

BE IT REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared _____, authorized agent of **Mueller Systems, LLC.**, to me well known as the person or persons who executed the foregoing easement grant, and acknowledged that they executed the same as their free and voluntary act and deed for the purposes and considerations therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public on this __ day of _____, _____.

_____

Notary Public

My Commission Expires: _____

EXHIBIT A: Quote 82764

[Attach Quote #82764]

MUELLER

SALES QUOTATION

Phone: (800) 423-1323
Website: www.MuellerSystems.com

Attention:
Phone:
Email:

Company Address:
3200 SW Municipal Dr. (Water) 501 SW 28th St. (Electric)
Bentonville,AR,72712

Prepared For:
Bentonville (AR), City of
Account #: 95082200

End User:
Bentonville (AR), City of

Created Date: 02/01/2021
Quote #: Q-82764
Quote Expires: 06/30/2021

Terms are located at:
www.MuellerSystems.com/Support

ARO: "A" & Stock items 30 Days. Project items Stock to 120 days unless specified in contract

Currency Type: USD

Prepared by:
Sondra Combs

Comments & Consideration
$50 minimum order, $75 non-box quantity
Should you have any questions, please do not hesitate to contact Sondra-Combs
Quote Line Items

Infrastructure

PART #	DESCRIPTION	UNITS	SALE PRICE	EXTENDED NET
MS-MNC-V4-AC-AT3	MINET COLLECTOR,V4,AC,ATT,C3	15	6,999.00	104,985.00
MSW-NODE4-DC	MINODE4 REPEATER-DC POLE MNT	46	699.00	32,154.00
MSW-NODE4-AC	MINODE4 REPEATER-AC	24	1,199.00	28,776.00
MS-H4-HH-INST-KIT	MITECH H4HANDHELD W/INSTALLKIT	2	3,499.00	6,998.00
			Infrastructure TOTAL:	USD 172,913.00

Services

PART #	DESCRIPTION	UNITS	SALE PRICE	EXTENDED NET
PROJECT-MGMT	PROJECT MANAGEMENT FEES	40	115.00	4,600.00
			Services TOTAL:	USD 4,600.00

Optional Labor Install Via Mueller

PART #	DESCRIPTION	UNITS	SALE PRICE	EXTENDED NET
LABOR-COLLECTOR5	UTILITY ASSET	39	2,150.00	83,850.00
LABOR-REPEATER1	DC XR WITH POLE SET	46	700.00	32,200.00
			Optional Labor Install Via Mueller TOTAL:	USD 116,050.00

TOTAL: USD 177,513.00

EXHIBIT B: EULA

[Attach EULA]

Exhibit B

MUELLER SYSTEMS
MASTER AGREEMENT

THIS MASTER AGREEMENT (this "**Agreement**") is entered into this _____ day of _____ _____ _____ between MUELLER SYSTEMS, LLC, a Delaware limited liability corporation having its principal offices at 10210 Statesville Blvd, Cleveland, North Carolina 27013 (referred to in this Agreement as "**Mueller Systems**" or "**Provider**"), and _____ (referred to in this Agreement as "**Customer**"). This Agreement governs the sale by Provider and the purchase by Customer for its own use and not for resale of, as applicable, Equipment, Software, Documentation and other items related to advanced metrology infrastructure systems. In the event of any conflict or inconsistency between the terms and conditions of this Agreement and terms and conditions of any other agreement or document, the terms and conditions of this Agreement shall govern and control and the conflicting or inconsistent terms and conditions are hereby rejected. In consideration of the mutual obligations set forth in this Agreement, Customer and Mueller Systems agree as follows:

1. **DEFINITIONS.**

a. "**Content**" means the information developed or legally acquired by Customer which may be used in connection with or accessed by any module of the Software.

b. "**Documentation**" means the user guides, reference manuals, and installation materials provided by Provider to Customer related to the Software and Equipment.

c. "**Equipment**" means the components, devices, products, equipment and related items provided by Provider identified in Appendix A.

d. "**Services**" means activities related to deployment and installation services, repair services, hosting services and technical support/maintenance services as provided by Mueller Systems and as identified in Appendix B.

e. "**Software**" means the object code versions of Mueller Systems' software identified in Appendix A, together with all subsequent authorized updates, replacements, modifications or enhancements.

2. **SOFTWARE**

a. Software on Equipment License. For Equipment purchased by Customer from Mueller Systems, Mueller Systems hereby grants Customer a limited, non-exclusive, non-sublicensable, non-transferable, perpetual, irrevocable license to use and execute the Software embedded in the Equipment for its internal business purposes in connection with such Equipment ("Firmware").

b. Online Software Access. Subject to the terms of this Agreement and the payment of the fees specified in Section 6a herein, Mueller Systems grants to Customer, for its internal business purposes and during the term of this agreement, a limited, non-exclusive, non-sublicensable, non-transferable right to access and use and make available to Customer's utility users, as applicable, and/or employees the online, hosted Software specified herein.

c. Restrictions. Except as specifically and expressly permitted in writing by Mueller Systems, Customer shall not (i) violate any restriction set forth in this Agreement; (ii) modify, translate, de-compile, reverse compile, disassemble, or create or attempt to create, by reverse engineering or otherwise, the source code from the object code of the Software; (iii) adapt the Software in any way for use to create a derivative work; or (iv) include or combine the Software in or with any other software.

d. Ownership. This Agreement does not grant to Customer any ownership interest in the Software or Documentation. Customer has a license to use the Software and Documentation as provided in this Agreement. Customer hereby agrees and acknowledges that Mueller Systems owns all right, title, and interest in the Software and Documentation, and Customer will not contest those rights or engage in any conduct contrary to those rights. Any copy, modification, revision, enhancement, adaptation, translation, or derivative work of or created from the Software and Documentation made by or at the direction of Customer shall be owned solely and exclusively by Mueller Systems, as shall all patent rights, copyrights, trade secret rights, trademark rights and all other proprietary rights, worldwide.

e. Reservation. Mueller Systems reserves all rights not specifically granted under this Agreement.

3. **EQUIPMENT** In consideration of the fees set forth in Appendix D of this Agreement, Mueller Systems will provide the Equipment identified in Appendix A.

4. **SERVICES** In consideration of the fees set forth in Appendix D of this Agreement, Mueller Systems will provide the Services identified in Appendix B.

5. **CONFIDENTIALITY** The Software, Equipment and Documentation, including any ideas, concepts, know-how and technology contained therein, shall be considered the proprietary and confidential information of Mueller Systems and, as such, shall be subject to the confidentiality provisions of this Agreement. If a separate, written non-disclosure agreement exists between Mueller Systems and Customer, such agreement will control and will apply according to its terms and conditions to all confidential information the parties exchange with each other. If no separate, written non-disclosure agreement exists between Mueller Systems and Customer, the terms listed in Appendix C will apply to the confidential information the parties exchange with each other.

6. **FEES AND PAYMENT**

a. Software Fees. Customer shall pay the Software fees set forth in Appendix D of this Agreement.

b. Equipment Fees. Customer shall pay the Equipment fees set forth in Appendix D of this Agreement. Title to the Equipment, except the Software and Documentation that are subject to licenses provided in this Agreement, passes from Mueller Systems to Customer when Mueller Systems ships the Equipment.

c. Service Fees. Customer shall pay the Service fees set forth in Appendix D of this Agreement.

d. Taxes. All prices and fees are in U.S. dollars unless otherwise specified. All amounts payable under this Agreement are exclusive of all sales, use, value-added, excise, property, withholding, and other taxes and duties. Customer will pay all taxes and duties assessed by any authority in connection with this Agreement and with Customer's performance hereunder. Customer will promptly reimburse Mueller Systems for any and all taxes or duties that Mueller Systems may be required to pay in connection with this Agreement or its performance. This provision does not apply to taxes based on Mueller Systems' income, or any taxes for which Customer is exempt, provided Customer has furnished Mueller Systems with a valid tax exemption certificate.

e. Payment. Unless provided otherwise herein, Customer agrees to pay all amounts specified in Appendix D or otherwise due under this Agreement within thirty (30) days after the date of invoice. Past due amounts will shall bear interest from the due date until paid at a rate of (i) one and one-half percent (1.5%) per month or (ii) the maximum rate permitted by law, whichever is less. All payments made under this Agreement shall be nonrefundable, except as specifically provided otherwise in this Agreement.

7. **TERM; TERMINATION**

a. Term. The term of this Agreement is one (1) year commencing upon the date of this Agreement. This Agreement will automatically renew for subsequent, successive one (1) year periods at the then-current Mueller Systems prices unless either party gives the other party written notice of its intent to not renew at least thirty (30) days prior to the expiration of the then current term. Mueller Systems may increase support fees at any time on thirty (30) days prior notice to Customer. Within such thirty (30) days, Customer may terminate the Agreement by providing written notice to Mueller Systems.

b. Termination for Breach. If either party breaches this Agreement, and such breach is not cured within ten (10) days of the breach, after receiving written notice, the non-breaching party may terminate this Agreement, including all licenses provided herein, effective upon written notice to the other party. The breaching party agrees that if it breaches this Agreement, the non-breaching party will be entitled to injunctive or similar equitable relief and that the breaching party will not argue in any proceeding that its breach will not cause irreparable harm to the non-breaching party or that the non-breaching party can be adequately compensated for any such harm by any remedies other than by injunctive relief.

c. Effect of Termination. Termination of this Agreement shall have the effect designated in Appendix B.

d. Non-Exclusive Remedy. Termination of this Agreement or any license granted hereunder shall not limit the remedies otherwise available to either party, including injunctive relief.

e. Survival. Unless otherwise stated herein, any provision that, by its nature or terms, is intended to survive the expiration or termination of this Agreement, will survive.

8. **LIMITED WARRANTIES; REMEDIES**

a. Software. Subject to the exclusions herein, including those in Appendix A, Mueller Systems warrants that commencing from the date of shipment or provision to Customer and continuing for the period set forth in Appendix A (the "**Warranty Period**"), (i) the media on which the Software is furnished will be free of defects in materials and workmanship under normal use; and (ii) the Software will perform substantially in conformance with the applicable Documentation provided to Customer by Mueller Systems. Mueller Systems does not warrant that the Software will operate in combinations with other software, except as specified in the Documentation, that the Software will meet the Customer's requirements or that the operation of the Software will be uninterrupted or error-free. Customer assumes responsibility for taking adequate precautions against damages which could be caused by defects, interruptions or malfunctions in the Software or the hardware on which it is installed. Mueller Systems' entire obligation and Customer's exclusive remedy with respect to the Software warranties set forth above shall be, at Mueller Systems' option, to either (x) repair or replace any Software containing an error or condition which is reported by Customer in writing to Mueller Systems which causes the Software not to conform with the warranty set forth herein; or (y) refund a pro-rated amount paid by Customer to Mueller Systems and terminate this Agreement and all licenses provided herein.

b. Services. Mueller Systems warrants that all services provided by it to Customer under this Agreement shall be performed in a workmanlike manner. Mueller Systems' entire obligation and Customer's exclusive remedy with respect to the Service warranties set forth above shall be the re-performance of the applicable non-conforming Service.

c. Equipment. Subject to the exclusions herein, including those in Appendix A, Mueller Systems warrants to Customer that the Equipment will comply with provided specifications for the periods specified in Appendix A. Claims under this Section will be considered if submitted to Mueller Systems within sixty (60) days following the discovery of any noncompliant Equipment covered by this Agreement and provided Mueller Systems or its agents are permitted a commercially reasonable opportunity to examine and analyze the Equipment claimed to be noncompliant. Mueller Systems' entire obligation and Customer's exclusive remedy with respect to the Equipment warranties set forth herein, at Mueller Systems' option, is repair or replacement of any Equipment found noncompliant, subject to the terms and conditions herein, during the applicable warranty period after such Equipment is properly packaged and returned prepaid to Mueller Systems' designated service center.

d. Costs. Any and all costs associated with uninstalling and shipping noncompliant Equipment and Software and installing replacement Equipment and Software will be the responsibility of Customer.

e. Exclusions. The warranties provided by Mueller Systems shall not apply to Equipment and/or Software which: (i) have been altered, except with the express written consent, permission or instruction of Mueller Systems, (ii) have been used in conjunction with another product resulting in the defect, except for those third party products specifically approved by Mueller Systems, (iii) were other than the most current version of the Software (but only to the extent that any failure of the Software would have been avoided by the use of the most current version), (iv) have been damaged by improper environment, abuse, misuse, accident, negligence, act of God, excessive operating conditions, or unauthorized attachments or modifications, (v) have not been properly installed and operated in accordance with the Documentation, or as otherwise instructed by Mueller Systems, or (vi) any other exclusion set forth in any Appendix hereto.

f. DISCLAIMERS. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE

WARRANTIES AND REMEDIES STATED ABOVE ARE EXCLUSIVE AND NO OTHER WARRANTIES OR REMEDIES EXPRESS, IMPLIED OR STATUTORY, APPLY TO THE DOCUMENTATION, THE SOFTWARE, THE EQUIPMENT OR ANY SERVICES TO BE PROVIDED BY MUELLER SYSTEMS UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY OR PERFORMANCE, AND ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, ALL OF WHICH MUELLER SYSTEMS EXPRESSLY DISCLAIMS.

9. **INDEMNIFICATION.** Mueller Systems will indemnify and defend Customer from any third party claim that the Software and Equipment infringe on another person's or company's patent, copyright or other intellectual property right as specified in this Section. This indemnity does not cover and specifically excludes (a) intellectual property rights recognized in countries and jurisdictions other than the United States, and (b) claims relating to infringement of intellectual property rights by a third party's products and software. Mueller Systems has no obligation under this Section for any claim to the extent it results from or arises out of Customer's modification of the Equipment or Software or from any combination, operation or use of the Software or Equipment with other third party products or services. Mueller Systems' duty to indemnify under this Section is contingent upon Mueller Systems receiving prompt notice of a claim and Mueller Systems' right to solely control resolution of a claim. Customer's sole remedy for an indemnified claim under this Section is as follows: Mueller Systems will, at its expense and in its discretion either (a) resolve the claim in a way that permits Customer's continued ownership and use of the affected Software and Equipment, (b) provide a comparable, non-infringing replacement at no cost to Customer, or (c) accept return of the Software and Equipment, provide a reasonable depreciated refund and terminate this Agreement and all licenses herein. This Section is the exclusive statement of Mueller Systems' liability and responsibility for indemnifying Customer for infringement of intellectual property rights

10. **LIMITATION OF LIABILITY.**

a. MUELLER SYSTEMS' MAXIMUM LIABILITY HEREUNDER IS EXPRESSLY LIMITED TO THE TOTAL AMOUNT PAID FOR THE SOFTWARE, SERVICES, AND EQUIPMENT IN THE IMMEDIATELY PRECEDING TWELVE (12) MONTHS AND WILL UNDER NO CIRCUMSTANCE EXCEED THE AMOUNT PAID BY CUSTOMER IN THE IMMEDIATELY PRECEDING TWELVE (12) MONTHS FOR THE SOFTWARE, SERVICES AND EQUIPMENT PROVIDED BY MUELLER SYSTEMS UNDER THIS AGREEMENT. Some states do not allow the limitation and/or exclusion of liability for incidental or consequential damages, so the above limitation may not apply.

b. The provisions of this Agreement allocate the risks between Customer and Mueller Systems. Mueller Systems' pricing reflects this allocation of risk and the limitations of liability specified herein.

11. **NOTICE.** All notices required to be given hereunder shall be in writing. Notice shall be considered delivered and effective upon receipt when sent by registered or certified mail, return receipt requested, addressed to the parties as set forth above. Either party, upon written notice, may change any name or address to which future notice shall be sent.

12. **GENERAL.** The Software will not be exported or re-exported in violation of any export provisions of the United States or any other applicable jurisdiction. The rights and obligations of this Agreement are personal rights granted to the Customer only. The Customer may not transfer or assign any of the rights or obligations granted under this Agreement to any other person or legal entity. Any such purported transfer or assignment shall be null and void. Mueller Systems will be free of liability to the Customer where Mueller Systems is prevented from executing its obligations under this Agreement in whole or in part due to force majeure, such as earthquake, typhoon, flood, fire, and war or any other unforeseen and uncontrollable. Any modification or amendment to any of the provisions of this Agreement will be in writing and signed by an authorized officer of each party. This Agreement does not create or imply any relationship in agency or partnership between the parties. Headings are inserted for the convenience

of the parties only and are not to be considered when interpreting this Agreement. The validity of this Agreement and the rights, obligations, and relationship of the parties resulting from same will be interpreted and determined in accordance with the law of the State of Delaware, and applicable federal law, without regard to its choice of law provisions. The parties specifically exclude from application to the Agreement the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act. If any provision of this Agreement is contrary to and in violation of any applicable law, such provision will be considered null and void to the extent that it is contrary to such law, but all other provisions will remain in effect. The waiver or failure of either party to exercise any right herein shall not be deemed a waiver of any further right hereunder. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all other prior and contemporary agreements, understandings, and commitments between the parties regarding the subject matter of this Agreement.

[Signatures Appear on the Following Page]

EACH PARTY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Mueller Systems

Signature:

_____

Name:

_____

Title:

_____

City of Bentonville, Arkansas

Signature:

_____

Name:

_____

Title:

_____

City of Bentonville, Arkansas

Signature:

_____

Name:

_____

Title:

_____

Note: Please initial and return all pages

EXHIBIT C: Proposed Propagation Study

Case # 62463 9/3/2020

City of Bentonville, (AR) - Mi.Net RFv4 Propagation Study

Study Details—Revised

Available Information

- Existing Mi.Net Infrastructure Locations available in the service area
- ~22,333 Meter Locations (100% Metal Pit Lids)

Estimated Infrastructure Requirements

- Two (2) XR Collectors (**Existing and Installed**)
- Fifteen (15) Multi-Network Collectors (on Existing Assets)
- Twenty-four (24) ACXR Repeaters (on Existing Assets)
- Forty-six (46) DCXR Repeaters (on 10ft Sign Poles)

Assumptions

- ~22,333 meter locations were provided for this study. Additional meter locations provided after this study may require additional infrastructure.
- Study assumes all water meters mounted in pits with metal lids. Nodes must be mounted through the lid with a Mueller TTLA adapter.
- Areas with low signal strength may require additional infrastructure.
- Assets proposed for infrastructure locations will require a site survey to determine any nearby assets/locations viable for infrastructure placement. After site survey, if there are no viable assets, study will need revision.
- For asset assumptions see pages labeled 'Infrastructure Installation notes and assumptions'.

Performance Goals

- RF Coverage of installed base of meter/modules to be at 100%
- Read rate of at least 98.5% over a 3-day window of the installed base of active meter/modules.

Note:

This RF propagation study was conducted using the available information and assumptions stated in this document. Quantities and infrastructure locations are subject to change after detailed site survey following award.

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1

City of Bentonville, (AR) - Mi.Net RFv4 Propagation Study

Multi-Network Collector Locations

EXISTING ASSETS

Type	Height Assumption	Asset Name	Latitude (Decimal Degrees)	Longitude (Decimal Degrees)	Labor Part Number
XR	30ft	42001002	36.368301	-94.213898	Existing and Installed
XR	30ft	42005029	36.382862	-94.221466	Existing and Installed
MNC	30ft	V3 Location 11003090	36.362892	-94.166725	LABOR-COLLECTOR5
MNC	30ft	V3 Location 11003950	36.395287	-94.220978	LABOR-COLLECTOR5
MNC	30ft	V3 Location 11003960	36.387936	-94.196899	LABOR-COLLECTOR5
MNC	30ft	V3 Location 11004373	36.386528	-94.176971	LABOR-COLLECTOR5
MNC	30ft	V3 Location 11006397	36.359020	-94.186089	LABOR-COLLECTOR5
MNC	30ft	V3 Location 11006410	36.346153	-94.196983	LABOR-COLLECTOR5
MNC	30ft	V3 Location 11006439	36.336067	-94.250664	LABOR-COLLECTOR5
MNC	30ft	V3 Location 11006441	36.414413	-94.229073	LABOR-COLLECTOR5
MNC	30ft	V3 Location 11006449	36.321602	-94.228180	LABOR-COLLECTOR5
MNC	30ft	V3 Location 11006467	36.363724	-94.233559	LABOR-COLLECTOR5
MNC	30ft	V3 Location 11006518	36.311600	-94.303902	LABOR-COLLECTOR5
MNC	30ft	V3 Location 11006520	36.366360	-94.262276	LABOR-COLLECTOR5
MNC	30ft	V3 Location 11004389	36.346806	-94.222900	LABOR-COLLECTOR5
MNC	30ft	V3 Location 11003889	36.352180	-94.240021	LABOR-COLLECTOR5
MNC	30ft	V3 Location 11006474	36.320518	-94.249504	LABOR-COLLECTOR5

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City of Bentonville, (AR) - Mi.Net RFv4 Propagation Study

XR Repeaters

Type	Height Assumption	Asset Name	Latitude (Decimal Degrees)	Longitude (Decimal Degrees)	Labor Part Number
ACXR	30ft	ACXR at 11003921	36.370918	-94.253044	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11006450	36.418480	-94.216751	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11006447	36.359322	-94.199272	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11006446	36.336540	-94.268280	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11006457	36.332542	-94.235855	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11006940	36.378761	-94.188248	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11004398	36.313801	-94.264427	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11002294	36.370598	-94.176834	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11003888	36.382648	-94.209076	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11003889	36.352180	-94.240021	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11003947	36.356491	-94.210899	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11004325	36.400486	-94.209625	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11004383	36.384499	-94.165787	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11006448	36.370361	-94.197006	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11006453	36.334957	-94.193359	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11006472	36.406689	-94.219826	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11006473	36.375301	-94.229630	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11006511	36.340523	-94.210571	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11006530	36.375526	-94.244095	LABOR-COLLECTOR5

City of Bentonville, (AR) - Mi.Net RFv4 Propagation Study

XR Repeaters

Type	Height Assumption	Asset Name	Latitude (Decimal Degrees)	Longitude (Decimal Degrees)	Labor Part Number
ACXR	30ft	ACXR at 11003908	36.315586	-94.292953	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11006454	36.375587	-94.218628	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11003946	36.389664	-94.209389	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11003898	36.370338	-94.161880	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11004353	36.356995	-94.227928	LABOR-COLLECTOR5
ACXR	30ft	ACXR at 11005684	36.342773	-94.236267	LABOR-COLLECTOR5

City of Bentonville, (AR) - Mi.Net RFv4 Propagation Study

XR Repeaters

Type	Height Assumption	Asset Name	Latitude (Decimal Degrees)	Longitude (Decimal Degrees)	Labor Part Number
DCXR	10ft	Sign Pole 1	36.374178	-94.158980	LABOR-REPEATER1
DCXR	10ft	Sign Pole 2	36.349552	-94.183563	LABOR-REPEATER1
DCXR	10ft	Sign Pole 3	36.392127	-94.177482	LABOR-REPEATER1
DCXR	10ft	Sign Pole 4	36.393119	-94.192582	LABOR-REPEATER1
DCXR	10ft	Sign Pole 5	36.389775	-94.217618	LABOR-REPEATER1
DCXR	10ft	Sign Pole 6	36.387978	-94.224813	LABOR-REPEATER1
DCXR	10ft	Sign Pole 7	36.394028	-94.227608	LABOR-REPEATER1
DCXR	10ft	Sign Pole 8	36.349207	-94.214779	LABOR-REPEATER1
DCXR	10ft	Sign Pole 9	36.361064	-94.253341	LABOR-REPEATER1
DCXR	10ft	Sign Pole 10	36.385305	-94.159177	LABOR-REPEATER1
DCXR	10ft	Sign Pole 11	36.328913	-94.244499	LABOR-REPEATER1
DCXR	10ft	Sign Pole 12	36.324301	-94.221088	LABOR-REPEATER1
DCXR	10ft	Sign Pole 13	36.329089	-94.227884	LABOR-REPEATER1
DCXR	10ft	Sign Pole 14	36.335572	-94.224562	LABOR-REPEATER1
DCXR	10ft	Sign Pole 15	36.340406	-94.245473	LABOR-REPEATER1
DCXR	10ft	Sign Pole 16	36.345418	-94.252986	LABOR-REPEATER1
DCXR	10ft	Sign Pole 17	36.351887	-94.248843	LABOR-REPEATER1
DCXR	10ft	Sign Pole 18	36.347588	-94.235899	LABOR-REPEATER1

City of Bentonville, (AR) - Mi.Net RFv4 Propagation Study

XR Repeaters

Type	Height Assumption	Asset Name	Latitude (Decimal Degrees)	Longitude (Decimal Degrees)	Labor Part Number
DCXR	10ft	Sign Pole 19	36.350806	-94.232584	LABOR-REPEATER1
DCXR	10ft	Sign Pole 20	36.364316	-94.242443	LABOR-REPEATER1
DCXR	10ft	Sign Pole 21	36.360022	-94.247253	LABOR-REPEATER1
DCXR	10ft	Sign Pole 22	36.359666	-94.259838	LABOR-REPEATER1
DCXR	10ft	Sign Pole 23	36.363671	-94.269645	LABOR-REPEATER1
DCXR	10ft	Sign Pole 24	36.368427	-94.248498	LABOR-REPEATER1
DCXR	10ft	Sign Pole 25	36.335519	-94.206573	LABOR-REPEATER1
DCXR	10ft	Sign Pole 26	36.342517	-94.183928	LABOR-REPEATER1
DCXR	10ft	Sign Pole 27	36.353791	-94.197377	LABOR-REPEATER1
DCXR	10ft	Sign Pole 28	36.335115	-94.185703	LABOR-REPEATER1
DCXR	10ft	Sign Pole 29	36.356371	-94.174307	LABOR-REPEATER1
DCXR	10ft	Sign Pole 30	36.364801	-94.183770	LABOR-REPEATER1
DCXR	10ft	Sign Pole 31	36.382957	-94.160827	LABOR-REPEATER1
DCXR	10ft	Sign Pole 32	36.380225	-94.164690	LABOR-REPEATER1
DCXR	10ft	Sign Pole 33	36.390024	-94.169211	LABOR-REPEATER1
DCXR	10ft	Sign Pole 34	36.379319	-94.178230	LABOR-REPEATER1
DCXR	10ft	Sign Pole 35	36.401461	-94.224304	LABOR-REPEATER1
DCXR	10ft	Sign Pole 36	36.389051	-94.242189	LABOR-REPEATER1

City of Bentonville, (AR) - Mi.Net RFv4 Propagation Study

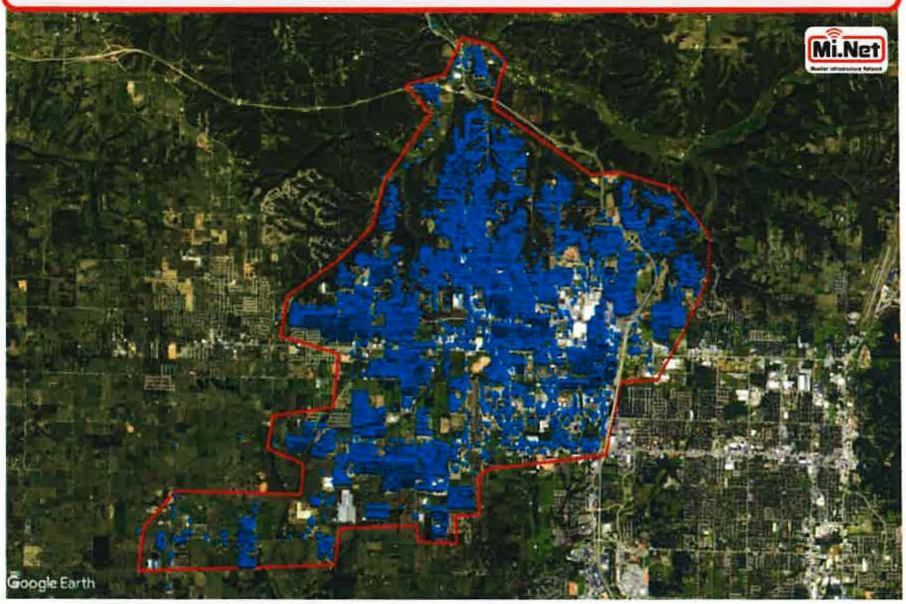
XR Repeaters

Type	Height Assumption	Asset Name	Latitude (Decimal Degrees)	Longitude (Decimal Degrees)	Labor Part Number
DCXR	10ft	Sign Pole 37	36.315234	-94.231259	LABOR-REPEATER1
DCXR	10ft	Sign Pole 38	36.347876	-94.207887	LABOR-REPEATER1
DCXR	10ft	Sign Pole 39	36.356339	-94.180485	LABOR-REPEATER1
DCXR	10ft	Sign Pole 40	36.362035	-94.214595	LABOR-REPEATER1
DCXR	10ft	Sign Pole 41	36.382663	-94.229056	LABOR-REPEATER1
DCXR	10ft	Sign Pole 42	36.391812	-94.228966	LABOR-REPEATER1
DCXR	10ft	Sign Pole 43	36.395068	-94.214807	LABOR-REPEATER1
DCXR	10ft	Sign Pole 44	36.377570	-94.208856	LABOR-REPEATER1
DCXR	10ft	Sign Pole 45	36.367123	-94.206475	LABOR-REPEATER1
DCXR	10ft	Sign Pole 46	36.364203	-94.219712	LABOR-REPEATER1

Case # 62463 9/3/2020

City of Bentonville, (AR) - Mi.Net RFv4 Propagation Study

Estimated Service Area and Meter Locations

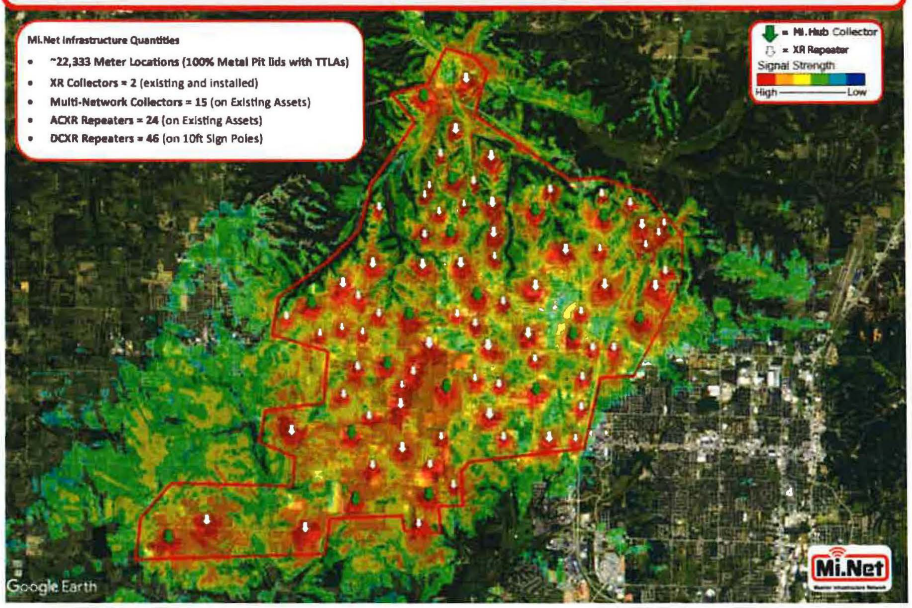


8

Case # 62463 9/3/2020

City of Bentonville, (AR) - Mi.Net RFv4 Propagation Study

Estimated RF Analysis Coverage



9

City of Bentonville, (AR) - Mi.Net RFv4 Propagation Study

Infrastructure Installation Notes and Assumptions

Type/Part Numbers	Device	Notes/Assumptions
Utility Asset **LN: LABOR-COLLECTOR5** **PN: MS-MNC-V4-AC-AT3**	MNC/RMR/SMR on Utility asset	Collector and Mueller Systems provided hardware mounted to utility-provided asset at the height indicated in the prop study. Either bolted or clamped to building/pole provided with no additional mounting considerations using supplied mounting hardware. a. Assumes available AC source within close (3ft) range of the collectors installed site b. Assumes all parts of the installation can be accessed with a ladder and no man-lift required c. Assumes collector can be installed to an existing circuit or to an additional circuit breaker in an existing panel d. Structural analysis or RF study of device with information provided by asset owner upon request, at cost plus 20%.
Pole 25' or Smaller: **LN: LABOR-COLLECTOR6** **PN: MS-MNC-V4-AC-AT3** Pole 25.1' to 55': **LN: LABOR-COLLECTOR7** **PN: MS-MNC-V4-AC-AT3**	MNC/RMR/SMR with MS Supplied Pole	Includes selected non-telescopic and non-tilting pole provided by Mueller Systems and labor to locate, set and install pole and collector by Mueller Systems in utility approved right of way. a. Assumes available AC source within close (3ft) range of the collectors installed site b. Assumes collector can be installed to an existing circuit or to an additional circuit breaker in an existing panel -Hurricane rated poles or specialized installations priced separately in accordance with requirements.

City of Bentonville, (AR) - Mi.Net RFv4 Propagation Study

Infrastructure Installation Notes and Assumptions

Type/Part Numbers	Device	Notes/Assumptions
Pole set **LN: LABOR-REPEATER1** **PN: MSW-NODE4-DC**	DCXR with Pole set	Includes 10' street sign typepost provided by Mueller Systems and labor to locate and set post, and install repeater by Mueller Systems in utility approved right of way.

EXHIBIT D: Mueller Systems Product Warranty Statement

[Attach Mueller Systems Product Warranty Statement]

Exhibit D

Mueller Systems – Product Warranty Statement

1. **Limited Warranty**. Mueller Systems, LLC ("Mueller") warrants that, for the duration of the Warranty Period (defined below): (a) each product purchased from Mueller ("Product") will be free from defects in materials and workmanship under normal use, installation and service conditions; (b) the media on which any Software is furnished will be free of defects in materials and workmanship under normal use; and (c) any such Software will substantially conform to the applicable published Mueller functional specifications for such Software. Products will have a warranty period of the greater of (i) one (1) year from date of shipment or (ii) the applicable warranty period for a specific Product stated below in Section 6 ("Warranty Period").

2. **Exclusive Remedy**. Mueller will, at its option, either repair or replace with an equivalent substitute (as long as the Product is conformance with the requirements of the specifications and do not exceed the prices quoted) a Product that is in breach of the foregoing warranty during the Warranty Period if Purchaser reports the breach to Mueller within sixty (60) days after Purchaser discovers the breach. At Mueller's request, Purchaser will ship the allegedly defective Product to a repair facility designated by Mueller at Purchaser's expense and risk. If Mueller, in its sole discretion, determines that the Product breached the applicable warranty, Mueller will ship the repaired or replaced Product to Purchaser at Mueller's expense and risk. If Mueller determines that it is unable to repair or replace such Product, it will, at Mueller's sole discretion provide a cash or credit refund to Purchaser. If Mueller repairs or replaces any such defective Product, the Warranty Period for the repaired or replaced Product will continue for the longer of (y) thirty (30) days, or (z) the remainder of the original Warranty Period. Mueller's warranty is subject to exclusions, as set forth in Section 3. This Section 2 sets forth Mueller's entire liability, and the Purchaser's exclusive remedy, for any alleged breach of warranty for any Products.

3. **Exclusions**. Mueller has no obligation under this Product Warranty Statement if (a) a Product has been subject to misuse, neglect or accident or has been damaged through abuse, alternation, installation or application inconsistent with AWWA guidelines or Mueller specifications, including but not limited to Mueller propagation studies, failure to follow Mueller's operation or maintenance instructions or negligence in transportation, handling, or storage, or repaired by anyone other than Mueller or its authorized personnel, (b) with respect to software, there has been a change to the software's operating environment not made or authorized by Mueller or if Purchaser fails to install any correction or enhancement provided by Mueller, or if a virus is introduced through no fault of Mueller, or (c) if any Product fails to satisfy the applicable warranty as a result of any force majeure event. Mueller's Product Return process can be found at www.muellersystemsreturns.com .

4. **Important Disclaimer**. EXCEPT AS EXPRESSLY SET FORTH HEREIN, MUELLER DISCLAIMS ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT AND WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. TO THE EXTENT ANY IMPLIED WARRANTY CANNOT BE EXCLUDED, SUCH WARRANTY IS LIMITED IN DURATION TO THE EXPRESS WARRANTY PERIOD.

5. **Limitation on Liability**. **Mueller is not liable for any indirect, special, incidental, liquidated, consequential or punitive damages or penalties of any nature, whether based on contract, tort or other legal theory including but not limited to, business interruption costs, loss of profit or revenue, loss of data, loss of use of services, cost of capital, cost of substitute services or facilities, downtime costs or damages and expenses arising out of purchaser or third-party claims, even if Mueller has been advised of the possibility of such damages. Mueller has no liability with respect to damage or destruction of property or the personal injury or death of persons resulting from defects in Products or from improper installation, use, maintenance or operation of any Products. In all cases, Mueller's total liability, including that of its affiliates, officers, employees, agents, subcontractors, suppliers and representatives shall not exceed the total amount paid by Purchaser to Mueller under this Order (as defined by Mueller Systems Terms of Sale).**

6. **Product Warranties**. The following provisions in this Section 6 modify the limited warranty in Section 1 with respect to the specific Products identified below:

Automated Meter Reading (AMR) / Advanced Metering Infrastructure (AMI) Products		
Product	**Description**	**Warranty Period**
AMR / AMI Software	These items of Software will perform in accordance with Mueller's published specifications for the duration of the Warranty Period.	One (1) year from date of shipment to Purchaser.
AMR / AMI Hardware – unless otherwise expressly specified herein	During the Warranty Period, these Products will be free from defects in materials and workmanship.	One (1) year from date of shipment to Purchaser.
AMR / AMI Radio Modules – AMI water module endpoints and AMR water module endpoints	During the Warranty Period, these Products will be free from defects in materials and workmanship.	Ten (10) years from date of shipment to Purchaser. Additionally, the unit is covered by a prorated warranty for years eleven (11) through fifteen (15) at a fifty-percent (50%) discount, and years sixteen (16) through twenty (20) at a twenty-five-percent (25%) discount from the date of shipment to Purchaser. All discounts will be calculated on the then current published price of the original product. All prorated warranty discounts are to be used towards the purchase of replacement units.
Encoder Register Products, Wall Pads and Pit Pads.	During the Warranty Period, these Products will be free from defects in materials and workmanship.	Ten (10) years from date of shipment to Purchaser. Additionally, the unit is covered by a prorated warranty for years eleven (11) through fifteen (15) at a fifty-percent (50%) discount, and years sixteen (16) through twenty (20) at a twenty-five-percent (25%) discount from the date of shipment to Purchaser. All discounts will be calculated on the then current published price of the original product. All prorated warranty discounts are to be used towards the purchase of replacement units.
Water Metering Products		
Product	**Description**	**Warranty Period**
All Meter Products not otherwise specified herein	During the Warranty Period, these Products will be free from defects in materials and workmanship.	One (1) year from date of shipment to Purchaser.
Remote Disconnect Meters (RDM) valve and solenoid assembly	During the Warranty Period, these Products will be free from defects in materials and workmanship.	Five (5) year warranty or two-thousand (2,000) actuations of the valve, whichever comes first, from the date of shipment to Purchaser.
Bronze Maincases	During the Warranty Period, these Products will be free from defects in materials and workmanship.	Twenty-Five (25) years from date of shipment to Purchaser.

Composite Maincases	During the Warranty Period, these Products will be free from defects in materials and workmanship.	Fifteen (15) years from date of shipment to Purchaser.
Standard registers for the above listed mechanical meters	During the Warranty Period, these Products will be free from defects in materials and workmanship.	Ten (10) years from date of shipment to Purchaser.
Models 400 and 500 Series Meters	AWWA[1] New Meter Accuracy	5/8" – Five (5) years from the date of shipment to Purchaser or the registration of 500,000 U.S. gallons, whichever comes first; 3/4" – Five (5) years from the date of shipment to Purchaser or the registration of 750,000 U.S. gallons, whichever comes first; 1" – Five (5) years from the date of shipment to Purchaser or the registration of 1,000,000 U.S. gallons, whichever comes first; 1-1/2" – Two (2) years from the date of shipment to Purchaser or the registration of 1,600,000 U.S. gallons, whichever comes first; 2" – Two (2) years from the date of shipment to Purchaser or the registration of 2,700,000 U.S. gallons, whichever comes first.
	AWWA Repaired Meter Accuracy (AWWA M6 Manual)	5/8" – Fifteen (15) years from the date of shipment to Purchaser or the registration of 1,500,000 U.S. gallons, whichever comes first; 3/4" – Fifteen (15) years from the date of shipment to Purchaser or the registration of 2,250,000 U.S. gallons, whichever comes first; 1" – Fifteen (15) years from the date of shipment to Purchaser or the registration of 3,000,000 U.S. gallons, whichever comes first; 1-1/2" – Ten (10) years from the date of shipment to Purchaser or the registration of 5,000,000 U.S. gallons, whichever comes first; 2" – Ten (10) years from the date of shipment to Purchaser or the registration of 8,000,000 U.S. gallons, whichever comes first.
Model HbMAG electromagnetic cold water meters	During the Warranty Period, these Products will be free from defects in materials and workmanship.	Two (2) years from date of shipment to Purchaser.
Solid State Meters	During the Warranty Period (ten (10) years from date of shipment to Purchaser) these Products will meet or exceed accuracy of +/- 1.5% between the specified minimum flow rate to the specified maximum. Additionally, the unit is covered by a prorated warranty for years eleven (11) through fifteen (15) at a fifty-percent (50%) discount, and years sixteen (16) through twenty (20) at a twenty-five-percent (25%) discount from the date of shipment to Purchaser. All discounts will be calculated on the then current published price of the original product. All prorated warranty discounts are to be used towards the purchase of replacement units for the following sizes: 5/8" Meter — 0.1 gpm to 20 gpm 5/8" x ¾", ¾" Short, and ¾" Long Meter — 0.1 to 30 gpm 1" Meter — 0.4 to 55 gpm 1 ½" Meter — 0.25 to 100 gpm 2" Meter — 1.5 to 160 gpm	

[1] American Water Works Association ("AWWA")

Appendix A

Mueller Systems – Product Warranty Statement

1. **Limited Warranty**. Mueller Systems, LLC ("Mueller") warrants that, for the duration of the Warranty Period (defined below): (a) each product purchased from Mueller ("Product") will be free from defects in materials and workmanship under normal use, installation and service conditions; (b) the media on which any Software is furnished will be free of defects in materials and workmanship under normal use; and (c) any such Software will substantially conform to the applicable published Mueller functional specifications for such Software. Products will have a warranty period of the greater of (i) one (1) year from date of shipment or (ii) the applicable warranty period for a specific Product stated below in Section 6 ("Warranty Period").

2. **Exclusive Remedy**. Mueller will, at its option, either repair or replace with an equivalent substitute (as long as the Product is conformance with the requirements of the specifications and do not exceed the prices quoted) a Product that is in breach of the foregoing warranty during the Warranty Period if Purchaser reports the breach to Mueller within sixty (60) days after Purchaser discovers the breach. At Mueller's request, Purchaser will ship the allegedly defective Product to a repair facility designated by Mueller at Purchaser's expense and risk. If Mueller, in its sole discretion, determines that the Product breached the applicable warranty, Mueller will ship the repaired or replaced Product to Purchaser at Mueller's expense and risk. If Mueller determines that it is unable to repair or replace such Product, it will, at Mueller's sole discretion provide a cash or credit refund to Purchaser. If Mueller repairs or replaces any such defective Product, the Warranty Period for the repaired or replaced Product will continue for the longer of (y) thirty (30) days, or (z) the remainder of the original Warranty Period. Mueller's warranty is subject to exclusions, as set forth in Section 3. This Section 2 sets forth Mueller's entire liability, and the Purchaser's exclusive remedy, for any alleged breach of warranty for any Products.

3. **Exclusions**. Mueller has no obligation under this Product Warranty Statement if (a) a Product has been subject to misuse, neglect or accident or has been damaged through abuse, alternation, installation or application inconsistent with AWWA guidelines or Mueller specifications, including but not limited to Mueller propagation studies, failure to follow Mueller's operation or maintenance instructions or negligence in transportation, handling, or storage, or repaired by anyone other than Mueller or its authorized personnel, (b) with respect to software, there has been a change to the software's operating environment not made or authorized by Mueller or if Purchaser fails to install any correction or enhancement provided by Mueller, or if a virus is introduced through no fault of Mueller, or (c) if any Product fails to satisfy the applicable warranty as a result of any force majeure event. Mueller's Product Return process can be found at www.muellersystemsreturns.com .

4. **Important Disclaimer**. EXCEPT AS EXPRESSLY SET FORTH HEREIN, MUELLER DISCLAIMS ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT AND WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. TO THE EXTENT ANY IMPLIED WARRANTY CANNOT BE EXCLUDED, SUCH WARRANTY IS LIMITED IN DURATION TO THE EXPRESS WARRANTY PERIOD.

5. **Limitation on Liability**. **Mueller is not liable for any indirect, special, incidental, liquidated, consequential or punitive damages or penalties of any nature, whether based on contract, tort or other legal theory including but not limited to, business interruption costs, loss of profit or revenue, loss of data, loss of use of services, cost of capital, cost of substitute services or facilities, downtime costs or damages and expenses arising out of purchaser or third-party claims, even if Mueller has been advised of the possibility of such damages. Mueller has no liability with respect to damage or destruction of property or the personal injury or death of persons resulting from defects in Products or from improper installation, use, maintenance or operation of any Products. In all cases, Mueller's total liability, including that of its affiliates, officers, employees, agents, subcontractors, suppliers and representatives shall not exceed the total amount paid by Purchaser to Mueller under this Order (as defined by Mueller Systems Terms of Sale).**

6. **Product Warranties**. The following provisions in this Section 6 modify the limited warranty in Section 1 with respect to the specific Products identified below:

Automated Meter Reading (AMR) / Advanced Metering Infrastructure (AMI) Products		
Product	**Description**	**Warranty Period**
AMR / AMI Software	These items of Software will perform in accordance with Mueller's published specifications for the duration of the Warranty Period.	One (1) year from date of shipment to Purchaser.
AMR / AMI Hardware – unless otherwise expressly specified herein	During the Warranty Period, these Products will be free from defects in materials and workmanship.	One (1) year from date of shipment to Purchaser.
AMR / AMI Radio Modules – AMI water module endpoints and AMR water module endpoints	During the Warranty Period, these Products will be free from defects in materials and workmanship.	Ten (10) years from date of shipment to Purchaser. Additionally, the unit is covered by a prorated warranty for years eleven (11) through fifteen (15) at a fifty-percent (50%) discount, and years sixteen (16) through twenty (20) at a twenty-five-percent (25%) discount from the date of shipment to Purchaser. All discounts will be calculated on the then current published price of the original product. All prorated warranty discounts are to be used towards the purchase of replacement units.
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3/4" – Five (5) years from the date of shipment to Purchaser or the registration of 750,000 U.S. gallons, whichever comes first;
1" – Five (5) years from the date of shipment to Purchaser or the registration of 1,000,000 U.S. gallons, whichever comes first;
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1" – Fifteen (15) years from the date of shipment to Purchaser or the registration of 3,000,000 U.S. gallons, whichever comes first;
1-1/2" – Ten (10) years from the date of shipment to Purchaser or the registration of 5,000,000 U.S. gallons, whichever comes first;
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1" Meter — 0.4 to 55 gpm
1 ½" Meter — 0.25 to 100 gpm
2" Meter — 1.5 to 160 gpm</td></tr>
</table>

[1] American Water Works Association ("AWWA")

(10.2019)

Appendix B
Services

1. Software Services and Support Obligations

a. "Update" to the Software means a subsequent release of the Software that Provider makes generally available to its current customers for the Software. Updates include changes and corrections to the Software as are required to keep the Software in substantial conformance with the applicable Documentation and that are created by Provider as corrections for defects in the Software. Updates shall not include any release, option or future product that Provider licenses separately. Provider shall in its sole discretion determine the nature, content, timing and release of any Updates.

b. Web-based support, consisting of information on the most current release of the Software through Provider's web site.

c. Phone support in the form of advice and counsel via telephone regarding Customer's use of the most current release of the Software, as well as Customer's connectivity and ability to access Content. Phone Support is provided from 8:00 AM to 7:00 PM Eastern Time, Monday through Thursday and 8:00 AM to 5:00 PM Eastern Time on Fridays. All hours and days exclude recognized U.S. holidays observed by Mueller Systems.

2. Software Hosting Services

a. Except as specifically permitted in this Agreement, Customer shall have web-based access the Software hosted by Provider pursuant to this Agreement.

b. Provider shall provide Customer with access and related hosting services to the Software installed on Provider's servers. Provider will also install the Content provided by Customer. Provider will define the appropriate performance specifications and will host the server at a Provider's location. Provider will monitor and perform routine maintenance on the server, and if the server is not operating properly, will make a good faith effort to operate Customer's system on a backup server, if available. Access to Customer's server is restricted to authorized Provider information technology and support personnel only. Differential and full server backups are performed when reasonably practicable.

c. Customer shall be responsible for installing, operating and maintaining the equipment, software, and/or facilities at Customer location recommended by Provider for effective access to and use of the Software installed on Mueller Systems server. Customer shall be responsible for providing and maintaining its own Internet access and all necessary telecommunications equipment at Customer's location necessary for accessing the Software.

d. Upon termination, for any reason, of the Agreement or any license(s) granted herein, Provider shall immediately cease providing access to the Software and Hosting Services. Customer shall (i) immediately stop access and use of all such Provider confidential information (including Software); (ii) shall return all copies of the Software, Documentation, and any Provider confidential information to Provider; and (iii) delete all Software, Documentation, and other confidential information off of any and all storage media possessed or controlled by Customer. Customer shall provide Provider with written certification signed by an officer of Customer that Customer has complied with the provisions of this Section. Customer shall immediately pay all amounts due to Provider.

Appendix C

Confidential Information

For purposes of this Attachment, "party" or "parties" shall mean Provider and Customer, including their respective subsidiaries and affiliates who are providing information under this Agreement. The parties agree to maintain confidential information as follows:

1. Definition of Confidential Information. The parties understand and agree that confidential information is any and all current and future Equipment, Documentation and/or Software information, roadmap, technical or financial information, customer names, addresses and related data, contracts, practices, procedures and other business information, including software reports, strategies, plans, documents, drawings, machines, tools, models, patent disclosures, samples, materials and requests for proposals that may be disclosed between the parties, whether written, oral, electronic or otherwise, however and wherever acquired ("Confidential Information"). Confidential Information excludes any information which would otherwise fall in the definitions above, but which was (a) known to the recipient of the information ("Recipient") before receipt from the disclosing party; (b) publicly available through no fault of Recipient; (c) rightly received by Recipient from a third party without a duty of confidentiality; (d) disclosed by disclosing party to a third party without a duty of confidentiality on the third party; (e) independently developed by Recipient without breach of this or any other confidentiality agreement; or (f) disclosed by Recipient after prior written approval from the disclosing party.

2. Obligations of Confidentiality and Remedies. Recipient agrees to protect the disclosing party's Confidential Information with the same degree of care, but no less than a reasonable degree of care, as Recipient uses with respect to its own Confidential Information. Neither party has any obligation to exchange Confidential Information. Both parties acknowledge and agree that the disclosure of the other party's Confidential Information could cause irreparable harm. Therefore, an injured party is entitled to applicable equitable relief, including injunctions, in addition to other remedies, for such wrongful disclosure of Confidential Information. In addition, disclosure of Confidential Information required by a government body or court of law is not a violation of this Section if the Recipient gives prompt notice of the required disclosure to the disclosing party.

3. Term of Confidentiality Obligations. Recipient's duty to protect Confidential Information expires three (3) years from the date of disclosure of the particular Confidential Information.

4. No Warranties on Confidential Information. Neither party warrants or guarantees the accuracy of any Confidential Information transferred between the parties.

EXHIBIT E: City of Bentonville Cycles

ROUTES BY CYCLE

Cycle 1		Cycle 2		Cycle 3	Cycle 4
1	54	1	51	53	62
2	55	2	52	55	63
6	56	3	66	80	68
24	57	4	68	82	71
26	58	5	81	84	73
27	60	7	90	85	80
28	70	8	91	86	83
29	72	9	93	87	85
30	74	10	97	89	86
31	76	11		98	88
34	78	12			89
35	82	13			90
36	84	15			91
37		16			92
38		18			93
39		19			94
40		20			95
41		21			96
42		22			97
43		23			98
50		25			99
51		31			
52		32			

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH MUELLER SYSTEMS, LLC TO PROVIDE AND INSTALL AMI NETWORK INFRASTRUCTURE

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 professional services agreement with Mueller Systems, LLC to provide and install AMI network infrastructure 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 _____, 2021.

APPROVED:

_____
Stephanie Orman, Mayor

ATTEST:

_____
Kirby Romines, City Clerk

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Water Department**
Submitted by	**Mike Bender**
Phone	**(479) 271-6873**

Item Type: (*Check All That Apply*)

☑ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☐ Resolution	☐ Bid Award

Recommendation/Suggested Action *(Enter recommendation in space below):*

Budget Adjustment requested by Staff in the amount of $293,563.00 to cover costs associated with the Mueller Systems, LLC agreement for material and labor to provide and install AMI network infrastructure. Funding will be from the Water Utility reserves. This item was approved by the Utility Board 4-0.

Estimated Cost	**$293,563.00**
Is this Item Budgeted?	☐ Yes ☑ No

If no, please explain how item will be funded *(briefly explain in space below)* **:**

Item will be funded with Water Utilities Reserves.

Budget Adjustment Request

Date of City Council Meeting	3/9/2021
Department	Bentonville Water Utilities
Submitted by	Mike Bender
Phone	(479) 271-6873

Purpose of Budget Adjustment *(Enter purpose in space below):*
Budget Adjustment - Staff is requesting approval of a budget adjustment in the amount of $293,563.00 to cover costs associated with the Mueller Systems, LLC agreement for material and labor to provide and install AMI network infrastructure. Funding will be from the Water Utility reserves.

General Ledger Account Information*				
Org (Department)	Object	Account Description	Revenue + (-)	Expense + (-)
503020.00	47320.00	Improvements Other - Water Improv		$293,563
		Totals	$ -	$ 293,563.00
		Net Impact on Fund Balance	$	(293,563.00)
*Final Account Number will be determined by Accounting Department after approval and purchase				

Agenda Item Form

Date of City Council Meeting	**2/23/2021**
Department	**Sanitation**
Submitted by	**Gary Wilson**
Phone	**(479) 271-3104**

Item Type: (*Check All That Apply*)

☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☑ Resolution	☐ Bid Award

Recommendation/Suggested Action *(Enter recommendation in space below):*

Resolution recommended by Staff for City Council approval to amend the Republic Services contract to extend it for an additional 3 years. Please see attached memo. Approved at Utility Board 4-0.

Estimated Cost	**$**
Is this Item Budgeted?	☐ Yes ☐ No

If no, please explain how item will be funded *(briefly explain in space below)* **:**

City of Bentonville

Memorandum

To: City Council and Mayor Orman
From: Jake Harper
CC: Gary Wilson
DATE: February 8, 2021

Staff recommends authorizing a Resolution to extend our current contract With Republic Services.

The current contract with Republic Services expires September 30, 2022. In preparation for this original contract extension a 2020 budget item was approved for a consultant for this process.

During 2019 and 2020 regional discussions began occurring regarding recycling which is part of our sanitation program. We have decided that engaging a consultant at this time would not be an efficient use of city funds as these regional conversations are still happening.

We are requesting a three-year extension to September 30, 2025. This extension will allow regional recycling discussions and planning to more fully develop before we go to bid for the next contract.

The extension will allow our rates to maintain the current rate schedule with the normal CPI for trash service annual increases. Any additional increases would have to come before City Council per our current contract requirements.

1000 SW 14TH STREET, BENTONVILLE, AR 72712
T 479-271-3100 U WWW.BENTONVILLEAR.COM

FIRST AMENDMENT TO THE MUNICIPAL CONTRACT

This First Amendment ("First Amendment") to the Municipal Contract dated October 1, 2012, (the "Municipal Contract") is entered into as of _____ day of _____, 2021 between the City of Bentonville, Arkansas ("Bentonville") and Allied Services of Arkansas LLC, dba Republic Services of Bella Vista[1], ("Republic") (collectively the "Parties").

WHEREAS, the Municipal Contract terminates on September 30, 2022, and the parties wish to extend the current term.

NOW, THEREFORE, in consideration of terms described below, the parties have agreed to amend the Municipal Contract as follows:

1. Paragraph 4 is amended to state the following:

   "The current term of the Municipal Contract expires on September 30, 2022."

2. Paragraph 5 is amended to state the following:

   "The parties have agreed to extend the Municipal Contract for an additional three years after the current term. The extension period shall be from October 1, 2022 to September 30, 2025."

3. Continuing Effect. Except insofar as they may be modified or amended by this First Amendment or are otherwise in conflict with this First Amendment, all terms and provisions of the Municipal Contract shall remain in full force and effect.

Witness the execution hereof:

Allied Services of Arkansas, LLC dba
Republic Services of Bella Vista

By:_____ Date:_____
David Sestak, General Manager

City of Bentonville

By:_____ Date:_____
Stephanie Orman, Mayor

[1] The Municipal Contract incorrectly states the Republic legal entity, which is Allied Waste Services, LLC, dba Republic Services of Bella Vista.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO EXTEND THE AGREEMENT WITH ALLIED SERVICES OF ARKANSAS, LLC (DBA REPUBLIC SERVICES) FOR WASTE DISPOSAL AND RECYCLING FOR THE CITY OF BENTONVILLE.

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

Section 1: That the Mayor and Clerk be and are hereby authorized to extend the Agreement with Allied Services of Arkansas, LLC, (DBA Republic Services of Bella Vista) for waste disposal and recycling services for the City of Bentonville

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 _____, 2021.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Agenda Item Form

Date of City Council Meeting	**2/23/2021**
Department	**Engineering**
Submitted by	**Tracy Billings**
Phone	**(479) 696-0229**

Item Type: Public Hearing and Ordinance					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☑ Ordinance	☐ Resolution	☐ Bid Award

Recommendation/Suggested Action ***(Enter recommendation in space below):***

A public hearing and ordinance vacating multiple Drainage and Utility Easements requested for Walmart Layout Center Subdivision by Walmart (VAC20-0036).

An Ordinance vacating a dra	**$**
Is this Item Budgeted?	☐ Yes ☐ No

If no, please explain how item will be funded ***(briefly explain in space below)*** **:**

L202100441 2/4/2021 11:29:21 AM
Brenda DeShields, Circuit Clerk
BENTON CO Circuit Clerk & Recorder

FINAL PLAT

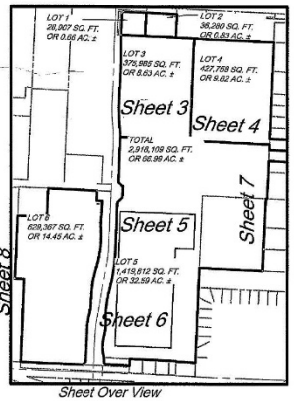
Walmart Stores, Inc.

WALMART LAYOUT SUBDIVISION CREATING LOTS 1-6

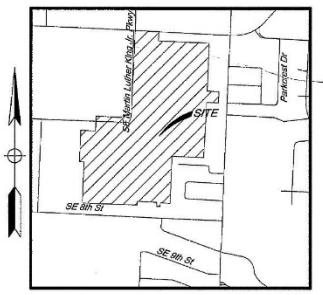
Bentonville, Benton County, Arkansas

GENERAL NOTES:

1. This plat represents a Final Plat of the parcel recorded in Deed Records, Bk. 2011, Pg. 8152, Bk. 671, Pg. 201, Bk. 633 Pg. 222, Bk. 2006, Pg. 3826, Bk. in the public records of Benton County Arkansas .
2. The contractor must determine that proposed structures are clear of all boundary lines, easements, and meet building setback requirements before construction begins.
3. Basis of Bearings: Grid based on Arkansas State Plane Coordinate System, NAD83, North Zone, per GPS observations as established by processing through OPUS.
4. Basis of Elevation: NAVD88, per GPS observations as established by processing through OPUS.
5. Site Benchmark: See table for benchmark information block.
6. This survey is valid only if the drawing includes the seal and signature of the surveyor.
7. This survey meets current Arkansas Standards of Practice for Property Boundary Surveys and Plats.
8. This survey is based on a title search provided by City Title & Closing , file number 17-5351 .
9. Declaration is made to the original purchaser of the survey and those listed in the certification for the use of this transaction only and is not transferable to any additional institutions or subsequent owners.
10. Subsurface and environmental conditions were not examined nor considered a part of this survey.
11. Multiple utility services are located within easements abutting or within the bounds of subject tract.
12. The contractor is advised to contact the 811 One-Call Center before any construction begins, depending on the state there is a possibility of a severe penalty for not making this call. Not all utility companies are members of the One-Call Systems. Therefore the contractor is advised to contact all non-members as well as the One-Call System.
13. By scaled map location and graphical plotting only. This property is located in Zone "X" which are areas determined to be outside the 0.2% annual chance floodplain determined by the National Flood Insurance Program, Flood Insurance Rate Map for Benton County Arkansas . Map Number: 05007C0325K & 05007C0326K Map Revised: June 5, 2012
14. Setbacks shall be per the current zoning district as stated in the most recent City of Bentonville Zoning Code. For more info visit www.bentonvilleplanning.com or call the Planning Department 479-271-3122.
15. Sidewalks shall be the responsibility of the builder/owner at time of building permit issuance.
16. There may not be fences or any other structures built in any drainage easements.
17. Before any work in the right-of-way commences, contractor and or owner is to obtain right-of-way permit from the City of Bentonville Transportation Department.
18. Owner to contact New Service coordinator (271-3139) to discuss electric service prior to beginning any construction. Failure to contact BEUD prior to construction will result in delays to get electric service.
19. All structures must maintain minimum of 20' clearances from all electric lines.
20. BEUD's standard practice is to place underground equipment (transformers, secondary pedestals, junction boxes, etc.) on the lot line of a development. Any adjustments to the property line that result in our equipment not being on the lot line require the developer to pay for the cost of BEUD to relocate the equipment to the lot line.
21. It is the responsibility of the developer to pay for any cost associated with moving of equipment. This includes but is not limited to any costs associated with loss of equipment (wire and elbows) and labor and material to move the equipment to the new lot line.
22. Relocation of any existing electrical facilities shall be at the owner's expense.
23. Owner/Developer shall coordinate with all local utilities to insure that each lot has water, sewer and electric service.
24. The Emergency Access Easements, Public Utility Easements and Drainage Easements set forth herein shall be subject to the terms and conditions of that separate Easement Agreement recorded at Instrument # L202061611.



Sheet Over View



Vicinity Map

Not to Scale

Latitude: 36°22'01"N
Longitude: 94°11'11"W

Benchmark Information

Benchmark #1: 3" Aluminum Monument	Benchmark #2: 5/8" rebar
N: 748223.78'	N: 746198.90'
E: 668370.73'	E: 669266.40'
Elev.: 1305.76'	Elev.: 1310.11'

Owner	Owner
Parcel # 01-09771-001 Wal-Mart Stores East LP P.O.Box 8050 MS 0555 Bentonville, AR 72712	Parcel # 01-04999-000 & 01-00767-000 Wal-Mart Stores, Inc. P.O. Box 8050 Bentonville, AR 72712
Owner	Owner
Parcel # 01-03695-000 & 01-03096-000 Moberly Investments, LLC P.O.Box 13005 Fayetteville, AR 72703	Parcel # 01-04999-001 & 91-00768-000 Wal-Mart Wtee 6008 P.O.Box 8050 Bentonville, AR 72712
Owner	Owner
Parcel # 01-02496-000 & 01-02497-000 Wal-Mart Properties, Inc. 07-6008 P.O.Box 8050 MS 0555 Bentonville, AR 72712	Parcel # 01-00767-001 CKP Investors, LLC 234 E Millsap Rd. Ste. 200 Fayetteville, AR 72703

Certificate of Ownership:

We the undersigned, owners of the real estate shown and described herein, do hereby certify that we have laid off, platted, and subdivided and do hereby lay off, plat, subdivide said real estate in accordance with this plat and do hereby dedic[redacted]

[redacted]
Wal-Mart Stores East LP
Source of Title: D.R. Deed Book 2006
Page: 2827

[redacted]
Signature:
Address:
Print Name: Brian Harper
Moberly Investments, LLC
Source of Title: D.R. Deed Book 2017
Page: 30438 and 35177
Subscribed [redacted] before me, this 2

[redacted]
Wal-Mart Wtee 6008
Source of Title: D.R. Deed Book 671

[redacted]

NOTARY PUBLIC • ARKANSAS
My Commission Expires April 27, 2028
Commission No. 12706107

[redacted]
REGISTERED
[redacted]
NAL LAND

CERTIFICATE OF AUTHORIZATION
C. E. I Engineering Associates, Inc.
No. 118
ARKANSAS SURVEYOR

Certificate of Approval

Pursuant to the Bentonville Subdivision Regulations and all other conditions and approval having been completed, this document is [redacted] of the said rules and [redacted]

[redacted]

CEI Engineering Associates, Inc.
ENGINEERS
LANDSCAPE ARCHITECTS
3309 SW REGENCY PARKWAY
BENTONVILLE, AR. 72713 (479) 273-0472
CORPORATE OFFICE TBPLS FIRM: #28031309
3030 LBJ FREEWAY
DALLAS, TX 75234 (972) 488-3737
DALLAS OFFICE TBPLS FIRM: #10194134

Certificate of Surveying Accuracy

I, Dustin Riley , hereby certify that this plat correctly represents a boundary survey made by me and boundary markers and lot corners shown hereon actually exist and their location, type and material are correctly shown and all minimum requirements of the Arkansas Minimum Standards for Land Surveyors have been met.

[redacted]
Signed:
Dustin Riley, Registered Land Surveyor
No.1818
State of Arkansas

Arkansas * California * Pennsylvania * Texas

ATLAS PAGE: 405

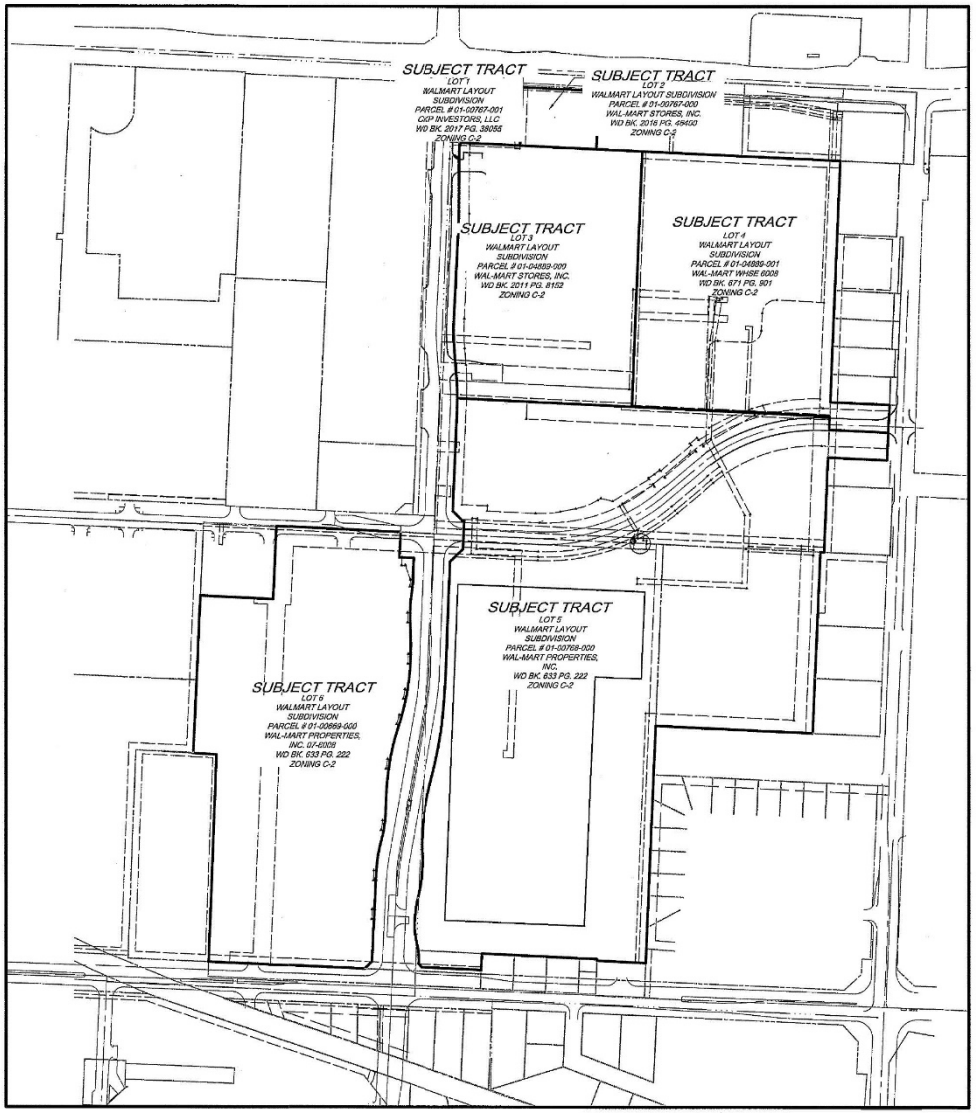
City of Bentonville Project # FP20-0004

SHEET 1

JOB NO.: 31166	
DWG NAME: Easement	
DATE	SHEET NO.
12/21/20 9:11 AM REV-6	1 OF 10

PROJECT: Layout Center - 5th St, Bentonville, 72712

© 2020 CEI ENGINEERING ASSOCIATES, INC.



0 200' 300' 400'
SCALE IN FEET

FOR REFERENCE ONLY

REGISTERED
STATE OF ARKANSAS
[redacted]
PROFESSIONAL LAND

City of Bentonville Project # FP20-0004

SHEET 2

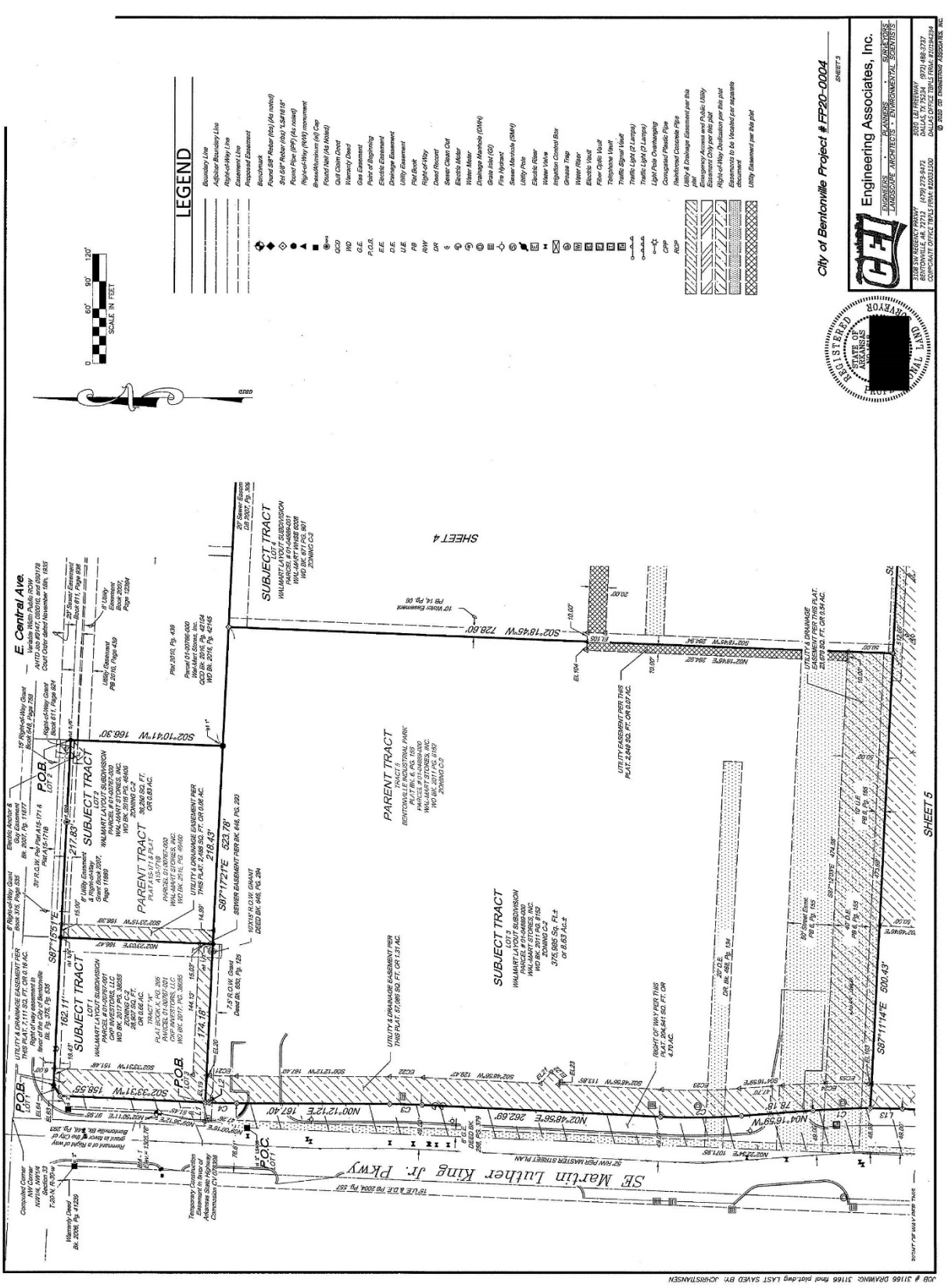
CEI Engineering Associates, Inc.
ENGINEERS • PLANNERS • SURVEYORS
LANDSCAPE ARCHITECTS • ENVIRONMENTAL SCIENTISTS

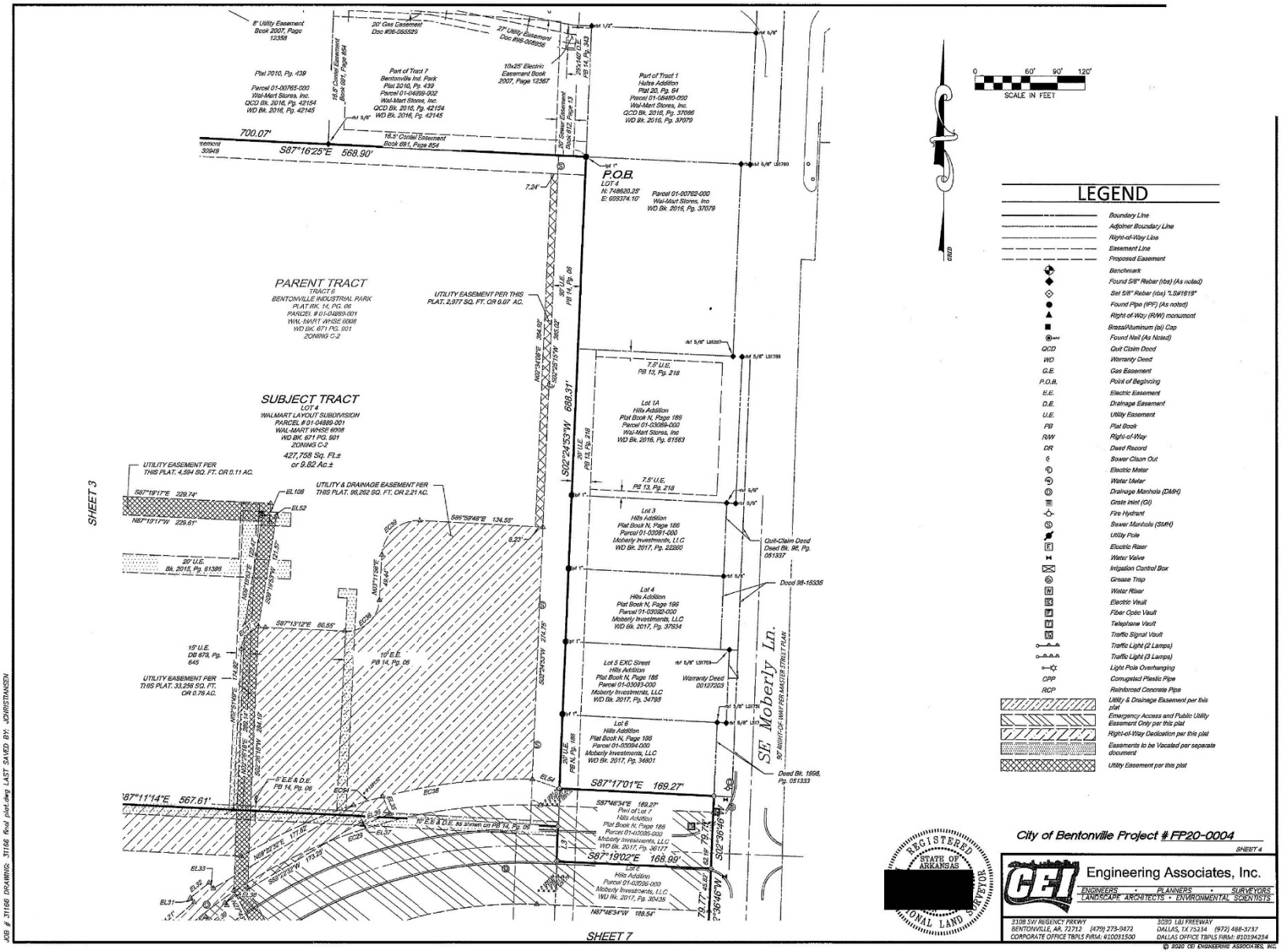
3108 SW REGENCY PKWY
BENTONVILLE, AR. 72712 (479) 273-5472
CORPORATE OFFICE TBPLS FIRM: #10031500

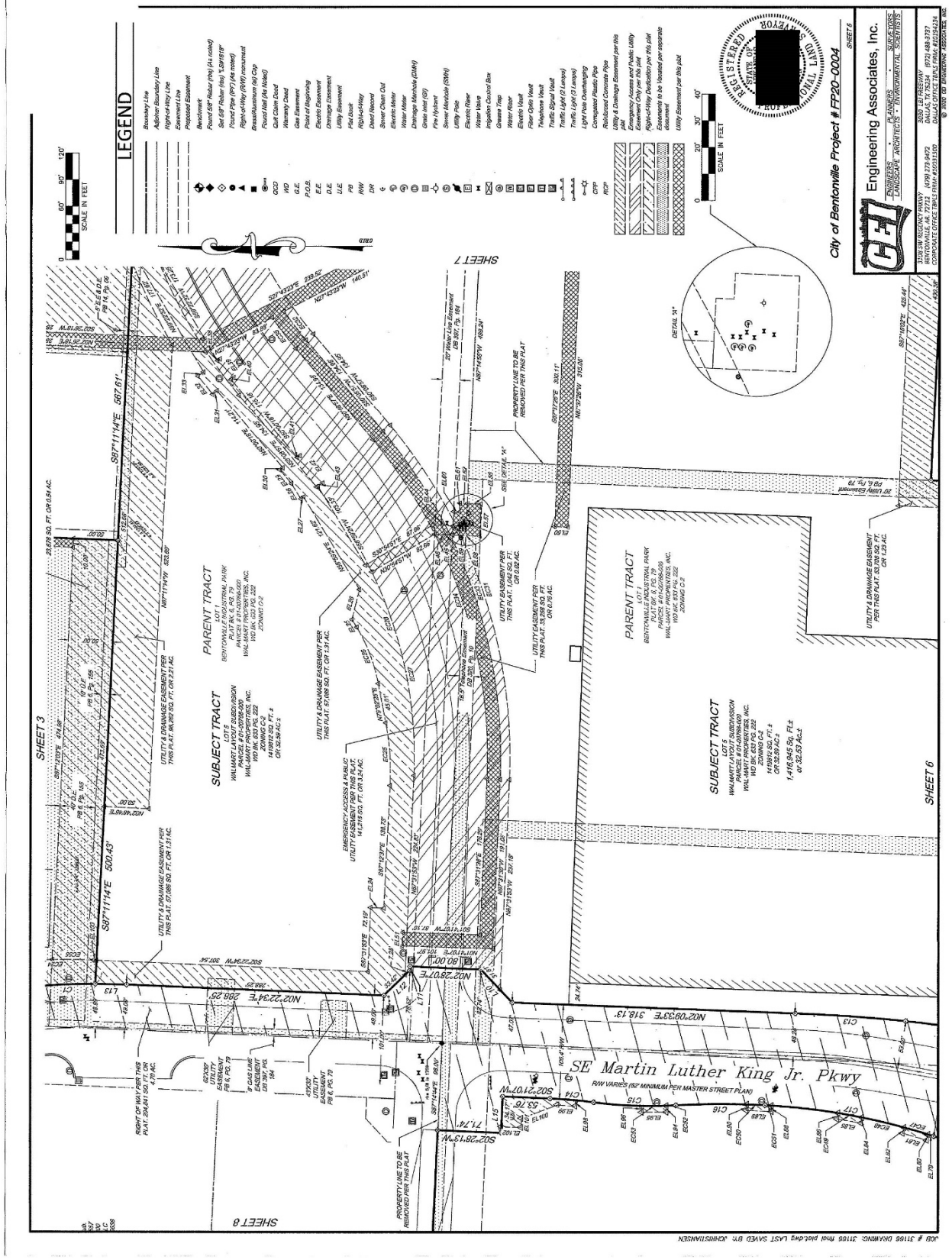
3030 LBJ FREEWAY
DALLAS, TX 75234 (972) 488-3737
DALLAS OFFICE TBPLS FIRM: #10194234

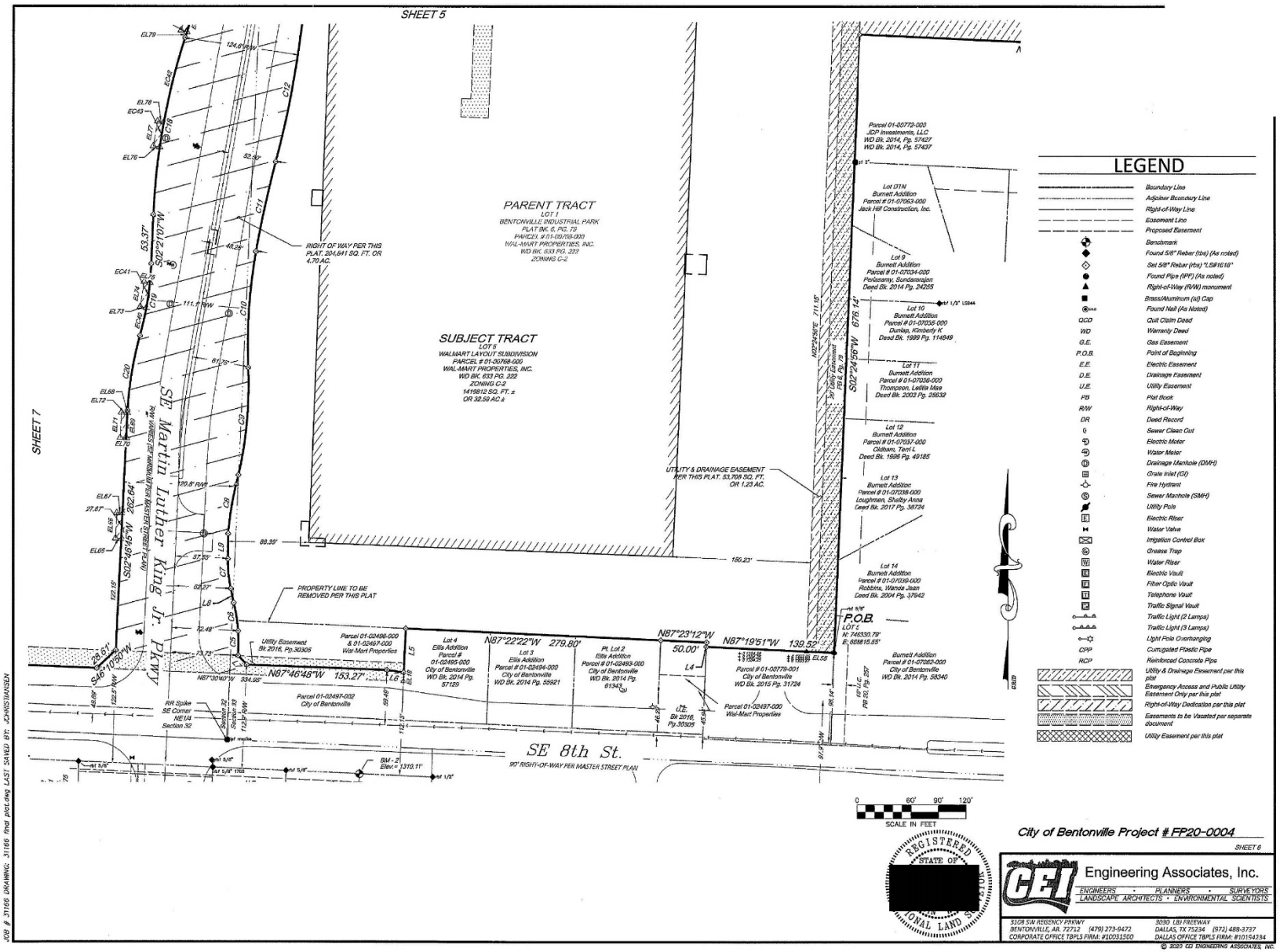
© 2020 CEI ENGINEERING ASSOCIATES, INC.

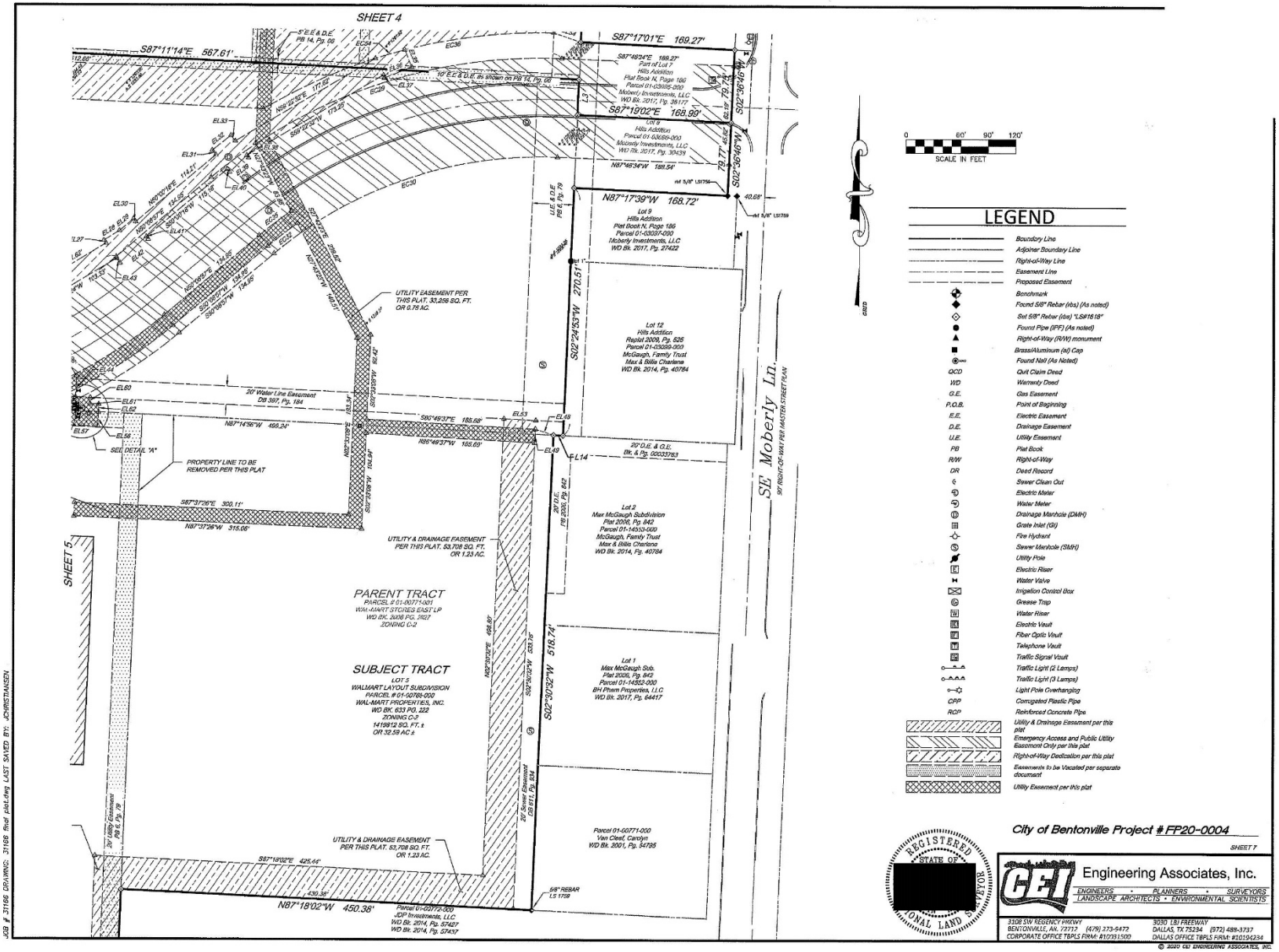
JOB # 31166 DRAWING: 31166 final plat.dwg LAST SAVED BY: JCHRISTIANSEN

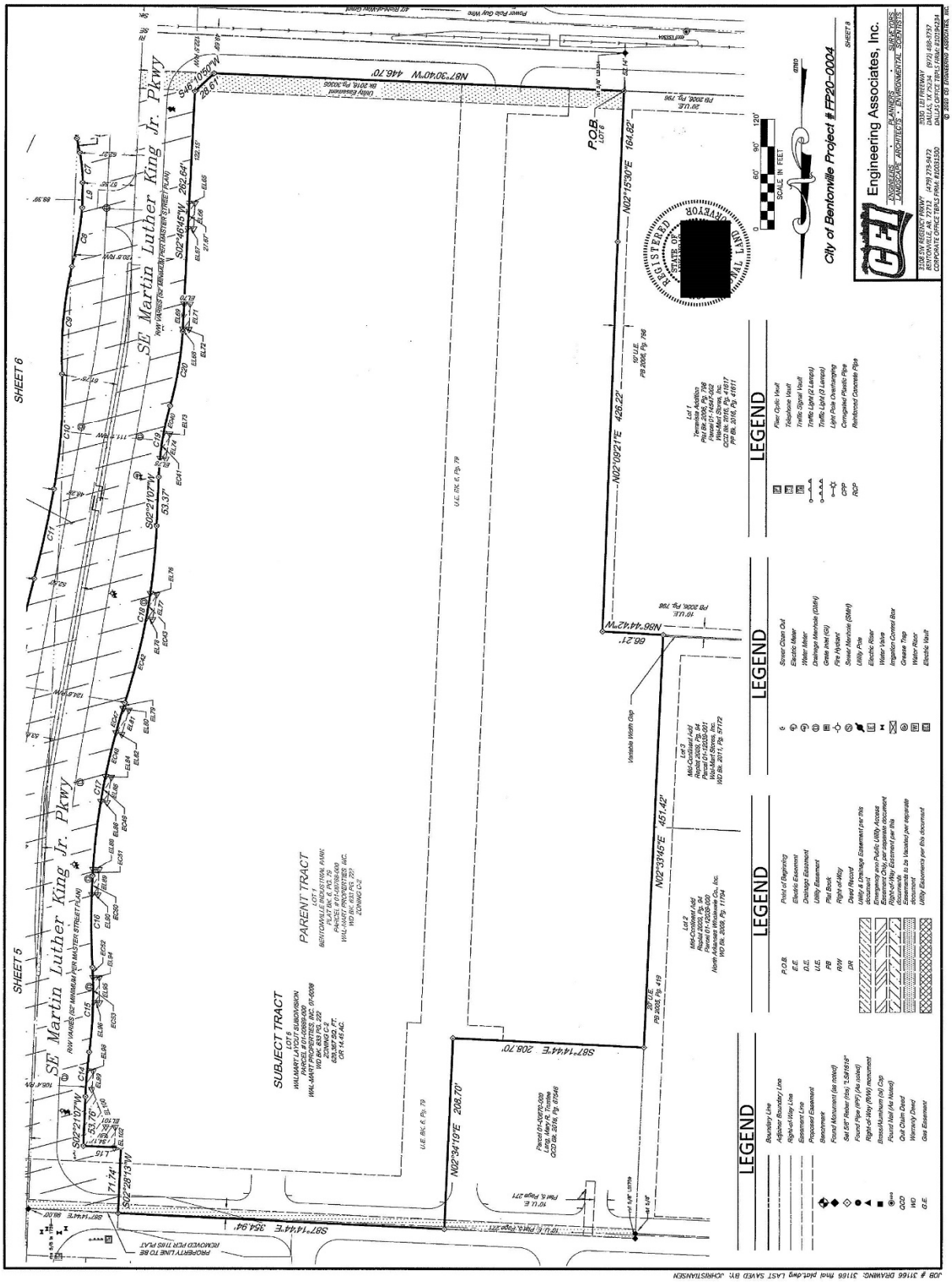

City of Bentonville Project # FP20-0004
SHEET 5
Engineering Associates, Inc.
ENGINEERS • PLANNERS • SURVEYORS
LANDSCAPE ARCHITECTS • ENVIRONMENTAL SCIENTISTS
3138 W. WEDINGTON WAY
BENTONVILLE, AR. 72712 (479) 273-9472
CERTIFICATE OFFICE TBPLS FIRM: #100031300
2020 SE PARKWAY
DALLAS, TX. 75234 (972) 488-3737
DALLAS OFFICE TBPLS FIRM: #10194394
© 2020 GE ENGINEERING ASSOCIATES, INC.
REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF ARKANSAS
LEGEND
Boundary Line
Adjoiner Boundary Line
Right-of-Way Line
Easement Line
Proposed Easement
Benchmark
Found 5/8" Rebar (Illegible)
Found 5/8" Rebar (Illegible) "LSA 1618"
Found Pipe (Size Unknown)
Found Pipe (3/8") (As noted)
Right-of-Way (R/W) monument
Found Nail (As Noted)
Bread/Aluminum (al) Cap
Quil Claim Deed
Warranty Deed
Gas Easement
Point of Beginning
Electric Easement
Drainage Easement
Utility Easement
Plat Book
Right-of-Way
Deed Record
Sewer Clean Out
Electric Meter
Water Meter
Drainage Manhole (DMH)
Grate Inlet (GI)
Fire Hydrant
Sewer Manhole (SMH)
Utility Pole
Electric Riser
Water Valve
Irrigation Control Box
Grease Trap
Water Riser
Electric Vault
Fiber Optic Vault
Telephone Vault
Traffic Signal Vault
Traffic Light (2 Lamps)
Traffic Light (3 Lamps)
Light Pole Overhanging
Corrugated Plastic Pipe
Reinforced Concrete Pipe
Utility & Drainage Easement per this plat
Emergency Access and Public Utility Easement Only per this plat
Right-of-Way Dedication per this plat
Easements to be Vacated per separate instrument
Utility Easement per this plat
SCALE IN FEET
0 60' 90' 120'
SHEET 4
SHEET 5
SE Martin Luther King Jr. Pkwy
SUBJECT TRACT
PARENT TRACT
POB
POC
S87°17'21"E 523.78'
S87°19'51"E 217.89'
S87°11'14"E 500.43'
S02°10'41"W 166.30'
S02°18'45"W 728.60'
N02°48'56"E 262.69'
N00°12'12"E 167.40'
N04°16'59"W 78.19'
S02°33'31"W 138.55'
S87°11'14"E 174.18'
N02°30'11"E 97.98'
S02°46'36"W 113.85'
S02°12'27"W 167.40'
S02°23'15"W 166.38'
N02°23'05"E 166.42'
S02°46'36"W 128.42'
N02°18'45"E 284.92'
S02°18'45"W 284.92'
JOB # 3116B DRAWING 3116B final plot.dwg LAST SAVED BY: JOHNSTANSEN


8' Utility Easement Book 2007, Page 12358
20' Gas Easement Doc #96-055525
27' Utility Easement Doc #96-069526
Plat 2010, Pg. 439
Parcel 01-00765-000
Wal-Mart Stores, Inc.
QCD Bk. 2016, Pg. 42154
WD Bk. 2016, Pg. 42145
Part of Tract 7
Bentonville Ind. Park
Plat 2010, Pg. 439
Parcel 01-04899-002
Wal-Mart Stores, Inc.
QCD Bk. 2016, Pg. 42154
WD Bk. 2016, Pg. 42145
10x25' Electric Easement Book 2007, Page 12367
Part of Tract 1
Hilts Addition
Plat 20, Pg. 64
Parcel 01-06480-000
Wal-Mart Stores, Inc.
QCD Bk. 2016, Pg. 37086
WD Bk. 2016, Pg. 37079
700.07'
S87°16'25"E 568.90'
P.O.B.
LOT 4
N: 748620.25'
E: 609374.10'
Parcel 01-00762-000
Wal-Mart Stores, Inc
WD Bk. 2016, Pg. 37079
PARENT TRACT
TRACT 6
BENTONVILLE INDUSTRIAL PARK
PLAT BK. 14, PG. 06
PARCEL # 01-04899-001
WAL-MART WHSE 6008
WD BK. 671 PG. 501
ZONING C-2
SUBJECT TRACT
LOT 4
WALMART LAYOUT SUBDIVISION
PARCEL # 01-04899-001
WAL-MART WHSE 6008
WD BK. 671 PG. 501
ZONING C-2
427,758 Sq. Ft.±
or 9.82 Ac.±
UTILITY EASEMENT PER THIS PLAT. 2,377 SQ. FT. OR 0.07 AC.
UTILITY EASEMENT PER THIS PLAT. 4,594 SQ. FT. OR 0.11 AC.
UTILITY & DRAINAGE EASEMENT PER THIS PLAT. 99,262 SQ. FT. OR 2.21 AC.
UTILITY EASEMENT PER THIS PLAT. 33,255 SQ. FT. OR 0.76 AC.
Lot 1A
Hilts Addition
Plat Book N, Page 186
Parcel 01-03089-000
Wal-Mart Stores, Inc
WD Bk. 2016, Pg. 61583
Lot 3
Hilts Addition
Plat Book N, Page 186
Parcel 01-03091-000
Moberly Investments, LLC
WD Bk. 2017, Pg. 22200
Lot 4
Hilts Addition
Plat Book N, Page 186
Parcel 01-03092-000
Moberly Investments, LLC
WD Bk. 2017, Pg. 37634
Lot 5 EXC Street
Hilts Addition
Plat Book N, Page 186
Parcel 01-03093-000
Moberly Investments, LLC
WD Bk. 2017, Pg. 34795
Lot 6
Hilts Addition
Plat Book N, Page 186
Parcel 01-03094-000
Moberly Investments, LLC
WD Bk. 2017, Pg. 34801
Lot 8
Hilts Addition
Parcel 01-03096-000
Moberly Investments, LLC
WD Bk. 2017, Pg. 30439
Part of Lot 7
Hilts Addition
Plat Book N, Page 186
Parcel 01-03095-000
Moberly Investments, LLC
WD Bk. 2017, Pg. 36177
SE Moberly Ln.
50' RIGHT-OF-WAY PER MASTER STREET PLAN
S87°17'01"E 169.27'
S87°16'34"E 169.27'
S87°19'02"E 168.99'
N87°16'34"W 168.54'
S02°36'46"W 79.74'
S02°36'46"W 78.77'
N87°11'14"E 567.61'
S02°24'53"W 688.31'
N02°24'53"E 688.31'
S86°59'48"E 134.55'
N87°19'17"W 229.61'
S87°19'17"E 229.74'
S87°13'12"E 86.55'
N87°19'17"W 229.61'
S87°19'17"E 229.74'
N87°13'12"W 86.55'
N03°11'59"E 46.44'
S87°19'17"E 229.74'
N87°19'17"W 229.61'
S87°19'17"E 229.74'
N87°19'17"W 229.61'
N87°19'17"W 229.61'
S87°19'17"E 229.74'
N87°19'17"W 229.61'
S87°19'17"E 229.74'
N87°19'17"W 229.61'
S87°19'17"E 229.74


LEGEND
SCALE IN FEET
SHEET 3
SHEET 6
SHEET 7
SHEET 8
SUBJECT TRACT
PARENT TRACT
SE Martin Luther King Jr. Pkwy
City of Bentonville Project # FP20-0004
Engineering Associates, Inc.


SHEET 5
SHEET 7
PARENT TRACT
LOT 1
BENTONVILLE INDUSTRIAL PARK
PLAT BK. 6, PG. 79
PARCEL # 01-09789-000
WAL-MART PROPERTIES, INC.
WD BK. 633 PG. 222
ZONING C-2
SUBJECT TRACT
LOT 5
WALMART LAYOUT SUBDIVISION
PARCEL # 01-20768-000
WAL-MART PROPERTIES, INC.
WD BK. 633 PG. 222
ZONING C-2
1419812 SQ. FT. ±
OR 32.59 AC ±
RIGHT OF WAY PER THIS PLAT. 204,841 SQ. FT. OR 4.70 AC.
UTILITY & DRAINAGE EASEMENT PER THIS PLAT. 53,708 SQ. FT. OR 1.23 AC.
PROPERTY LINE TO BE REMOVED PER THIS PLAT
SE Martin Luther King Jr. Pkwy
SE 8th St.
90' RIGHT-OF-WAY PER MASTER STREET PLAN
P.O.B.
LOT 1
N: 740330.79'
E: 805815.55'
BM - 2
Elev.= 1310.11'
Parcel 01-00772-000
JDP Investments, LLC
WD Bk. 2014, Pg. 57437
Lot 9
Burnett Addition
Parcel # 01-07034-000
Periasamy, Sundararajan
Deed Bk. 2014 Pg. 24255
Lot 10
Burnett Addition
Parcel # 01-07035-000
Dunlap, Kimberly K
Deed Bk. 1999 Pg. 114849
Lot 11
Burnett Addition
Parcel # 01-07036-000
Thompson, Lellia Mae
Deed Bk. 2003 Pg. 29932
Lot 12
Burnett Addition
Parcel # 01-07037-000
Oldham, Terri L
Deed Bk. 1998 Pg. 46185
Lot 13
Burnett Addition
Parcel # 01-07038-000
Loughmen, Shelby Anna
Deed Bk. 2017 Pg. 38724
Lot 14
Burnett Addition
Parcel # 01-07039-000
Robbins, Wanda Jean
Deed Bk. 2004 Pg. 37942
Lot D1N
Burnett Addition
Parcel # 01-07063-000
Jack Hill Construction, Inc.
Burnett Addition
Parcel # 01-07062-000
City of Bentonville
WD Bk. 2014 Pg. 58340
Parcel # 01-00779-001
City of Bentonville
WD Bk. 2015 Pg. 31724
Parcel 01-02497-000
Wal-Mart Properties
Parcel 01-02497-002
City of Bentonville
Parcel 01-02496-000
& 01-02497-000
Wal-Mart Properties
Lot 4
Ella Addition
Parcel # 01-02495-000
City of Bentonville
WD Bk. 2014 Pg. 57129
Lot 3
Ella Addition
Parcel # 01-02494-000
City of Bentonville
WD Bk. 2014 Pg. 55921
Pt. Lot 2
Ella Addition
Parcel # 01-02493-000
City of Bentonville
WD Bk. 2014 Pg. 61343
Utility Easement
Bk 2016, Pg.30305
RR Spike
SE Corner
NE1/4
Section 32
N87°46'48"W 153.27'
N87°22'22"W 279.80'
N87°23'12"W 50.00'
N87°19'51"W 139.52'
S46°10'58"W 28.61'
S02°21'07"W 282.64'
S02°46'45"W 282.64'
S02°24'56"W 676.14'
N02°24'56"E 711.15'
RIGHT-OF-WAY PER MASTER STREET PLAN
LEGEND
Boundary Line
Adjoiner Boundary Line
Right-of-Way Line
Easement Line
Proposed Easement
Benchmark
Found 5/8" Rebar (rbs) (As noted)
Set 5/8" Rebar (rbs) "LS#1616"
Found Pipe (IPF) (As noted)
Right-of-Way (R/W) monument
Brass/Aluminum (al) Cap
Found Nail (As Noted)
QCD Quit Claim Deed
WD Warranty Deed
G.E. Gas Easement
P.O.B. Point of Beginning
E.E. Electric Easement
D.E. Drainage Easement
U.E. Utility Easement
PB Plat Book
R/W Right-of-Way
DR Deed Record
Sewer Clean Out
Electric Meter
Water Meter
Drainage Manhole (DMH)
Grate Inlet (GI)
Fire Hydrant
Sewer Manhole (SMH)
Utility Pole
Electric Riser
Water Valve
Irrigation Control Box
Grease Trap
Water Riser
Electric Vault
Fiber Optic Vault
Telephone Vault
Traffic Signal Vault
Traffic Light (2 Lamps)
Traffic Light (3 Lamps)
Light Pole Overhanging
CPP Corrugated Plastic Pipe
RCP Reinforced Concrete Pipe
Utility & Drainage Easement per this plat
Emergency Access and Public Utility Easement Only per this plat
Right-of-Way Dedication per this plat
Easements to be Vacated per separate document
Utility Easement per this plat
0 60' 90' 120'
SCALE IN FEET
REGISTERED STATE OF [redacted] SURVEYOR
City of Bentonville Project # FP20-0004
SHEET 6
Engineering Associates, Inc.
ENGINEERS · PLANNERS · SURVEYORS
LANDSCAPE ARCHITECTS · ENVIRONMENTAL SCIENTISTS
3108 SW REGENCY PKWY
BENTONVILLE, AR. 72712 (479) 273-9472
CORPORATE OFFICE TBPLS FIRM: #10031500
3030 LBJ FREEWAY
DALLAS, TX 75234 (972) 488-3737
DALLAS OFFICE TBPLS FIRM: #10194234
© 2020 CEI ENGINEERING ASSOCIATES, INC.
JOB # 31166 DRAWING: 31166 final plat.dwg LAST SAVED BY: JOHNSVANSEN


SHEET 4
SHEET 5
S87°11'14"E 567.61'
S87°17'01"E 169.27'
S87°19'02"E 168.99'
N87°17'39"W 168.72'
N87°19'02"W 450.38'
S87°19'02"E 425.44'
S02°30'32"W 518.74'
S02°24'53"W 270.51'
S02°36'46"W 79.77'
N87°46'34"W 189.54'
N87°14'56"W 459.24'
S87°37'26"E 309.11'
N87°37'26"W 315.06'
N86°49'37"W 165.69'
S86°49'37"E 185.68'
PARENT TRACT
PARCEL # 01-00771-001
WAL-MART STORES EAST L.P.
WD BK. 3006 PG. 2627
ZONING C-2
SUBJECT TRACT
LOT 5
WALMART LAYOUT SUBDIVISION
PARCEL # 01-50785-000
WAL-MART PROPERTIES, INC.
WD BK. 633 PG. 222
ZONING C-2
1419812 SQ. FT. ±
OR 32.59 AC.±
PROPERTY LINE TO BE REMOVED PER THIS PLAT
SEE DETAIL "A"
UTILITY EASEMENT PER THIS PLAT, 33,256 SQ. FT. OR 0.76 AC.
UTILITY & DRAINAGE EASEMENT PER THIS PLAT. 53,708 SQ. FT. OR 1.23 AC.
20' Water Line Easement DB 397, Pg. 184
10' E.E.& D.E. as shown on PB 14, Pg. 08
5' E.E.& D.E. PB 14, Pg. 08
20' U.E. & G.E. Bk. & Pg. 00033763
20' U.E. PB 2006, Pg. 843
20' Sewer Easement DB 651, Pg. 834
20' Utility Easement DB 41, Pg. 28
Lot 9 Hills Addition Plat Book N, Page 186 Parcel 01-03037-000 Moberly Investments, LLC WD Bk. 2017, Pg. 27422
Lot 12 Hills Addition Replat 2009, Pg. 525 Parcel 01-03059-000 McGaugh, Family Trust Max & Billie Charlene WD Bk. 2014, Pg. 40784
Lot 2 Max McGaugh Subdivision Plat 2006, Pg. 843 Parcel 01-14553-000 McGaugh, Family Trust Max & Billie Charlene WD Bk. 2014, Pg. 40784
Lot 1 Max McGaugh Sub. Plat 2006, Pg. 843 Parcel 01-14552-000 BH Pham Properties, LLC WD Bk. 2017, Pg. 64417
Parcel 01-00771-000 Van Cleef, Carolyn WD Bk. 3001, Pg. 34795
Parcel 01-00772-000 JDP Investments, LLC WD Bk. 2014, Pg. 57427 WD Bk. 2014, Pg. 57437
Part of Lot 7 Hills Addition Plat Book N, Page 186 Parcel 01-03035-000 Moberly Investments, LLC WD Bk. 2017, Pg. 36177
Lot 8 Hills Addition Parcel 01-03036-000 Moberly Investments, LLC WD Bk. 2017, Pg. 30439
SE Moberly Ln.
50' RIGHT-OF-WAY PER MASTER STREET PLAN
5/8" REBAR LS 1758
SCALE IN FEET
0 60' 90' 120'
LEGEND
Boundary Line
Adjoiner Boundary Line
Right-of-Way Line
Easement Line
Proposed Easement
Benchmark
Found 5/8" Rebar (dia) (As noted)
Set 5/8" Rebar (dia) "LS#1618"
Found Pipe (IPF) (As noted)
Right-of-Way (R/W) monument
Brass/Aluminum (al) Cap
Found Nail (As Noted)
QCD Quit Claim Deed
WD Warranty Deed
G.E. Gas Easement
P.O.B. Point of Beginning
E.E. Electric Easement
D.E. Drainage Easement
U.E. Utility Easement
PB Plat Book
R/W Right-of-Way
DR Deed Record
Sewer Clean Out
Electric Meter
Water Meter
Drainage Manhole (DMH)
Grate Inlet (GI)
Fire Hydrant
Sewer Manhole (SMH)
Utility Pole
Electric Riser
Water Valve
Irrigation Control Box
Grease Trap
Water Riser
Electric Vault
Fiber Optic Vault
Telephone Vault
Traffic Signal Vault
Traffic Light (2 Lamps)
Traffic Light (3 Lamps)
Light Pole Overhanging
CPP Corrugated Plastic Pipe
RCP Reinforced Concrete Pipe
Utility & Drainage Easement per this plat
Emergency Access and Public Utility Easement Only per this plat
Right-of-Way Dedication per this plat
Easements to be Vacated per separate document
Utility Easement per this plat
City of Bentonville Project # FP20-0004
SHEET 7
REGISTERED STATE OF [redacted] NAL LAND SURVEYOR
Engineering Associates, Inc.
ENGINEERS • PLANNERS • SURVEYORS
LANDSCAPE ARCHITECTS • ENVIRONMENTAL SCIENTISTS
3308 SW REGENCY PKWAY BENTONVILLE, AR. 72712 (479) 273-5472 CORPORATE OFFICE TBPLS FIRM: #10031500
3030 LBJ FREEWAY DALLAS, TX 75234 (972) 488-3737 DALLAS OFFICE TBPLS FIRM: #10194234
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JOB # 31166 DRAWING: 31166 final plat.dwg LAST SAVED BY: JOHNRSTANSEN


City of Bentonville Project # FP20-0004
SHEET 6
SHEET 5
SE Martin Luther King Jr. Pkwy
SUBJECT TRACT
PARENT TRACT
LEGEND
Engineering Associates, Inc.
CEI
N87°30'40"W 446.70'
N02°15'30"E 164.82'
N02°09'21"E 426.22'
N86°44'42"W 66.21'
N02°33'45"E 451.42'
S87°14'44"E 208.70'
N02°34'19"E 208.70'
S87°14'44"E 354.94'
S02°21'07"W 53.76'
S02°28'13"W 71.74'
S02°46'45"W 262.64'
S02°21'07"W 53.37'
N04°51'45"E 28.61'

Property Line Table		
Line #	Direction	Length
L1	S87°17'53"E	20.64'
L2	N02°33'31"E	3.86'
L3	S02°24'53"W	38.72'
L4	N02°33'11"E	4.94'
L5	S02°33'11"W	48.23'
L6	N82°03'46"W	18.40'
L7	N42°51'31"W	13.88'
L8	N11°54'37"W	15.88'
L9	N00°48'52"E	27.32'
L10	N46°09'37"E	51.53'
L11	N87°31'53"W	4.34'
L12	N44°07'14"W	40.70'
L13	N01°09'49"E	35.05'
L14	N87°14'13"W	10.47'
L15	S87°31'53"E	41.12'

Property Curve Table					
Curve #	Radius	Length	Delta	Chord Bearing	Chord Distance
C1	832.11'	62.46'	4°18'03"	N2°08'30"W	62.45'
C2	713.00'	88.34'	7°05'55"	N0°44'02"W	88.28'
C3	778.00'	35.52'	2°36'44"	N1°30'34"E	35.51'
C4	741.00'	30.46'	2°21'19"	N1°22'52"E	30.46'
C5	261.37'	26.92'	5°54'04"	N0°01'56"E	26.91'
C6	156.99'	31.17'	11°22'36"	N8°49'20"W	31.12'
C7	157.83'	32.97'	11°58'13"	N5°34'13"W	32.91'
C8	362.05'	65.15'	10°18'37"	N9°55'02"E	65.06'
C9	446.25'	118.55'	15°13'15"	N5°09'32"E	118.20'
C10	586.71'	126.92'	12°23'40"	N3°51'59"E	126.67'
C11	1282.03'	99.89'	4°27'51"	N12°24'46"E	99.86'
C12	1104.85'	169.46'	8°47'17"	N10°20'11"E	169.29'
C13	1981.60'	124.86'	3°36'37"	N4°01'49"E	124.84'
C14	598.74'	48.93'	4°40'57"	N4°59'55"E	48.92'
C15	503.71'	92.59'	10°31'56"	N2°04'26"E	92.46'
C16	930.22'	100.05'	6°09'45"	N0°06'40"W	100.00'
C17	739.68'	193.14'	14°57'38"	N10°27'02"E	192.59'
C18	723.52'	196.73'	15°34'44"	N10°08'29"E	196.12'
C19	346.03'	79.59'	13°10'45"	N8°56'30"E	79.42'
C20	394.76'	82.77'	12°00'46"	N9°31'29"E	82.62'

Easement Line Table		
LINE	BEARING	DISTANCE
EL13	S02°33'11"W	9.79'
EL19	S87°17'53"E	30.00'
EL20	S02°33'31"W	3.79'
EL21	S47°44'02"E	17.20'
EL22	S42°15'58"W	15.00'
EL23	N47°44'02"W	4.65'
EL24	S02°49'03"W	14.80'
EL25	N69°05'08"E	10.71'
EL26	S75°54'51"E	34.62'
EL27	N35°41'47"W	3.89'
EL28	N58°18'48"E	20.06'
EL29	N60°00'18"E	20.05'
EL30	S35°41'47"E	4.01'
EL31	N38°27'53"W	6.34'
EL32	N51°32'07"E	26.00'
EL33	S38°27'53"E	7.70'
EL35	S21°35'07"E	20.17'
EL36	S68°04'53"W	32.00'
EL37	N21°55'07"W	3.43'
EL38	S59°22'32"W	173.25'
EL39	S53°27'56"W	26.01'
EL40	N38°27'53"W	3.92'
EL41	S35°41'47"E	3.31'
EL42	S50°09'05"W	40.11'
EL43	N35°41'47"W	6.34'
EL44	S02°47'40"W	22.90'
EL45	N87°14'13"W	10.07'
EL46	N02°45'47"E	20.00'
EL48	N72°12'04"W	20.73'
EL49	S02°30'32"W	15.00'

Easement Line Table		
LINE	BEARING	DISTANCE
EL50	N02°22'34"E	15.00'
EL51	S88°19'53"E	15.00'
EL52	S80°40'07"E	15.00'
EL53	S87°14'13"E	35.00'
EL54	N71°18'25"W	31.25'
EL55	N87°19'51"W	39.00'
EL56	S02°22'34"W	15.44'
EL57	N88°02'32"W	35.98'
EL58	N02°07'39"E	31.05'
EL59	S87°14'13"E	26.28'
EL60	S02°22'34"W	6.76'
EL61	S87°37'26"E	9.65'
EL62	S02°22'34"W	8.41'
EL63	N58°10'39"E	16.79'
EL64	N58°10'39"E	14.02'
EL65	N87°22'45"W	6.18'
EL66	N02°37'15"E	27.67'
EL67	S87°22'45"E	6.26'
EL68	S02°46'45"W	2.79'
EL69	S02°46'45"W	27.67'
EL70	N87°22'45"W	6.45'
EL71	N02°37'15"E	27.67'
EL72	S87°22'45"E	6.55'
EL73	N81°08'28"W	6.78'
EL74	N08°54'34"E	27.67'
EL75	S81°05'26"E	6.39'
EL76	N80°33'02"W	7.01'
EL77	N09°26'58"E	27.67'
EL78	S80°33'02"E	6.92'
EL79	N17°41'12"E	6.39'

Easement Line Table		
LINE	BEARING	DISTANCE
EL80	N73°44'25"W	6.68'
EL81	N16°15'35"E	27.67'
EL82	S73°44'25"E	6.73'
EL84	N80°53'14"W	6.36'
EL85	N09°06'46"E	27.67'
EL86	S80°53'14"E	7.02'
EL88	N87°28'40"W	6.71'
EL89	N02°31'20"E	27.67'
EL90	S87°28'40"E	6.74'
EL94	S89°42'41"W	7.05'
EL95	N00°17'19"W	27.67'
EL96	N89°42'41"E	7.00'
EL98	N85°57'48"W	6.56'
EL99	N04°02'12"E	20.03'
EL100	N20°32'48"W	43.67'
EL101	N87°44'27"W	10.22'
EL102	N02°10'33"E	22.35'
EL103	N02°22'34"E	3.44'
EL104	S87°10'17"E	10.03'
EL105	N02°18'45"E	20.00'
EL106	S02°40'43"W	20.00'

Easement Curve Table					
Curve #	Radius	Length	Delta	Chord Bearing	Chord Distance
EC21	711.00'	29.23'	2°21'19"	S1°22'52"W	29.22'
EC22	809.00'	36.38'	2°34'44"	S1°30'34"W	36.88'
EC23	683.00'	94.62'	7°56'35"	S0°44'02"E	94.57'
EC24	900.00'	92.98'	6°39'34"	S0°57'13"E	92.93'
EC25	295.00'	70.79'	13°44'59"	N85°54'54"E	70.62'
EC26	195.00'	67.91'	19°57'16"	N89°03'47"E	67.57'
EC27	478.00'	236.64'	28°22'40"	S76°11'47"W	234.20'
EC28	476.00'	350.84'	42°13'10"	N71°18'32"E	342.92'
EC29	568.00'	414.90'	42°04'29"	N71°11'11"E	405.64'
EC30	457.00'	335.59'	42°04'29"	S71°11'11"W	328.10'
EC31	583.00'	430.61'	42°19'10"	S71°18'32"W	420.89'
EC32	454.31'	40.54'	5°06'44"	S82°35'12"W	40.52'
EC33	572.50'	422.90'	42°19'25"	S71°18'39"W	413.35'
EC34	557.50'	411.82'	42°19'25"	N71°18'39"E	402.52'
EC35	460.31'	43.75'	5°26'29"	N82°42'04"E	43.74'
EC36	595.52'	333.37'	32°03'26"	S75°10'39"W	329.04'
EC37	25.00'	39.23'	89°54'58"	N47°49'18"E	35.33'
EC38	36.00'	56.29'	89°34'50"	N47°59'23"E	50.72'
EC39	40.00'	62.70'	89°46'15"	N48°05'05"E	56.47'
EC40	346.03'	31.04'	5°08'21"	N12°57'42"E	31.03'
EC41	346.03'	27.68'	4°34'58"	S8°16'02"W	27.67'
EC42	723.52'	25.40'	2°00'56"	S14°09'12"W	25.34'
EC43	723.52'	27.67'	2°11'26"	S9°16'48"W	27.67'
EC47	739.68'	27.67'	2°08'36"	S16°22'16"W	27.67'
EC48	739.68'	49.12'	3°48'16"	N13°23'49"E	49.11'
EC49	739.68'	27.68'	2°08'36"	S10°25'21"W	27.67'
EC50	930.22'	20.39'	1°15'20"	S2°26'33"W	20.39'
EC51	739.68'	7.29'	0°33'51"	S3°15'09"W	7.29'
EC52	503.71'	10.42'	1°11'52"	N2°34'36"W	10.82'
EC53	503.71'	27.67'	3°08'51"	S0°22'14"E	27.67'

TOTAL TRACT DESCRIPTION

Parent Tract Lot 1 Deed Bk. 633, Pg. 222
SE/4 of the SE/4 of the NE/4 of Section 32, Township 20 North, Range 30 West, except the West 66 feet thereof: subject to street on the South side thereof AND part of the NW/4 of Section 33, Township 20 North, Range 30 West, described as beginning North 88°29 minutes 54 seconds East 389.33 feet, thence South 88°29 minutes 16 seconds East 1118.30 feet, thence South 01°04 minutes 10 seconds West 389.34 feet to the point of beginning, containing 1,986,396 square feet or 45.64 acres, more or less.

AND
Parent Tract Tract 6 Deed Bk. 671, Pg. 901
Tract 6, Bentonville Industrial Park, Bentonville, Arkansas as shown in Plat Record 14 at Page 06 of the Records of Benton County, Arkansas, containing 41,4691 square feet or 9.52 acres, more or less.

AND
Parent Tract Tract 5 Deed Bk. 2011, Pg. 8152
Part of Tract 5 of Bentonville Industrial Park, an addition to the City of Bentonville, Benton County, Arkansas, as filed for record November 12, 1985 in Plat Book 6 at Page 155, also being part of the NW/4 of the NW/4 of Section 33, Township 20 North, Range 30 West and being more particularly described as follows:
Commencing at the Northwest corner of said NW/4 of the NW/4; THENCE South 02°19'13" West, 208.70 feet; THENCE South 87°17'47" East, 5.57 feet to a set 1/2" rebar with plastic cap (P.S. 1339) on the right of way line of Arkansas Hwy 72 per Quit Claim Deed Record Book 2008 at Page 4916 and the POINT OF BEGINNING; THENCE South 87°17'47" East, 544.42 feet to a found 5/8" rebar; THENCE North 87°13'13" West, 350.00 feet to a found 1/2" rebar with plastic cap (P.S. 1369) and the right of way line of S.E. Martin Luther King, Jr. Parkway; THENCE, along said right of way, North 02°19'45" East, 661.52 feet to a set 1/2" rebar with plastic cap (P.S. 1339); THENCE, along said right of way line of Arkansas Highway 72, North 09°07'57" East, 46.90 to the POINT OF BEGINNING, containing 5.20 acres, more or less.

AND
Parent Tract Lot 7, Hill's Addition Deed Bk. 2017, Pg. 36177
Lot 7 of Hill's Addition to the City of Bentonville, Benton County, Arkansas, as shown on Plat Record N at page 186.
LESS AND EXCEPT that portion of the above described land previously conveyed to the City of Bentonville, Arkansas, in that certain Warranty Deed, dated April 10, 2020 and filed for record April 13, 2020, as Document No. 2020042758, of the Records of Benton County, Arkansas, being more particularly described as follows: Part of Lot 7 of Hill's Addition to the City of Bentonville, Arkansas, as recorded in Plat Record "N" at page 186, more particularly described as beginning at the Northeast corner of said Lot 7; thence South 02°22'22" West 80.04 feet to the Southeast corner of said Lot 7; thence North 87°13'16" West, along the South line of said Lot 7, 9.64 feet; thence North 02°27'06" East 80.04 feet to the North line of said Lot 7; thence South 87°13'16" East, along the North line of said Lot 7, 9.53 feet to the Point of Beginning, containing 767 square feet, more or less.

AND
Parent Tract Deed Bk. 2006, Pg. 2826
Part of the SW/4 of the NW/4 of Section 33, Township 20 North, Range 30 West, City of Bentonville, Benton County, Arkansas, being more particularly described as: Beginning North 770.06 feet and East 691.72 feet from the Southwest corner of the SW/4 of the NW/4 of said Section 33; thence North 02°24'58" East 518.45 feet; Thence South 87°11'13" East 451.23 feet; thence South 02°30'34" West 518.74 feet; thence North 87°16'55" West 450.38 feet to the point of beginning.

AND
Parent Tract Deed Bk. 2015, Pg. 46400
Part of the NW 1/4 of the NW 1/4 of Section 33, Township 20 North, Range 30 West, Benton County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point South 89° 40' East 199.5 feet from the NW corner of the said NW 1/4 of the NW 1/4; thence South 89° 40' East 217.6 feet; thence South 00° 01' West 208.7 feet; thence North 89° 40' West 217.6 feet; thence North 00° 01' East 208.7 feet to the place of beginning.
LESS AND EXCEPT a strip of property 5 feet in width along the entire North property line as additional Highway #72 right of way for the City of Bentonville in compliance with City's Master Street Plan.
Being the same lands as set forth in ALTA/NSPS Land Title Survey made by Kevin Michael Hall, PLS No. 1769, of CEI Engineering Associates, Inc., dated June 24, 2016, and designated Job No. 29556, being more particularly described as follows:
A tract of land being described in Deed Book 1990, Page 28442 and being surveyed according to Plat Book A15, Page 171 and Plat Book A151, Page 1719, being situated in the Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of Section 33, Township 20 North, Range 30 West, Benton County, Arkansas, being more particularly described as follows:
COMMENCING at the calculated Northwest corner of said Quarter, Quarter of Section 33; THENCE along the North line of said Section 33, South 87° 07' 25" East a distance of 199.98 feet to the POINT OF BEGINNING;
THENCE continuing along said North line, South 87° 07' 25" East a distance of 217.68 feet; THENCE leaving said North line, South 02° 10' 41" West crossing a found 5/8" rebar (LS#11116) according to Plat Book 2010, Page 439 on the South right-of-way of E. Central Ave. according to AHTD Job 080017B at a distance of 41.30 feet and continuing for a total distance of 207.55 feet to a found 1" pipe according to Plat Book 2010, Page 439 and Plat Book N, Page 207; THENCE North 87° 16' 25" West a distance of 218.43 feet to a found 1/2" rebar; THENCE North 02° 29' 15" East a distance of 208.16 feet to the POINT OF BEGINNING and containing 45,337 square feet or 1.04 acres, more or less.

AND
Parent Tract Lot 8, Hill's Addition Deed Bk. 2017, Pg. 30438
Lot 8 of Hill's Addition to the City of Bentonville, Benton County, Arkansas, as shown on Plat Record N at page 186.

AND
Parent Tract "A" Deed Bk. 2017, Pg. 38055
Tract "A" of Plat 2-205, being a part of the NW1/4 of the N W/4 of Section 33, Township 20 North, Range 30 West of the Fifth Principal Meridian, Benton County, Arkansas, being more particularly described as follows:
Beginning at the NW corner of said Section 33, being a found railroad spike in the centerline of Arkansas Highway #72; thence along the North line of said NW1/4 of the NW1/4, South 89°40'00" East 199.50 feet; thence South 00d01'00"West 208.70 feet to a found iron pin; thence North 89o40'00"West 200.30 feet to a found iron pin; thence North 00°07'00" East 208.70 feet to the Point of Beginning. Subject to the right of way of Arkansas Highway #72 along the North side thereof.
LESS AND EXCEPT
Part of the Northwest Quarter of the Northwest Quarter of Section 33, Township 20 North, Range 30 West, Benton County, Arkansas, more particularly described as follows: Commencing at a railroad spike being used as the common corner of Sections 28,29,32, and 33; thence South 02°27'24"West along the West line of the Northwest Quarter of the Northwest Quarter of Section 33 a distance of 42.48 feet to a point on the Southerly right of way line of Arkansas State Highway 72 as established by AHTD Job 9147 for the point of beginning; thence South 57°15'51"E East along said right of way line a distance of 37.49 feet to a point on the Southerly right of way of Arkansas State Highway 72 as established by AHTD Job 090178; thence South 57°57'42"West along said right of way line a distance of 30.48 feet to a point; thence South 02°50,58" West along said right of way line a distance of 98.00 feet to a point; thence South 09°16'12"West along said right of way line a distance of 51.65 feet to a point; thence North 87°24'47"West a distance of 5.57 feet to a point on the West line of the Northwest Quarter of the Northwest Quarter of Section 33 also being the Easterly right of way line of SE "S" Street; thence North 02°27'24" East along said right of way line a distance of 166.75 feet to the point of beginning, as shown on plans prepared by the AHTD referenced as Job 090178.

Total tract containing square feet or acres, more or less.

City of Bentonville Project # FP20-0004

SHEET 9

Engineering Associates, Inc.
ENGINEERS • PLANNERS • SURVEYORS
LANDSCAPE ARCHITECTS • ENVIRONMENTAL SCIENTISTS
3108 SW REGENCY FREWAY, BENTONVILLE, AR. 72712 (479) 273-9472, CORPORATE OFFICE TBPLS FIRM: #10031500
3030 LBJ FREEWAY, DALLAS, TX 75234 (972) 488-3737, DALLAS OFFICE TBPLS FIRM: #10194234

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JOB # 31166 DRAWING: 31166 final plot.dwg LAST SAVED BY: JOHNSTHANSEN

User Name: JILL
CERTIFICATE OF RECORD
STATE OF ARKANSAS, COUNTY OF BENTON
I hereby certify that this instrument was
Filed and Recorded in the Official Records
L202108441 2/4/2021 11:39:21 AM
Brenda DeShields,Circuit Clerk
BENTON CO, AR FEE $60.00

~ 306 ~

JOB # 3116B DRAWING: 3116B final plat.dwg LAST SAVED BY: JCHRISTIANSEN

Survey Description Lot 1

A part of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4), Section 33, Township 20 North, Range 30 West, Benton County, Arkansas, being known as Tract "A" of Plat Book X, Page 205 in the public records of Benton County, Arkansas, hereinafter being known as Lot 1, Walmart Layout Subdivision and being described by metes and bounds from an on-the-ground survey based on bearings established using NAD83 performed on February 18, 2020 by CEI Engineering Associates, Inc. as follows:

BEGINNING at a found rebar, being the most northern corner of said Tract "A";
THENCE South 87°15'51" East along the South right-of-way of E. Central Ave., a distance of 152.11 feet to a found 5/8" rebar;
THENCE South 02°29'03" West along the West boundary of said Tract "A", a distance of 166.44 feet to a found 1/2" rebar being the Southeast corner of said Tract "A";
THENCE North 87°17'21" West along the South boundary of said Tract "A", a distance of 174.18 feet to a set 5/8" rebar capped with LS #1618;
THENCE North 02°39'31" East, a distance of 158.55 feet to a set 5/8" rebar capped with LS #1618;
THENCE North 58°10'39" East, a distance of 14.02 feet to the POINT OF BEGINNING, containing 28,907 square feet or 0.66 acres, more or less.

Survey Description Lot 2

A part of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4), Section 33, Township 20 North, Range 30 West, Benton County, Arkansas, being the parcel described in Deed Book 2016, Page 46400 and the same lands as set forth in ALTA/NSPS Land Title Survey made by Kevin Hall PLS No. 1783, of CEI Engineering Associates, Inc. dated June 24, 2016, and designated Job No. 29656, hereinafter being known as Lot 2 and being described by metes and bounds from an on-the-ground survey based on bearings established using NAD83 performed on February 18, 2020 by CEI Engineering Associates, Inc. as follows:
BEGINNING at a found 5/8" rebar, being the Northeast corner said parcel;
THENCE South 02°10'41" West along the West boundary of said parcel, a distance of 166.30 feet to a found 1" pipe and the Southeast corner of said parcel;
THENCE North 87°17'21" West along the South boundary of said parcel, a distance of 218.43 feet to a found 1/2" rebar and the Southwest corner of said parcel;
THENCE North 02°23'03" East along the West boundary of said parcel, a distance of 166.42 feet to a found 5/8" rebar and the Northwest corner of said parcel;
THENCE South 87°15'51" East along the North boundary of said parcel, a distance of 217.83 feet to the POINT OF BEGINNING; containing 36,280 square feet or 0.83 acres, more or less.

Survey Description Lot 3

A part of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4), Section 33, Township 20 North, Range 30 West, Benton County, Arkansas, being part of Tract 5, Bentonville Industrial Park to the City of Bentonville according to Plat Book 6, Page 155 in the public records of Benton County, Arkansas, hereinafter being known as Lot 3, Walmart Layout Subdivision to the City of Bentonville, Benton County, Arkansas, and being described by metes and bounds from an on-the-ground survey based on bearings established using NAD83 performed on February 18, 2020 by CEI Engineering Associates, Inc. as follows:
COMMENCING at a found 2" aluminum cap on the East right-of-way of SE Martin Luther King Jr. Pkwy. (MLK);
THENCE North 09°00'16" East along said right-of-way, a distance of 47.26 feet to the Northwest corner of aforementioned Lot 5;
THENCE South 87°17'53" East along the North boundary of said Lot 5, a distance of 20.64 feet the POINT OF BEGINNING;
THENCE South 87°17'21" East along said North boundary, a distance of 523.78 to a set 5/8" rebar capped LS #1618;
THENCE South 02°18'45" West along the West boundary of Tract 6 Bentonville Industrial Park according to Plat Book 14, Page 06, a distance of 728.60 feet to a set 5/8" rebar capped LS #1618;
THENCE North 87°11'14" West along the North boundary of Lot 1, Bentonville Industrial Park according to Plat Book 6, Page 75, a distance of 500.43 feet to a set 5/8" rebar capped with LS #1618 on the East right-of-way of SE Martin Luther King Jr. Pkwy;
THENCE along the East Right-of-Way SE Martin Luther King Jr. Pkwy., the following eight (8) calls;
1. *along the arc of a non-tangent curve to the left curve 62.46 feet, having a radius of 832.11 feet, through a central angle of 04°18'03", having a chord which bears North 02°08'30" West, a distance of 62.45 feet to a set 5/8" rebar capped with LS #1618;*
2. *North 04°16'59" West, a distance of 78.18 feet to a set 5/8" rebar capped with LS #1618;*
3. *along the arc of a curve to the right 88.34 feet, having a radius of 713.00 feet, through a central angle of 07°05'55", having a chord bearing and distance of North 00°44'02" West, a distance of 88.28 feet to a set 5/8" rebar capped with LS #1618;*
4. *North 02°48'56" East, a distance of 262.69 feet to a set 5/8" rebar capped with LS #1618;*
5. *along the arc of a curve to the left 35.52 feet, having a radius of 779.00 feet, through a central angle of 02°36'44", having a chord bearing and distance of North 01°30'34" East, a distance of 35.51 feet to a set 5/8" rebar capped with LS #1618;*
6. *North 02°12'12" East, a distance of 167.40 feet to a set 5/8" rebar capped with LS #1618;*
7. *along the arc of a Curve to the right 30.46 feet, having a radius of 741.00 feet, through a central angle of 02°21'19", having a chord bearing and distance of North 01°02'52" East, a distance of 30.46 feet to a set 5/8" rebar capped with LS #1618;*
8. *North 02°33'31" East, a distance of 3.86 feet to the POINT OF BEGINNING; containing 373,885 square feet or 8.63 acres, more or less.*

Survey Description Lot 4

A part of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4), Section 33, Township 20 North, Range 30 West, Benton County, Arkansas, being part of Tract 6, Bentonville Industrial Park according to Plat Book 14, Page 06, part of Lot 7 and all of Lot 8, Hills Addition according to Plat Book N, Page 186 to the City of Bentonville, Benton County, Arkansas, hereinafter being known as Lot 4, Walmart Layout Subdivision to the City of Bentonville, Benton County, Arkansas, and being described by metes and bounds from an on-the-ground survey based on bearings established using NAD83 performed on February 18, 2020 by CEI Engineering Associates, Inc. as follows:
BEGINNING at a found 1" pipe being the Northeast corner of said Tract 6;
THENCE South 02°24'53" West along the East boundary of said Tract 6, a distance of 688.31 feet to a set 5/8" rebar capped with LS #1618;
THENCE South 87°17'01" East along the South boundary of Lot 6, Hills Addition according to Plat Book N, Page 186, a distance of 169.77 feet to a set 5/8" rebar capped with LS #1618 on the West right-of-way of SE Moberly Lane;
THENCE South 02°36'46" West along said West right-of-way, a distance of 79.75 feet;
THENCE North 87°19'02" West, a distance of 168.99 feet to a found 5/8" rebar;
THENCE North 02°24'53" East along the South boundary of aforementioned Lot 7, Hills Addition, a distance of 38.72 to a set 5/8" rebar capped with LS #1618;
THENCE North 87°11'14" West along the North boundary of Lot 1, Bentonville Industrial Park according to Plat Book 6, Page 75, a distance of 567.61 feet to a set 5/8" rebar capped with LS #1618;
THENCE North 02°18'45" East along the East boundary of Tract 5 Bentonville Industrial Park according to Plat Book 6, Page 155, a distance of 728.60 feet to a set 5/8" rebar capped with LS #1618;
THENCE South 87°16'25" East along the North boundary of Tract 6, Bentonville Industrial Park according to Plat Book 14, Page 06, a distance of 568.90 feet to the POINT OF BEGINNING; containing 427,758 square feet or 9.82 acres, more or less.

Survey Description Lot 5

A part of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4), Section 33, Township 20 North, Range 30 West, Benton County, Arkansas, being part of Lot 1, Bentonville Industrial Park according to Plat Book 6, Page 75, part of Lot 5, Ellis Addition according to a Final Plat executed by John Ramsey, LS #683 and signed April 16, 1978, the parcel described at Deed Book 2026, Page 2827 and Lot 8, Hills Addition, according to Plat Book N, Page 186 in the public records of Benton County, Arkansas, hereinafter known as Lot 5, Walmart Layout Subdivision to the City of Bentonville, Benton County, Arkansas, and being described by metes and bounds from an on-the-ground survey based on bearings established using NAD83 performed on February 18, 2020 by CEI Engineering Associates, Inc. as follows:
BEGINNING a t a found 5/8" rebar being the Northwest corner of the parcel described at Deed Book 2015, Page 31724;
THENCE North 87°15'51" West along the North boundary of said parcel, a distance of 139.52 feet to a set 5/8" rebar capped LS #1618;
THENCE North 02°33'21" East along the East boundary of the common property of Ellis Addition according to a Plat recorded on April 19, 1979 by John L. Ramsey, a distance of 4.94 feet to a set 5/8" rebar capped LS #1618;
THENCE North 87°23'12" West, a distance of 50.00 feet;
THENCE North 87°22'22" West along the North boundary of said Ellis Addition, a distance of 279.80 feet to a set 5/8" rebar capped LS #1618 being the Northwest corner of Lot 4, Ellis Addition;
THENCE South 02°33'11" West along the West boundary of said Lot 4, a distance of 48.23 feet to a set 5/8" rebar capped LS #1618;
THENCE North 82°03'46" West along the North right-of-way of aforementioned SE 8th Street, a distance of 18.40 feet to a set 5/8" rebar capped LS #1618;
THENCE North 87°45'48" West, a distance of 153.27 feet to a set 5/8" rebar capped with LS #1618;
THENCE along the East right-of-way of SE Martin Luther King Jr. Pkwy, the following 19 calls;
1. *North 42°51'31" West, a distance of 13.88 feet to a set 5/8" rebar capped with LS #1618;*
2. *along the arc of a non-tangent curve to the left 26.92 feet, having a radius of 261.37 feet, through a central angle of 05°54'04", having a chord which bears North 01°01'56" East, a distance of 26.91 feet to a set 5/8" rebar capped with LS #1618;*
3. *along the arc of a non-tangent curve to the left 31.17 feet, having a radius of 156.95 feet, through a central angle of 11°22'28", having a chord which bears North 08°49'20" West, a distance of 31.12 feet to a set 5/8" rebar capped with LS #1618;*
4. *North 11°54'37" West, a distance of 15.88 feet to a set 5/8" rebar capped with LS #1618;*
5. *along the arc of a non-tangent curve to the right 32.97 feet, having a radius of 157.83 feet, through a central angle of 11°58'13", having a chord which bears North 05°54'13" East, a distance of 32.91 feet to a set 5/8" rebar capped with LS #1618;*
6. *North 00°48'52" East, a distance of 27.32 feet to a set 5/8" rebar capped with LS #1618;*
7. *along the arc of a non-tangent curve to the right 65.15 feet, having a radius of 363.05 feet, through a central angle of 10°16'37", having a chord which bears North 09°55'02" East, a distance of 65.06 feet to a set 5/8" rebar capped with LS #1618;*
8. *along the arc of a non-tangent curve to the left 118.55 feet, having a radius of 446.25 feet, through a central angle of 15°13'15", having a chord which bears North 05°09'32" East, a distance of 118.20 feet to a set 5/8" rebar capped with LS #1618;*
9. *along the arc of a non-tangent curve to the right 126.92 feet, having a radius of 586.71 feet, through a central angle of 12°23'40", having a chord which bears North 03°51'59" East, a distance of 126.67 feet to a set 5/8" rebar capped with LS #1618;*
10. *along the arc of a non-tangent curve to the right 99.89 feet, having a radius of 1,282.03 feet, through a central angle of 04°27'51", having a chord which bears North 12°34'46" East, a distance of 99.86 feet to a set 5/8" rebar capped with LS #1618;*
11. *along the arc of a non-tangent curve to the left 169.46 feet, having a radius of 1,104.85 feet, through a central angle of 08°47'17", having a chord which bears North 10°20'11" East, a distance of 169.29 feet to a set 5/8" rebar capped with LS #1618;*
12. *along the arc of a non-tangent curve to the left 124.86 feet, having a radius of 1,981.60 feet, through a central angle of 03°36'37", having a chord which bears North 04°01'49" East, a distance of 124.84 feet to a set 5/8" rebar capped with LS #1618;*
13. *North 02°09'33" East, a distance of 318.13 to a set 5/8" rebar capped with LS #1618;*
14. *North 46°09'37" East, a distance of 51.53 feet to a set 5/8" rebar capped with LS #1618;*
15. *North 02°28'57" East, a distance of 80.00 feet to a set 5/8" rebar capped with LS #1618;*
16. *North 87°31'53" West, a distance of 4.34 feet to a set 5/8" rebar capped with LS #1618;*
17. *North 44°07'14" West, a distance of 40.70 feet to a set 5/8" rebar capped with LS #1618;*
18. *North 02°23'34" East, a distance of 168.25 feet to a set 5/8" rebar capped with LS #1618*
19. *North 01°09'49" East, a distance of 35.05 feet to a set 5/8" rebar capped with LS #1618;*

THENCE leaving said right-of-way, South 87°11'14" East along the North boundary of said Lot 1, a distance of 1068.04 feet to a set 5/8" rebar capped LS #1618;
THENCE South 02°24'53" West along the West boundary of Lot 7, Hills Addition, a distance of 38.72 feet to a set 5/8" rebar capped LS #1618;
THENCE South 87°19'02" East along the North boundary of aforementioned Lot 8, a distance of 168.99 feet set 5/8" rebar capped LS #1618 and a point on the West right-of-way of SE Moberly Lane;
THENCE South 02°36'46" West along said right-of-way, a distance of 79.77 feet to a found 5/8" rebar capped LS #1759;
THENCE North 87°17'09" West along the North boundary of Lot 9, Hills Addition, a distance of 168.72 feet to a set 5/8" rebar capped LS #1618;
THENCE South 02°24'53" West, a distance of 270.51 feet to a set 5/8" rebar capped LS #1618 and the Southwest corner of Lot 12, Hills Addition according to a Plat book 2009, Page 525;
THENCE North 87°14'14" West along the North boundary of Lot 2, Max McGaugh Subdivision according to Plat Book 2006, Page 842, a distance of 10.47 feet to a set 5/8" rebar capped LS #1618;
THENCE South 07°30'32" West, a distance of 518.74 feet to a found 5/8" rebar capped LS #1759;
THENCE North 87°18'03" West, a distance of 450.38 feet to a set 5/8" rebar capped LS #1618;
THENCE South 02°24'56" West, a distance of 676.14 feet to the POINT OF BEGINNING; containing 1,419,812 square feet or 32.59 acres, more or less.

Survey Description Overall Walmart Layout Subdivision

A part of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4), Section 33, and a part of the Northeast Quarter (NE/4) of the northeast Quarter (NE/4), Section 32 in Township 20 North, Range 30 West, Benton County, Arkansas, being known as Tract "A" of Plat Book X, Page 205, the parcel described in Deed Book 2016, Page 46400 and the same lands as set forth in ALTA/NSPS Land Title Survey made by Kevin Hall PLS No. 1783, of CEI Engineering Associates, Inc. dated June 24, 2016, and designated Job No. 29656, part of Tract 5, Bentonville Industrial Park to the City of Bentonville according to Plat Book 6, Page 155, part of Tract 6, Bentonville Industrial Park according to Plat Book 14, Page 06, part of Lot 7 and all of Lot 8, Hills Addition according to Plat Book N, Page 186, part of Lot 1, Bentonville Industrial Park according to Plat Book 6, Page 75, part of Lot 5, Ellis Addition according to a Final Plat executed by John Ramsey, LS #683 and signed April 19, 1978, the parcel described at Deed Book 2026, Page 2827 and Lot 8, Hills Addition, according to Plat Book N, Page 186, and part of Lot 1, Bentonville Industrial Park to the City of Bentonville according to Plat Book 6, Page 75, all in the public records of Benton County, Arkansas, hereinafter being known as Walmart Layout Subdivision and being described by metes and bounds from an on-the-ground survey based on bearings established using NAD83 performed on February 18, 2020 by CEI Engineering Associates, Inc. as follows:
BEGINNING at a found rebar, being the most Northern Northwest corner of said Tract "A";
THENCE South 87°15'51" East along the South right-of-way of SE 8th St. according to AHTD Job #9347, a distance of 379.94 feet to a found 5/8" rebar;
THENCE South 02°10'41" West along the East boundary of the aforementioned parcel described in Deed Book 2016, Page 46400, a distance of 166.30 feet to a found 1" pipe;
THENCE South 87°16'25" East along the North boundary of Bentonville Industrial Park, a distance of 700.07 feet to a found 1" pipe and the Northeast corner of aforementioned Tract 6;
THENCE South 02°24'53" West along the East boundary of said Tract 6, a distance of 688.31 feet to a set 5/8" rebar capped with LS #1618 and the Northwest corner of aforementioned Lot 7, Hills Addition;
THENCE South 87°17'01" East along the North boundary of said Lot 7, a distance of 169.27 feet to a set 5/8" rebar capped with LS #1618;
THENCE South 02°36'46" West along the West right-of-way SE Moberly Ln., passing a to a set 5/8" rebar capped with LS #1618 at a distance of 79.95 feet, continuing for a total distance of 159.52 feet to a found 5/8" rebar capped with LS #1759 and the Southeast corner of aforementioned Lot 8;
THENCE North 87°17'09" West along the South boundary of said Lot 8, a distance of 168.72 feet to a set 5/8" rebar capped with LS #1618;
THENCE South 02°24'53" West, a distance of 270.51 feet to a set 5/8" rebar capped with LS #1618;
THENCE North 87°14'13" West, a distance of 10.47 feet to a set 5/8" rebar capped with LS #1618;
THENCE South 02°30'32" West along the East boundary of the aforementioned parcel described in Deed Book 2006, Page 2827, a distance of 518.74 feet to a found 5/8" rebar capped LS #1759;
THENCE North 87°18'02" West along the South boundary of said parcel, a distance of 450.38 feet to a set 5/8" rebar capped with LS #1618;
THENCE South 02°24'56" West along the East boundary of aforementioned Lot 1, a distance of 676.14 feet to a found 5/8" rebar;
THENCE along the South boundary of said Lot 1, the following five (5) calls;
1. *North 87°19'51" West, a distance of 139.52 feet to a set 5/8" rebar capped with LS #1618;*
2. *North 02°33'11" East, a distance of 4.94 feet to a set 5/8" rebar capped with LS #1618;*
3. *North 87°23'12" West, a distance of 50.00 feet to a set 5/8" rebar capped with LS #1618;*
4. *North 87°22'22" West, a distance of 279.80 feet to a set 5/8" rebar capped with LS #1618;*
5. *South 02°33'11" West, a distance of 58.02 feet to a point on the North right-of-way of SE 8th St.;*

THENCE North 87°50'40" West along said North right-of-way, a distance of 781.65 feet to a set 5/8" rebar capped with LS #1618;
THENCE along the West boundary of aforementioned Lot 1, the following six (6) calls;
1. *North 02°15'30" East, a distance of 164.82 feet to a set 5/8" rebar capped with LS #1618;*
2. *North 02°09'21" East, a distance of 426.22 feet to a set 5/8" rebar capped with LS #1618;*
3. *North 86°44'42" West, a distance of 66.21 feet to a set 5/8" rebar capped with LS #1618;*
4. *North 02°33'45" East, a distance of 451.42 feet to a set 5/8" rebar capped with LS #1618;*
5. *North 87°14'44" East, a distance of 208.70 feet to a set 5/8" rebar capped LS #1618;*
6. *North 02°34'19" East, a distance of 208.70 feet to a point on the South right-of-way of SE 5th St. and a set 5/8" rebar capped with LS #1618;*

THENCE South 87°14'44" East along said South right-of-way, a distance of 452.94 feet to a found 5/8" rebar capped LS #1759 and a point on the West boundary of Section 33, Township 20 North, Range 30 West, Benton County, Arkansas;
THENCE North 02°23'34" East along said West boundary, a distance of 1,071.95 feet to a found 2" aluminum monument stamped LS #406;
THENCE North 09°00'16" East, a distance of 47.26 feet;
THENCE North 09°36'12" East, a distance of 51.45 feet to a found 2" aluminum monument;
THENCE North 02°30'11" East along the West boundary of aforementioned Tract "A", a distance of 97.95 feet to a found 2" aluminum monument;
THENCE North 58°10'39" East, a distance of 30.81 feet to the POINT OF BEGINNING; containing 3,120,357 square feet or 71.63 acres, more or less.

City of Bentonville Project # FP20-0004

SHEET 10

REGISTERED [redacted] STATE OF ARKANSAS PROFESSIONAL LAND SURVEYOR

Engineering Associates, Inc.
ENGINEERS • PLANNERS • SURVEYORS
LANDSCAPE ARCHITECTS • ENVIRONMENTAL SCIENTISTS
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DALLAS OFFICE TBPLS FIRM: #10194234

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ORDINANCE NO_____

AN ORDINANCE VACATING A MULTIPLE DRAINAGE AND UTILITY EASEMENT LOCATED IN WALMART LAYOUT SUBDIVISION TO THE CITY OF BENTONVILLE, ARKANSAS, BENTON COUNTY ARKANSAS (VAC20-0029).

WHEREAS, a petition was filed with the City Council of the City of Bentonville, Arkansas, by Walmart asking the City Council to vacate multiple drainage and utility easements located in the City of Bentonville, Benton County, Arkansas, which portion is more particularly described as follows:

An 8' Gas line Easement according to Deed Book 397, Page 184, being a part of the Northwest Quarter of the Northwest Quarter, Section 33, Township 20 North, Range 30 West, and a part of Lot 1, Bentonville Industrial Park to the City of Bentonville according to Plat Book 6, Page 79, in the public records of Benton County, Arkansas, as shown on Document # L202108441 and being described by metes and bounds as follows:

BEGINNING at a 5/8" rebar capped LS #1759 found at the southwest corner of said Lot 1, being also located at the southeast corner of the intersection of SE Martin Luther King Jr. Parkway and S.E. 5th Street;
THENCE North 02°22'34" East along the East right-of-way of SE Martin Luther King Jr. Pkwy, a distance of 391.31 feet to the Northwest corner of said Lot 1;
THENCE South 87°11'14" East along the North boundary of said Lot 1, a distance of 8.00 feet;
THENCE South 02°22'34" West, a distance of 391.29 feet to a point on the North boundary of a 16.5' Telephone Easement according to Deed Book 320, Page 10;
THENCE North 87°21'34" West along said North boundary, a distance of 8.00 feet to the **POINT OF BEGINNING** containing 3,130 square feet or 0.07 acres, more or less.

And

A 5' Electric and Drainage Easement according to Plat Book 14, Page 6, being a part of the Northwest Quarter of the Northwest Quarter of Section 33, Township 20 North, Range 30 West and a part of Tract 6, Bentonville Industrial Park to the City of Bentonville according to Plat Book 14, Page 6, all in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

BEGINNING at the Southwest corner of said Tract 6;
THENCE North 02°18'45" East along the West boundary of said Tract 6, a distance of 5.00 feet;
THENCE South 87°11'14" East, a distance of 567.62 feet to a point on the East boundary of said Tract 6;
THENCE South 02°24'53" West along said East boundary, a distance of 5.00;
THENCE North 87°11'14" West along the South boundary of said Tract 6, a distance of 567.61 feet to the **POINT OF BEGINNING** containing 2,838 square feet or 0.07 acres, more or less.

And

An 8' gas easement recorded in Deed Book 258, Page 155 being a part of the West Half of the Northwest Quarter (NW/4) of Section 33, Township 20 North, Range 30 West, and a part of Tract 5, Bentonville Industrial Park to the City of Bentonville, Arkansas according to Plat Book 6, Page 155 in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

BEGINNING at a found 2" aluminum cap stamped LS406 on the East right-of-way of SE Martin Luther King Jr. Pkwy.;
THENCE North 09°00'16" East along said East right-of-way, a distance of 47.26 feet to the North boundary of aforementioned Tract 5;
THENCE South 87°17'53" East along said North boundary, a distance of 2.55 feet;
THENCE South 02°22'34" West, a distance of 727.63 feet to a point on the South boundary of said Tract 5;
THENCE North 87°11'14" West along said South boundary, a distance of 8.00 feet to a point on the aforementioned East right-of-way of SE Martin Luther King Jr. Pkwy.;
THENCE North 02°22'34" East along said East boundary, a distance of 680.64 feet to the **POINT OF BEGINNING** containing **5,693** square feet or **0.13** acres, more or less.

And

A 10' Electric and Drainage Easement as shown on Plat Book 14, Page 06, being a part of the Northwest Quarter of the Northwest Quarter, Section 33, Township 20 North, Range 30 West, and a part of Lot 1, Bentonville Industrial Park according to Plat Book 6, Page 79, all in the public records of Benton County, Arkansas, as shown on Document # L202108441 and being described by metes and bounds as follows:

BEGINNING at the Northeast corner of said Lot 1;
THENCE South 02°24'53" West along the East boundary of said Lot 1, a distance of 10.00 feet;
THENCE North 87°11'14" West, a distance of 597.59 feet;
THENCE North 02°18'45" East, a distance of 10.00 feet;
THENCE South 87°11'14" East along the North boundary of aforementioned Lot 1, a distance of 597.61 feet to the **POINT OF BEGINNING** containing 5,976 square feet or 0.14 acres, more or less.

And

A 10' Electric Easement according to Plat Book 14, Page 6, being a part of the Northwest Quarter of the Northwest Quarter of Section 33, Township 20 North, Range 30 West and a part of Tract 6, Bentonville Industrial Park to the City of Bentonville according to Plat Book 14, Page 6, all in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at the Southwest corner of said Tract 6;

THENCE South 87°11'14" East along the South boundary of said Tract 6, a distance of 325.19 feet;
THENCE leaving said South boundary, North 02°48'46" East, a distance of 5.00 feet to a point on the North boundary of a 5' Electric and Drainage Easement according to aforementioned Plat Book 14, Page 6 and the **POINT OF BEGINNING**,
THENCE North 02°48'46" East, a distance of 231.16 feet;
THENCE North 87°11'14" West, a distance of 10.00 feet;
THENCE North 02°48'46" East, a distance of 10.00 feet;
THENCE South 87°11'14" East, a distance of 20.00 feet;
THENCE South 02°48'46" West, a distance of 241.16 feet to a point on the aforementioned North boundary of a 5' Electric and Drainage Easement;
THENCE North 87°11'14" West along said North boundary, a distance of 10.00 feet to the **POINT OF BEGINNING** containing 2,512 square feet or 0.06 acres, more or less.

And

A 10' Utility Easement according to Plat Book 6, Page 155, being a part of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4) of Section 33, Township 20 North, Range 30 West, and a part of Tract 5, Bentonville Industrial Park to the City of Bentonville, Arkansas according to Plat Book 6, Page 155 in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at a found 5/8" rebar capped LS #1759 and the Southwest Corner of the Southwest Quarter of the Northwest Quarter, Section 33, Township 20 North, Range 30 West;
THENCE North 02°22'34" East along the West boundary of said Section 33, a distance of 391.31 feet to the Southwest corner of aforementioned Tract 5 to the **POINT OF BEGINNING**;

THENCE North 02°57'38" East, a distance of 10.00 feet to the South boundary of a 40' Drainage Easement according to Plat Book 6, Page 155;
THENCE South 87°11'14" East along said South boundary, a distance of 550.58 feet to the East boundary of aforementioned Tract 5;
THENCE South 02°18'45" West along said East boundary, a distance of 10.00 feet to the South boundary of said Tract 5;
THENCE North 87°11'14" West along said boundary, a distance of 550.69 feet to the **POINT OF BEGINNING** containing **5,506** square feet or **0.13** acres, more or less.

And

A 10' Utility Easement according to Plat Book 5, Page 271, being a part of Southeast Quarter of the Northeast Quarter, Section 32, Township 20 North, Range 30 West, and a part of Lot 1, Bentonville Industrial Park to the City of Bentonville according to Plat Book 6, Page 79, and a part of the parcel described at Instrument #L201802171 in the public records of Benton County, Arkansas, as shown on Document # L202108441 and being described by metes and bounds as follows:

BEGINNING at a 5/8" rebar at the intersection of the South right-of-way of SE 5th Street and the East right-of-way of SE MLK Jr. Pkwy.;
THENCE South 02°33'15" West along the West boundary of said Section 32, a distance of 10.00 feet;
THENCE North 87°14'44" West along said North boundary, a distance of 661.64 feet to the West boundary of aforementioned parcel described at Instrument #L201802171;
THENCE North 02°34'19" East along said West boundary, a distance of 10.00 feet to a found 5/8" rebar capped LS #1759 and a point on the South right-of-way of SE 5th Street;
THENCE South 87°14'44" East along said South right-of-way, a distance of 661.64 feet to the **POINT OF BEGINNING** containing **6,616** square feet or **0.15** acres, more or less.

And

A 15' Utility Easement according to Deed Book 678, Page 645, being a part of the Northwest Quarter of the Northwest Quarter of Section 33, Township 20 North, Range 30 West and a part of Tract 6, Bentonville Industrial Park to the City of Bentonville according to Plat Book 14, Page 6, all in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at the Southwest corner of said Tract 6;
THENCE South 87°11'14" East along the South boundary of said Tract 6, a distance of 207.98 feet to the **POINT OF BEGINNING**,
THENCE North 02°43'13" East, a distance of 326.13 feet;
THENCE South 87°16'47" East, a distance of 52.21 feet;
THENCE South 02°43'13" West, a distance of 15.00 feet;
THENCE North 87°16'47" West, a distance of 37.21 feet;
THENCE South 02°43'13" West, a distance of 311.16 feet to the aforementioned South boundary of Tract 6;
THENCE North 87°11'14" West said South boundary, a distance of 15.00 feet {to found set the **POINT OF BEGINNING** containing 5,450 square feet or 0.13 acres, more or less.

And

A 16.5' Telephone Easement according to Deed Book 320, Page 10, being a part of the North Half of the Southwest Quarter of the Northwest Quarter, Section 33, Township 20 North, Range 30 West and part of Lot 1, Bentonville Industrial Park to the City of Bentonville according to Plat Book 6, Page 79 in the public records of Benton County, Arkansas, as shown on Document # L202108441 and being described by metes and bounds as follows:

BEGINNING at a found 5/8" rebar capped LS #1759;
THENCE South 87°21'34" East, a distance of 656.32 feet to a point on the West boundary of a 20' Utility Easement according to Plat Book 6, Page 79;
THENCE South 02°24'56" West along said West boundary, a distance of 16.42 feet;

THENCE North 87°21'34" West, a distance of 656.36 feet to a point on the West boundary of the aforementioned Section 33;
THENCE North 02°33'16" East along said West boundary, a distance of 16.50 feet to the **POINT OF BEGINNING** containing **10,830** square feet or **0.25** acres, more or less.

And

A 20' Utility Easement according to Plat Book 6, Page 79, being a part of the West Half of the Northwest Quarter, Section 33, Township 20 North, Range 30 West, and a part of Lot 1, Bentonville Industrial Park to the City of Bentonville according to Plat Book 6, Page 79 in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

BEGINNING at a found 5/8" rebar, being the most Southerly Southeast corner of said Lot 1;
THENCE North 87°19'51" West along the South boundary of said Lot 1, a distance of 20.00 feet;
THENCE North 02°24'56" East, a distance of 1,195.29 feet to the North boundary of a 16.5' Telephone Easement according to Deed Book 320, Page 10;
THENCE South 87°35'04" East, a distance of 20.00 feet to the East boundary of aforementioned Lot 1;
THENCE South 02°24'56" West along said East boundary, passing a found 2" iron pipe at 658.91 feet, continuing for a total distance of 1,195.38 feet to the **POINT OF BEGINNING** containing **23,907** square feet or **0.55** acres, more or less.

And

A part of the Northwest Quarter of the Northwest Quarter of Section 33, Township 20 North, Range 30 West and a part of Tract 6, Bentonville Industrial Park to the City of Bentonville according to Plat Book 14, Page 6, in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at the Southwest corner of said Tract 6;
THENCE South 87°41'20" East along the South boundary of said Tract 6, a distance of 10.00 feet to the East boundary of a ten foot wide (10') water easement according to aforementioned Plat Book 14, Page 6;
THENCE North 02°18'45" East along said East boundary, a distance of 251.39 feet to the **POINT OF BEGINNING**,
THENCE North 02°18'45" East, a distance of 20.00 feet;
THENCE leaving said East boundary, the following seven (7) calls;

1. South 87°41'15" East, a distance of 197.35 feet;
2. North 02°37'33" East, a distance of 60.85 feet;
3. South 87°22'27" East, a distance of 20.00 feet;
4. South 02°37'33" West, a distance of 60.74 feet;
5. South 87°41'15" East, a distance of 37.34 feet;

6. South 02°32'51" West, a distance of 20.00 feet;
7. North 87°41'15" West, a distance of 254.61 feet the **POINT OF BEGINNING** containing 6,309 square feet or 0.14 acres, more or less.

And

A 20' Utility Easement according to Plat Book 6, Page 79, being a part of the West Half of the Northwest Quarter of Section 33, Township 20 North, Range 30 West, and a part of Lot 1, Bentonville Industrial Park to the City of Bentonville according to Plat Book 6, Page 79 in the public records of Benton County, Arkansas, as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at a 5/8" rebar at the intersection of the South right-of-way of SE 5th Street and the East right-of-way of SE MLK Jr. Pkwy.;
THENCE South 02°32'50" West along the West line of aforementioned Section 33, a distance of 34.50 feet to the **POINT OF BEGINNING**,
THENCE South 87°22'22" East, a distance of 254.40;
THENCE South 02°24'56" West, a distance of 595.00 feet;
THENCE North 87°35'04" West, a distance of 30.00 feet;
THENCE North 02°24'56" East, a distance of 20.00 feet;
THENCE South 87°35'04" East, a distance of 10.00 feet;
THENCE North 02°24'56" East, a distance of 555.07 feet;
THENCE North 87°22'22" West, a distance of 234.44 feet to a point on said West line of Section 33;
THENCE North 02°32'50" East along said West boundary, a distance of 20.00 feet to the **POINT OF BEGINNING** containing **16,789** square feet or **0.39** acres, more or less.

And

A part of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4) of Section 33, Township 20 North, Range 30 West, and a part of Tract 5, Bentonville Industrial Park to the City of Bentonville, Arkansas according to Plat Book 6, Page 155 in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at a found 5/8" rebar capped LS #1759 and the Southwest Corner of the Southwest Quarter of the Northwest Quarter, Section 33, Township 20 North, Range 30 West;
THENCE North 02°23'27" East along the West boundary of said Section 33, a distance of 401.25 feet to the **POINT OF BEGINNING**;
THENCE North 02°23'27" East, a distance of 40.00 feet to the South boundary of a 50' Street Easement according to Plat Book 6, Page 155;
THENCE South 87°11'14" East along said South boundary, a distance of 550.52 feet to the East boundary of aforementioned Tract 5;

THENCE South 02°18'45" West said East boundary, a distance of 40.00 feet to the North boundary of a 10' Utility Easement according to Plat Book 6, Page 155;
THENCE North 87°11'14" West along said North boundary, a distance of 550.58 feet to the **POINT OF BEGINNING** containing **22,022** square feet or **0.51** acres, more or less.

And

A 43' x 30' Utility Easement according to Plat Book 6, Page 79, being a part of the West Half of the Northwest Quarter of Section 33, Township 20 North, Range 30 West, and a part of Lot 1, Bentonville Industrial Park according to Plat Book 6, Page 79, in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at the Northwest corner of said Lot 1;
THENCE South 02°22'34" West along the East right-of-way of SE Martin Luther King Jr. Pkwy., a distance of 253.00 feet to the **POINT OF BEGINNING**,
THENCE South 87°11'14" East, a distance of 43.00 feet;
THENCE South 02°22'34" West, a distance of 30.00 feet;
THENCE North 87°11'14" West, a distance of 43.00 feet to the aforementioned East right-of-way;
THENCE North 02°22'34" East along said right-of-way, a distance of 30.00 feet to the **POINT OF BEGINNING** containing 1,290 square feet or 0.03 acres, more or less.

And

A 62' x 30' Utility Easement according to Plat Book 6, Page 79, being a part of the West Half of the Northwest Quarter of Section 33, Township 20 North, Range 30 West, and a part of Lot 1, Bentonville Industrial Park according to Plat Book 6, Page 79, in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at the Northwest corner of said Lot 1;
THENCE South 02°22'34" West along the East Right-of-way of SE Martin Luther King Jr. Pkwy., a distance of 126.00 feet to the **POINT OF BEGINNING**;
THENCE South 87°11'14" East, a distance of 62.00 feet;
THENCE South 02°22'34" West, a distance of 30.00 feet;
THENCE North 87°11'14" West, a distance of 62.00 feet to a point on the aforementioned East Right-of-Way;
THENCE North 02°22'34" East along said Right-of-Way, a distance of 30.00 feet to the **POINT OF BEGINNING** containing 1,860 square feet or 0.04 acres, more or less.

And

A 20 foot drainage easement to be vacated being a part of the NW 1/4 and N 1/2 of the SW 1/4 of the NW 1/2, all in Section 33, Township 20 North, Range 30 West; being the drainage easement recorded in Deed Book 468, Page 134 in the records of Benton County, AR; as shown on Document # L202108441 and being described by metes and bounds as follows.

COMMENCING from a 2 inch aluminum monument (LS 406) being a point on the East Right of Way of SE Martin Luther King per ARDOT Job #090178;
THENCE South 02°22'34" West, 1,071.95 feet to the **POINT OF BEGINNING;**
THENCE South 87°11'14" East, 425.08 feet;
THENCE South 02°48'46" West, 20.00 feet;
THENCE North 87°11'14" West, 424.92 feet;
THENCE North 02°22'34" East, 20.00 feet; to the **POINT OF BEGINNING,** containing **8,500** square feet or **0.20** acres, more or less.

And

A 20' Utility Easement according to Deed Book 2016, Page 30305, being a part of Southeast Quarter of the Northeast Quarter, Section 32 and the Southwest Quarter of the Northwest Quarter, Section 33, both in Township 20 North, Range 30 West, being a part of Lot 1, Bentonville Industrial Park according to Plat Book 6, Page 79, and a part of Lot 5, Ellis Addition according to a Plat by John Ramsey, LS#689 on April 19, 1979, in the public records of Benton County, Arkansas, as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at a found Railroad spike being the Southeast Corner of the Northeast Quarter of said Section 32;
THENCE North 02°32'50" East along said Section Line, a distance of 71.55 feet to a point on the South right-of-way of SE 8th Street for the **POINT OF BEGINNING;**
THENCE North 87°30'40" West along the North right-of-way of SE 8th Street, a distance of 591.90 feet to the Southwest corner of aforementioned Lot 1;
THENCE North 02°29'20" East along the West boundary of said Lot 1, a distance of 20.00 feet;
THENCE South 87°30'40" East, a distance of 781.67 feet to the East boundary of aforementioned Lot 5;
THENCE South 02°33'11" West along the East boundary of said Lot 5, a distance of 20.00 feet to the aforementioned North right-of-way of SE 8th Street;
THENCE North 87°30'40" West along said right-of-way, a distance of 189.75 feet the **POINT OF BEGINNING** containing **15,633** square feet or **0.36** 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 drainage and utility easements designated as follows:

An 8' Gas line Easement according to Deed Book 397, Page 184, being a part of the Northwest Quarter of the Northwest Quarter, Section 33, Township 20 North, Range 30 West, and a part of Lot 1, Bentonville Industrial Park to the City of Bentonville according to Plat Book 6, Page 79, in the public records of Benton County, Arkansas, as shown on Document # L202108441 and being described by metes and bounds as follows:

BEGINNING at a 5/8" rebar capped LS #1759 found at the southwest corner of said Lot 1, being also located at the southeast corner of the intersection of SE Martin Luther King Jr. Parkway and S.E. 5th Street;
THENCE North 02°22'34" East along the East right-of-way of SE Martin Luther King Jr. Pkwy, a distance of 391.31 feet to the Northwest corner of said Lot 1;
THENCE South 87°11'14" East along the North boundary of said Lot 1, a distance of 8.00 feet;
THENCE South 02°22'34" West, a distance of 391.29 feet to a point on the North boundary of a 16.5' Telephone Easement according to Deed Book 320, Page 10;
THENCE North 87°21'34" West along said North boundary, a distance of 8.00 feet to the **POINT OF BEGINNING** containing 3,130 square feet or 0.07 acres, more or less.

And

A 5' Electric and Drainage Easement according to Plat Book 14, Page 6, being a part of the Northwest Quarter of the Northwest Quarter of Section 33, Township 20 North, Range 30 West and a part of Tract 6, Bentonville Industrial Park to the City of Bentonville according to Plat Book 14, Page 6, all in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

BEGINNING at the Southwest corner of said Tract 6;
THENCE North 02°18'45" East along the West boundary of said Tract 6, a distance of 5.00 feet;
THENCE South 87°11'14" East, a distance of 567.62 feet to a point on the East boundary of said Tract 6;
THENCE South 02°24'53" West along said East boundary, a distance of 5.00;
THENCE North 87°11'14" West along the South boundary of said Tract 6, a distance of 567.61 feet to the **POINT OF BEGINNING** containing 2,838 square feet or 0.07 acres, more or less.

And

An 8' gas easement recorded in Deed Book 258, Page 155 being a part of the West Half of the Northwest Quarter (NW/4) of Section 33, Township 20 North, Range 30 West, and a part of Tract

5, Bentonville Industrial Park to the City of Bentonville, Arkansas according to Plat Book 6, Page 155 in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

BEGINNING at a found 2" aluminum cap stamped LS406 on the East right-of-way of SE Martin Luther King Jr. Pkwy.;
THENCE North 09°00'16" East along said East right-of-way, a distance of 47.26 feet to the North boundary of aforementioned Tract 5;
THENCE South 87°17'53" East along said North boundary, a distance of 2.55 feet;
THENCE South 02°22'34" West, a distance of 727.63 feet to a point on the South boundary of said Tract 5;
THENCE North 87°11'14" West along said South boundary, a distance of 8.00 feet to a point on the aforementioned East right-of-way of SE Martin Luther King Jr. Pkwy.;
THENCE North 02°22'34" East along said East boundary, a distance of 680.64 feet to the **POINT OF BEGINNING** containing **5,693** square feet or **0.13** acres, more or less.

And

A 10' Electric and Drainage Easement as shown on Plat Book 14, Page 06, being a part of the Northwest Quarter of the Northwest Quarter, Section 33, Township 20 North, Range 30 West, and a part of Lot 1, Bentonville Industrial Park according to Plat Book 6, Page 79, all in the public records of Benton County, Arkansas, as shown on Document # L202108441 and being described by metes and bounds as follows:

BEGINNING at the Northeast corner of said Lot 1;
THENCE South 02°24'53" West along the East boundary of said Lot 1, a distance of 10.00 feet;
THENCE North 87°11'14" West, a distance of 597.59 feet;
THENCE North 02°18'45" East, a distance of 10.00 feet;
THENCE South 87°11'14" East along the North boundary of aforementioned Lot 1, a distance of 597.61 feet to the **POINT OF BEGINNING** containing 5,976 square feet or 0.14 acres, more or less.

And

A 10' Electric Easement according to Plat Book 14, Page 6, being a part of the Northwest Quarter of the Northwest Quarter of Section 33, Township 20 North, Range 30 West and a part of Tract 6, Bentonville Industrial Park to the City of Bentonville according to Plat Book 14, Page 6, all in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at the Southwest corner of said Tract 6;
THENCE South 87°11'14" East along the South boundary of said Tract 6, a distance of 325.19 feet;

THENCE leaving said South boundary, North 02°48'46" East, a distance of 5.00 feet to a point on the North boundary of a 5' Electric and Drainage Easement according to aforementioned Plat Book 14, Page 6 and the **POINT OF BEGINNING**,
THENCE North 02°48'46" East, a distance of 231.16 feet;
THENCE North 87°11'14" West, a distance of 10.00 feet;
THENCE North 02°48'46" East, a distance of 10.00 feet;
THENCE South 87°11'14" East, a distance of 20.00 feet;
THENCE South 02°48'46" West, a distance of 241.16 feet to a point on the aforementioned North boundary of a 5' Electric and Drainage Easement;
THENCE North 87°11'14" West along said North boundary, a distance of 10.00 feet to the **POINT OF BEGINNING** containing 2,512 square feet or 0.06 acres, more or less.

And

A 10' Utility Easement according to Plat Book 6, Page 155, being a part of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4) of Section 33, Township 20 North, Range 30 West, and a part of Tract 5, Bentonville Industrial Park to the City of Bentonville, Arkansas according to Plat Book 6, Page 155 in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at a found 5/8" rebar capped LS #1759 and the Southwest Corner of the Southwest Quarter of the Northwest Quarter, Section 33, Township 20 North, Range 30 West;
THENCE North 02°22'34" East along the West boundary of said Section 33, a distance of 391.31 feet to the Southwest corner of aforementioned Tract 5 to the **POINT OF BEGINNING**;

THENCE North 02°57'38" East, a distance of 10.00 feet to the South boundary of a 40' Drainage Easement according to Plat Book 6, Page 155;
THENCE South 87°11'14" East along said South boundary, a distance of 550.58 feet to the East boundary of aforementioned Tract 5;
THENCE South 02°18'45" West along said East boundary, a distance of 10.00 feet to the South boundary of said Tract 5;
THENCE North 87°11'14" West along said boundary, a distance of 550.69 feet to the **POINT OF BEGINNING** containing **5,506** square feet or **0.13** acres, more or less.

And

A 10' Utility Easement according to Plat Book 5, Page 271, being a part of Southeast Quarter of the Northeast Quarter, Section 32, Township 20 North, Range 30 West, and a part of Lot 1, Bentonville Industrial Park to the City of Bentonville according to Plat Book 6, Page 79, and a part of the parcel described at Instrument #L201802171 in the public records of Benton County, Arkansas, as shown on Document # L202108441 and being described by metes and bounds as follows:

BEGINNING at a 5/8" rebar at the intersection of the South right-of-way of SE 5th Street and the East right-of-way of SE MLK Jr. Pkwy.;
THENCE South 02°33'15" West along the West boundary of said Section 32, a distance of 10.00 feet;
THENCE North 87°14'44" West along said North boundary, a distance of 661.64 feet to the West boundary of aforementioned parcel described at Instrument #L201802171;
THENCE North 02°34'19" East along said West boundary, a distance of 10.00 feet to a found 5/8" rebar capped LS #1759 and a point on the South right-of-way of SE 5th Street;
THENCE South 87°14'44" East along said South right-of-way, a distance of 661.64 feet to the **POINT OF BEGINNING** containing **6,616** square feet or **0.15** acres, more or less.

And

A 15' Utility Easement according to Deed Book 678, Page 645, being a part of the Northwest Quarter of the Northwest Quarter of Section 33, Township 20 North, Range 30 West and a part of Tract 6, Bentonville Industrial Park to the City of Bentonville according to Plat Book 14, Page 6, all in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at the Southwest corner of said Tract 6;
THENCE South 87°11'14" East along the South boundary of said Tract 6, a distance of 207.98 feet to the **POINT OF BEGINNING,**
THENCE North 02°43'13" East, a distance of 326.13 feet;
THENCE South 87°16'47" East, a distance of 52.21 feet;
THENCE South 02°43'13" West, a distance of 15.00 feet;
THENCE North 87°16'47" West, a distance of 37.21 feet;
THENCE South 02°43'13" West, a distance of 311.16 feet to the aforementioned South boundary of Tract 6;
THENCE North 87°11'14" West said South boundary, a distance of 15.00 feet {to found set the **POINT OF BEGINNING** containing 5,450 square feet or 0.13 acres, more or less.

And

A 16.5' Telephone Easement according to Deed Book 320, Page 10, being a part of the North Half of the Southwest Quarter of the Northwest Quarter, Section 33, Township 20 North, Range 30 West and part of Lot 1, Bentonville Industrial Park to the City of Bentonville according to Plat Book 6, Page 79 in the public records of Benton County, Arkansas, as shown on Document # L202108441 and being described by metes and bounds as follows:

BEGINNING at a found 5/8" rebar capped LS #1759;
THENCE South 87°21'34" East, a distance of 656.32 feet to a point on the West boundary of a 20' Utility Easement according to Plat Book 6, Page 79;
THENCE South 02°24'56" West along said West boundary, a distance of 16.42 feet;

THENCE North 87°21'34" West, a distance of 656.36 feet to a point on the West boundary of the aforementioned Section 33;
THENCE North 02°33'16" East along said West boundary, a distance of 16.50 feet to the **POINT OF BEGINNING** containing **10,830** square feet or **0.25** acres, more or less.

And

A 20' Utility Easement according to Plat Book 6, Page 79, being a part of the West Half of the Northwest Quarter, Section 33, Township 20 North, Range 30 West, and a part of Lot 1, Bentonville Industrial Park to the City of Bentonville according to Plat Book 6, Page 79 in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

BEGINNING at a found 5/8" rebar, being the most Southerly Southeast corner of said Lot 1;
THENCE North 87°19'51" West along the South boundary of said Lot 1, a distance of 20.00 feet;
THENCE North 02°24'56" East, a distance of 1,195.29 feet to the North boundary of a 16.5' Telephone Easement according to Deed Book 320, Page 10;
THENCE South 87°35'04" East, a distance of 20.00 feet to the East boundary of aforementioned Lot 1;
THENCE South 02°24'56" West along said East boundary, passing a found 2" iron pipe at 658.91 feet, continuing for a total distance of 1,195.38 feet to the **POINT OF BEGINNING** containing **23,907** square feet or **0.55** acres, more or less.

And

A part of the Northwest Quarter of the Northwest Quarter of Section 33, Township 20 North, Range 30 West and a part of Tract 6, Bentonville Industrial Park to the City of Bentonville according to Plat Book 14, Page 6, in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at the Southwest corner of said Tract 6;
THENCE South 87°41'20" East along the South boundary of said Tract 6, a distance of 10.00 feet to the East boundary of a ten foot wide (10') water easement according to aforementioned Plat Book 14, Page 6;
THENCE North 02°18'45" East along said East boundary, a distance of 251.39 feet to the **POINT OF BEGINNING**,
THENCE North 02°18'45" East, a distance of 20.00 feet;
THENCE leaving said East boundary, the following seven (7) calls;

1. South 87°41'15" East, a distance of 197.35 feet;
2. North 02°37'33" East, a distance of 60.85 feet;
3. South 87°22'27" East, a distance of 20.00 feet;
4. South 02°37'33" West, a distance of 60.74 feet;
5. South 87°41'15" East, a distance of 37.34 feet;

6. South 02°32'51" West, a distance of 20.00 feet;
7. North 87°41'15" West, a distance of 254.61 feet the **POINT OF BEGINNING** containing 6,309 square feet or 0.14 acres, more or less.

And

A 20' Utility Easement according to Plat Book 6, Page 79, being a part of the West Half of the Northwest Quarter of Section 33, Township 20 North, Range 30 West, and a part of Lot 1, Bentonville Industrial Park to the City of Bentonville according to Plat Book 6, Page 79 in the public records of Benton County, Arkansas, as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at a 5/8" rebar at the intersection of the South right-of-way of SE 5th Street and the East right-of-way of SE MLK Jr. Pkwy.;
THENCE South 02°32'50" West along the West line of aforementioned Section 33, a distance of 34.50 feet to the **POINT OF BEGINNING**,
THENCE South 87°22'22" East, a distance of 254.40;
THENCE South 02°24'56" West, a distance of 595.00 feet;
THENCE North 87°35'04" West, a distance of 30.00 feet;
THENCE North 02°24'56" East, a distance of 20.00 feet;
THENCE South 87°35'04" East, a distance of 10.00 feet;
THENCE North 02°24'56" East, a distance of 555.07 feet;
THENCE North 87°22'22" West, a distance of 234.44 feet to a point on said West line of Section 33;
THENCE North 02°32'50" East along said West boundary, a distance of 20.00 feet to the **POINT OF BEGINNING** containing **16,789** square feet or **0.39** acres, more or less.

And

A part of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4) of Section 33, Township 20 North, Range 30 West, and a part of Tract 5, Bentonville Industrial Park to the City of Bentonville, Arkansas according to Plat Book 6, Page 155 in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at a found 5/8" rebar capped LS #1759 and the Southwest Corner of the Southwest Quarter of the Northwest Quarter, Section 33, Township 20 North, Range 30 West;
THENCE North 02°23'27" East along the West boundary of said Section 33, a distance of 401.25 feet to the **POINT OF BEGINNING**;
THENCE North 02°23'27" East, a distance of 40.00 feet to the South boundary of a 50' Street Easement according to Plat Book 6, Page 155;
THENCE South 87°11'14" East along said South boundary, a distance of 550.52 feet to the East boundary of aforementioned Tract 5;

THENCE South 02°18'45" West said East boundary, a distance of 40.00 feet to the North boundary of a 10' Utility Easement according to Plat Book 6, Page 155;
THENCE North 87°11'14" West along said North boundary, a distance of 550.58 feet to the **POINT OF BEGINNING** containing **22,022** square feet or **0.51** acres, more or less.

And

A 43' x 30' Utility Easement according to Plat Book 6, Page 79, being a part of the West Half of the Northwest Quarter of Section 33, Township 20 North, Range 30 West, and a part of Lot 1, Bentonville Industrial Park according to Plat Book 6, Page 79, in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at the Northwest corner of said Lot 1;
THENCE South 02°22'34" West along the East right-of-way of SE Martin Luther King Jr. Pkwy., a distance of 253.00 feet to the **POINT OF BEGINNING**,
THENCE South 87°11'14" East, a distance of 43.00 feet;
THENCE South 02°22'34" West, a distance of 30.00 feet;
THENCE North 87°11'14" West, a distance of 43.00 feet to the aforementioned East right-of-way;
THENCE North 02°22'34" East along said right-of-way, a distance of 30.00 feet to the **POINT OF BEGINNING** containing 1,290 square feet or 0.03 acres, more or less.

And

A 62' x 30' Utility Easement according to Plat Book 6, Page 79, being a part of the West Half of the Northwest Quarter of Section 33, Township 20 North, Range 30 West, and a part of Lot 1, Bentonville Industrial Park according to Plat Book 6, Page 79, in the public records of Benton County, Arkansas as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at the Northwest corner of said Lot 1;
THENCE South 02°22'34" West along the East Right-of-way of SE Martin Luther King Jr. Pkwy., a distance of 126.00 feet to the **POINT OF BEGINNING**;
THENCE South 87°11'14" East, a distance of 62.00 feet;
THENCE South 02°22'34" West, a distance of 30.00 feet;
THENCE North 87°11'14" West, a distance of 62.00 feet to a point on the aforementioned East Right-of-Way;
THENCE North 02°22'34" East along said Right-of-Way, a distance of 30.00 feet to the **POINT OF BEGINNING** containing 1,860 square feet or 0.04 acres, more or less.

And

A 20 foot drainage easement to be vacated being a part of the NW 1/4 and N 1/2 of the SW 1/4 of the NW 1/2, all in Section 33, Township 20 North, Range 30 West; being the drainage easement recorded in Deed Book 468, Page 134 in the records of Benton County, AR; as shown on Document # L202108441 and being described by metes and bounds as follows.

COMMENCING from a 2 inch aluminum monument (LS 406) being a point on the East Right of Way of SE Martin Luther King per ARDOT Job #090178;
THENCE South 02°22'34" West, 1,071.95 feet to the **POINT OF BEGINNING;**
THENCE South 87°11'14" East, 425.08 feet;
THENCE South 02°48'46" West, 20.00 feet;
THENCE North 87°11'14" West, 424.92 feet;
THENCE North 02°22'34" East, 20.00 feet; to the **POINT OF BEGINNING,** containing **8,500** square feet or **0.20** acres, more or less.

And

A 20' Utility Easement according to Deed Book 2016, Page 30305, being a part of Southeast Quarter of the Northeast Quarter, Section 32 and the Southwest Quarter of the Northwest Quarter, Section 33, both in Township 20 North, Range 30 West, being a part of Lot 1, Bentonville Industrial Park according to Plat Book 6, Page 79, and a part of Lot 5, Ellis Addition according to a Plat by John Ramsey, LS#689 on April 19, 1979, in the public records of Benton County, Arkansas, as shown on Document # L202108441 and being described by metes and bounds as follows:

COMMENCING at a found Railroad spike being the Southeast Corner of the Northeast Quarter of said Section 32;
THENCE North 02°32'50" East along said Section Line, a distance of 71.55 feet to a point on the South right-of-way of SE 8th Street for the **POINT OF BEGINNING;**
THENCE North 87°30'40" West along the North right-of-way of SE 8th Street, a distance of 591.90 feet to the Southwest corner of aforementioned Lot 1;
THENCE North 02°29'20" East along the West boundary of said Lot 1, a distance of 20.00 feet;
THENCE South 87°30'40" East, a distance of 781.67 feet to the East boundary of aforementioned Lot 5;
THENCE South 02°33'11" West along the East boundary of said Lot 5, a distance of 20.00 feet to the aforementioned North right-of-way of SE 8th Street;
THENCE North 87°30'40" West along said right-of-way, a distance of 189.75 feet the **POINT OF BEGINNING** containing **15,633** square feet or **0.36** acres, more or less.

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

_____, 2021 at a regular meeting of the City Council of the City of Bentonville, Arkansas.

_____	_____
Kirby Romines, City Clerk and Recorder for the City of Bentonville, Arkansas	**STEPHANIE ORMAN, Mayor City of Bentonville, Arkansas**

Agenda Item Form

Date of City Council Meeting	**1/26/2020**
Department	**ENGINEERING**
Submitted by	**TRACY BILLINGS**
Phone	**(479) 696-0229**

Item Type: Public Hearing and Ordinance

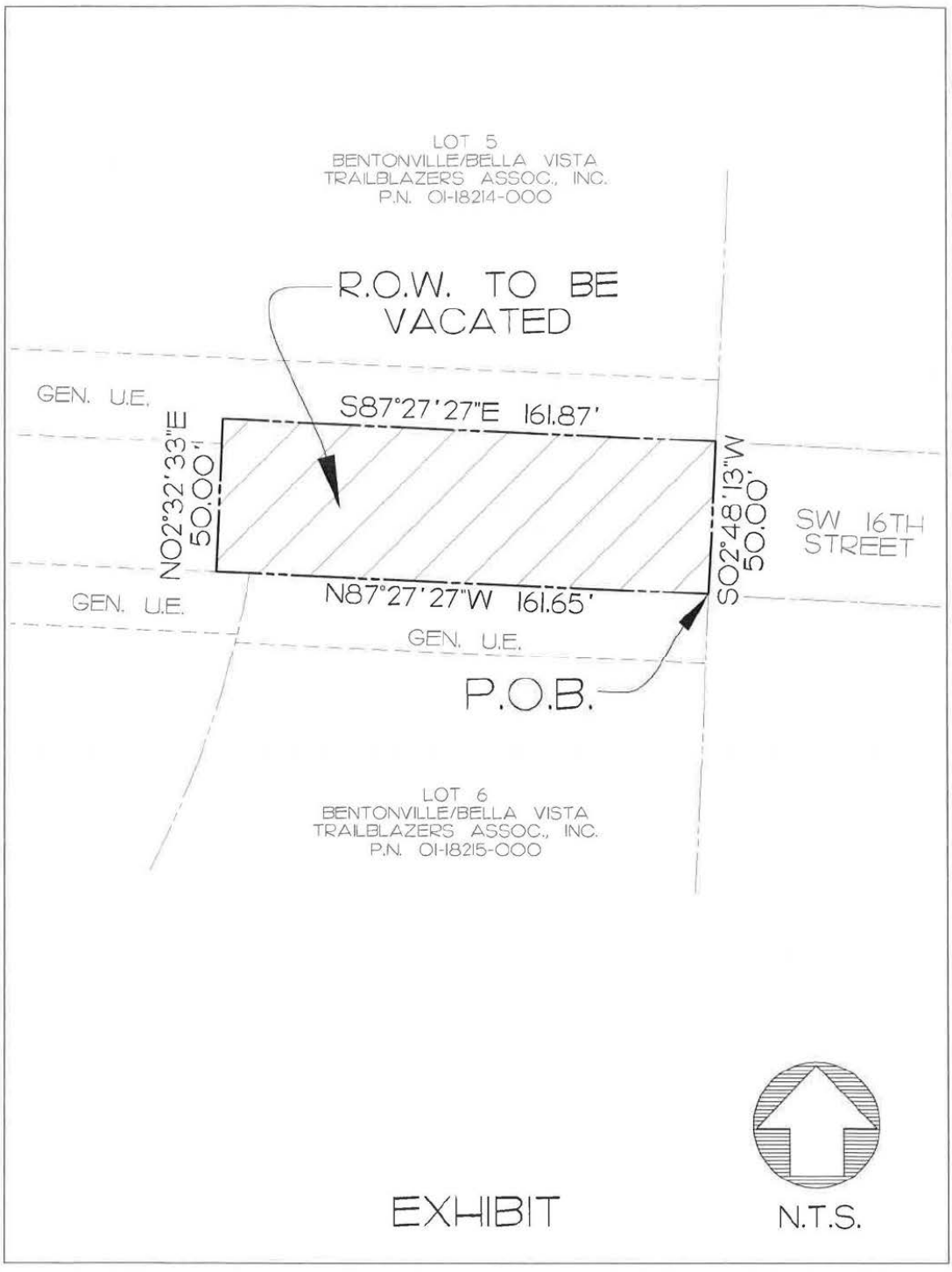
☐ Budget Adjustment	☐ Change Order	☐ Informational	☑ Ordinance	☐ Resolution	☐ Bid Award

Recommendation/Suggested Action ***(Enter recommendation in space below):***

A public hearing and ordinance vacating a Street Right of Way and establishing a Utility Easement requested for 700 SW 16th Street, Lot 6 of Northwest Prairie Add. (VAC20-0031).

Estimated Cost	**$**
Is this Item Budgeted?	☐ Yes ☑ No

If no, please explain how item will be funded ***(briefly explain in space below)*****:**

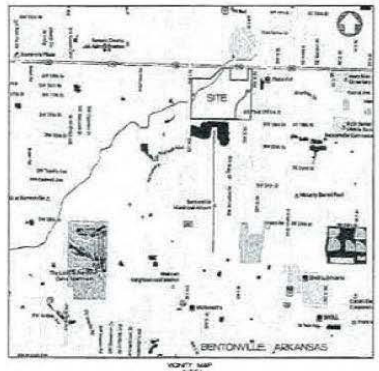

LOT 5
BENTONVILLE/BELLA VISTA
TRAILBLAZERS ASSOC., INC.
P.N. 01-18214-000
R.O.W. TO BE VACATED
GEN. U.E.
S87°27'27"E 161.87'
N02°32'33"E 50.00'
S02°48'13"W 50.00'
SW 16TH STREET
GEN. U.E.
N87°27'27"W 161.65'
GEN. U.E.
P.O.B.
LOT 6
BENTONVILLE/BELLA VISTA
TRAILBLAZERS ASSOC., INC.
P.N. 01-18215-000
EXHIBIT
N.T.S.

L202042094
BENTON CO. AR FEE $35.00
PRESENTED & E-RECORDED
07/16/2020 08:05:43 AM
BRENDA DEMERLO
Circuit Clerk & Recorder

LOTS 5, 6, & 7

NORTHWEST PRAIRIE ADDITION





VICINITY MAP
N.T.S.

OWNER/DEVELOPER INFORMATION
[redacted]

N.T.S.

BENTONVILLE PROJECT #LS-20-0026

CASTER & ASSOCIATES
LAND SURVEYING, INC.
215 SE 'I' Street, Suite 5
Bentonville, AR 72712
Telephone 479-268-4464

REGISTERED [redacted] STATE OF [redacted] SURVEYOR

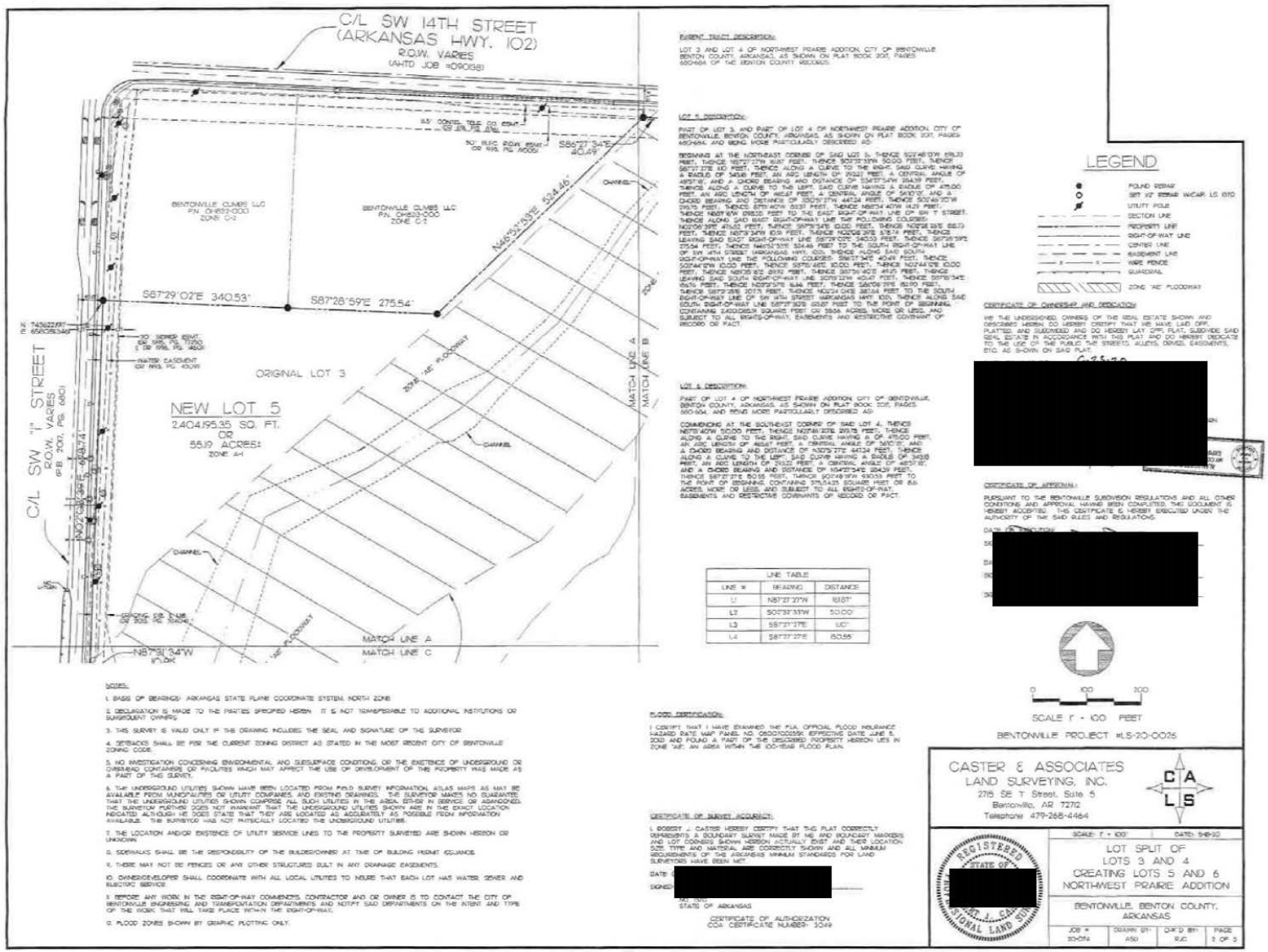
SCALE: 1" = 100' | DATE: 5-15-20

LOT SPLIT OF
LOTS 3 AND 4
CREATING LOTS 5 AND 6

[redacted]

BENTONVILLE, BENTON COUNTY, ARKANSAS

JOB #	DRAWN BY:	CHECKED BY:	PAGE
20-074	ASD	BJC	1 OF 3



PARENT TRACT DESCRIPTION:

LOT 3 AND LOT 4 OF NORTHWEST PRAIRIE ADDITION, CITY OF BENTONVILLE BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT BOOK 2001, PAGES 680-680A OF THE BENTON COUNTY RECORDS.

LOT 5 DESCRIPTION:

PART OF LOT 3, AND PART OF LOT 4 OF NORTHWEST PRAIRIE ADDITION, CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT BOOK 2001, PAGES 680-680A, AND BEING MORE PARTICULARLY DESCRIBED AS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 3; THENCE S02°48'07"W 659.33 FEET; THENCE N87°27'27"W 91.67 FEET; THENCE S02°33'33"W 50.00 FEET; THENCE S87°27'27"E 10' FEET; THENCE ALONG A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 345.00 FEET, AN ARC LENGTH OF 29.22 FEET, A CENTRAL ANGLE OF 4°51'18", AND A CHORD BEARING AND DISTANCE OF S34°57'54"W 29.39 FEET; THENCE ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 475.00 FEET, AN ARC LENGTH OF 402.67 FEET, A CENTRAL ANGLE OF 54°12'0", AND A CHORD BEARING AND DISTANCE OF S02°21'27"W 391.39 FEET; THENCE S02°46'33"W 44.24 FEET; THENCE S02°46'33"W 200.70 FEET; THENCE S75°40'04" 50.01 FEET; THENCE N86°14'40"W 16.25 FEET; THENCE N88°16'40"W 218.02 FEET TO THE EAST RIGHT-OF-WAY LINE OF SW "I" STREET. THENCE ALONG SAID EAST RIGHT-OF-WAY LINE THE FOLLOWING COURSES: N02°09'39"E 475.65 FEET; THENCE S87°53'45"E 03.00 FEET; THENCE N02°58'55"E 88.73 FEET; THENCE N03°13'49"W 10.9 FEET; THENCE N02°06'39"E 378.74 FEET; THENCE LEAVING SAID EAST RIGHT-OF-WAY LINE S87°37'00"E 340.53 FEET; THENCE S87°28'59"E 275.54 FEET; THENCE N46°53'33"E 534.46 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF SW 14TH STREET (ARKANSAS HWY. 102); THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE THE FOLLOWING COURSES: S86°27'34"E 40.49 FEET; THENCE S02°48'07"W 10.00 FEET; THENCE S87°51'48"E 10.00 FEET; THENCE N02°48'07"E 10.00 FEET; THENCE N87°35'53"E 29.92 FEET; THENCE S87°51'40"E 49.15 FEET; THENCE LEAVING SAID SOUTH RIGHT-OF-WAY LINE, S01°51'12"W 40.47 FEET; THENCE S87°51'34"E 69.93 FEET; THENCE N03°12'57"E 9.86 FEET; THENCE S86°09'37"E 65.10 FEET; THENCE S87°27'27"E 20.73 FEET; THENCE N02°24'04"E 387.64 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF SW 14TH STREET (ARKANSAS HWY. 102); THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE S87°27'30"E 69.87 FEET TO THE POINT OF BEGINNING. CONTAINING 2,403,095.91 SQUARE FEET OR 55.06 ACRES, MORE OR LESS, AND SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIVE COVENANTS OF RECORD OR FACT.

LOT 6 DESCRIPTION:

PART OF LOT 4 OF NORTHWEST PRAIRIE ADDITION CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT BOOK 2001, PAGES 680-680A, AND BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 4; THENCE N03°14'40"W 50.00 FEET; THENCE N02°46'33"E 209.76 FEET; THENCE ALONG A CURVE TO THE RIGHT, SAID CURVE HAVING A OF 475.00 FEET, AN ARC LENGTH OF 402.67 FEET, A CENTRAL ANGLE OF 54°12'0", AND A CHORD BEARING AND DISTANCE OF N30°21'27"E 391.39 FEET; THENCE ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 345.00 FEET, AN ARC LENGTH OF 29.22 FEET, A CENTRAL ANGLE OF 4°51'18", AND A CHORD BEARING AND DISTANCE OF N57°53'54"E 29.39 FEET; THENCE S87°27'27"E 50.95 FEET; THENCE S02°48'07"W 659.33 FEET TO THE POINT OF BEGINNING, CONTAINING 375,643± SQUARE FEET, OR 8.6 ACRES, MORE OR LESS, AND SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIVE COVENANTS OF RECORD OR FACT.

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N87°27'27"W	91.67'
L2	S02°33'33"W	50.00'
L3	S87°27'27"E	10.0'
L4	S87°27'27"E	50.95

CERTIFICATE OF OWNERSHIP AND DEDICATION:

WE THE UNDERSIGNED, OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE HAVE LAID OFF, PLATTED, AND SUBDIVIDED AND DO HEREBY LAY OFF, PLAT, SUBDIVIDE SAID REAL ESTATE IN ACCORDANCE WITH THIS PLAT AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC THE STREETS, ALLEYS, DRIVES, EASEMENTS, ETC. AS SHOWN ON SAID PLAT.

[redacted]

CERTIFICATE OF APPROVAL:

PURSUANT TO THE BENTONVILLE SUBDIVISION REGULATIONS AND ALL OTHER CONDITIONS AND APPROVAL HAVING BEEN COMPLETED, THIS DOCUMENT IS HEREBY ACCEPTED. THIS CERTIFICATE IS HEREBY EXECUTED UNDER THE AUTHORITY OF THE SAID RULES AND REGULATIONS.

DATE OF APPROVAL:

[redacted]

NOTES:

1. BASIS OF BEARINGS: ARKANSAS STATE PLANE COORDINATE SYSTEM, NORTH ZONE.
2. DEDICATION IS MADE TO THE PARTIES SPECIFIED HEREIN. IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.
3. THIS SURVEY IS VALID ONLY IF THE DRAWING INCLUDES THE SEAL AND SIGNATURE OF THE SURVEYOR.
4. SETBACKS SHALL BE PER THE CURRENT ZONING DISTRICT AS STATED IN THE MOST RECENT CITY OF BENTONVILLE ZONING CODE.
5. NO INVESTIGATION CONCERNING ENVIRONMENTAL AND SUBSURFACE CONDITIONS, OR THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONTAINERS OR FACILITIES WHICH MAY AFFECT THE USE OR DEVELOPMENT OF THIS PROPERTY WAS MADE AS A PART OF THIS SURVEY.
6. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION, ATLAS MAPS AS MAY BE AVAILABLE FROM MUNICIPALITIES OR UTILITY COMPANIES, AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES STATE THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.
7. THE LOCATION AND/OR EXISTENCE OF UTILITY SERVICE LINES TO THE PROPERTY SURVEYED ARE SHOWN HEREON OR UNKNOWN.
8. SIDEWALKS SHALL BE THE RESPONSIBILITY OF THE BUILDER/OWNER AT TIME OF BUILDING PERMIT ISSUANCE.
9. THERE MAY NOT BE FENCES OR ANY OTHER STRUCTURES BUILT IN ANY DRAINAGE EASEMENTS.
10. OWNER/DEVELOPER SHALL COORDINATE WITH ALL LOCAL UTILITIES TO INSURE THAT EACH LOT HAS WATER, SEWER AND ELECTRIC SERVICE.
11. BEFORE ANY WORK IN THE RIGHT-OF-WAY COMMENCES, CONTRACTOR AND OR OWNER IS TO CONTACT THE CITY OF BENTONVILLE ENGINEERING AND TRANSPORTATION DEPARTMENTS AND NOTIFY SAID DEPARTMENTS ON THE INTENT AND TYPE OF THE WORK THAT WILL TAKE PLACE WITHIN THE RIGHT-OF-WAY.
12. FLOOD ZONES SHOWN BY GRAPHIC PLOTTING ONLY.

FLOOD CERTIFICATION:

I CERTIFY THAT I HAVE EXAMINED THE FIA OFFICIAL FLOOD INSURANCE HAZARD RATE MAP PANEL NO. 05007C0035K, EFFECTIVE DATE JUNE 5, 2012 AND FOUND A PART OF THE DESCRIBED PROPERTY HEREON LIES IN ZONE "AE", AN AREA WITHIN THE 100-YEAR FLOOD PLAIN.

CERTIFICATE OF SURVEY ACCURACY:

I, ROBERT J. CASTER HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A BOUNDARY SURVEY MADE BY ME AND ACCURATELY MARKERS AND LOT CORNERS SHOWN HEREON ACTUALLY EXIST, AND THEIR LOCATION, SIZE, TYPE AND MATERIAL ARE CORRECTLY SHOWN AND ALL MINIMUM REQUIREMENTS OF THE ARKANSAS MINIMUM STANDARDS FOR LAND SURVEYORS HAVE BEEN MET.

DATE: [redacted]

SIGNED:

NO. 1000
STATE OF ARKANSAS

CERTIFICATE OF AUTHORIZATION
COA CERTIFICATE NUMBER: 1044

0 100 200

SCALE: 1" = 100' FEET

BENTONVILLE PROJECT #LS-20-0025

CASTER & ASSOCIATES
LAND SURVEYING, INC.
2715 SE T Street, Suite 5
Bentonville, AR 72712
Telephone 479-268-4464

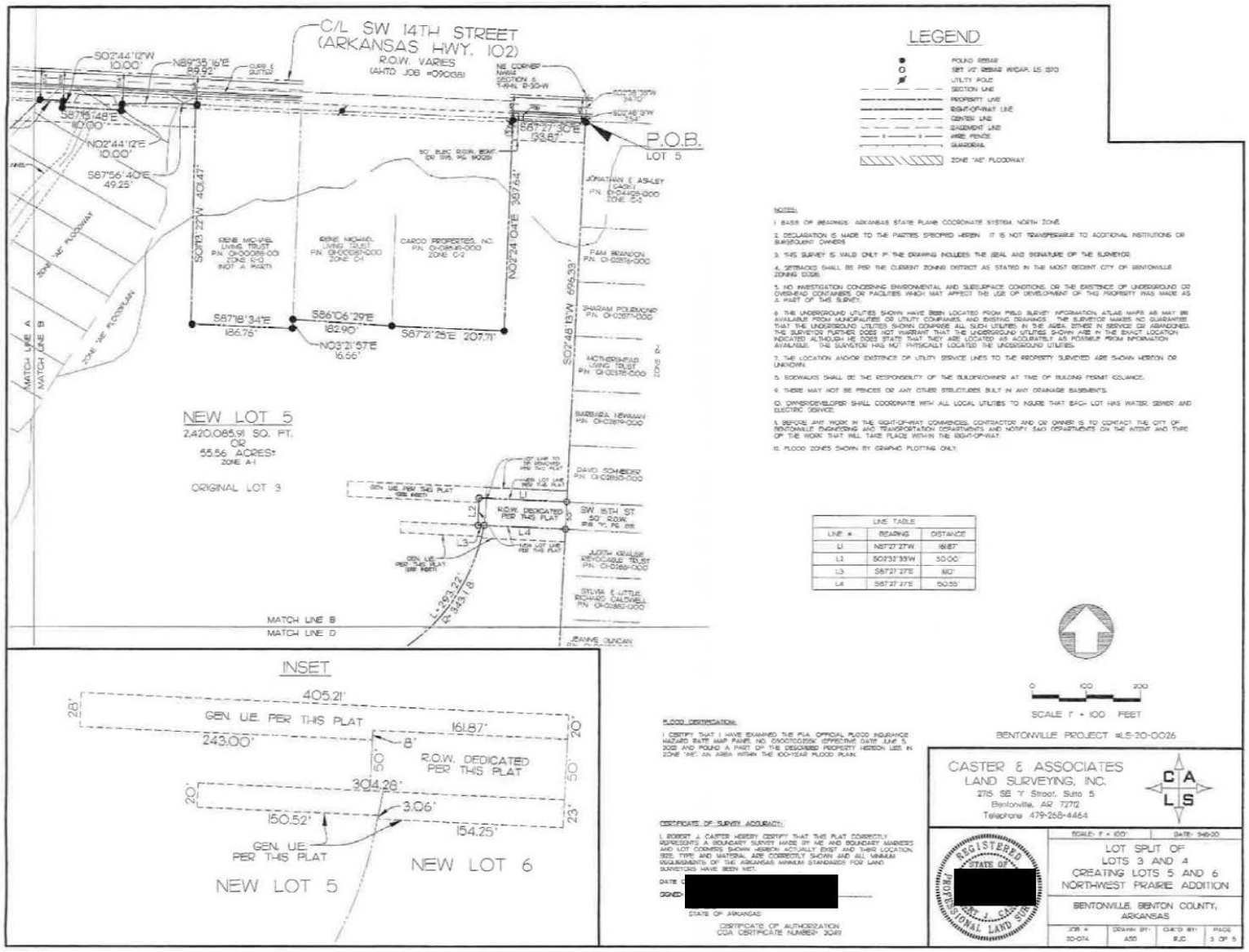
REGISTERED [redacted] STATE OF ARKANSAS ROBERT J. CASTER PROFESSIONAL LAND SURVEYOR

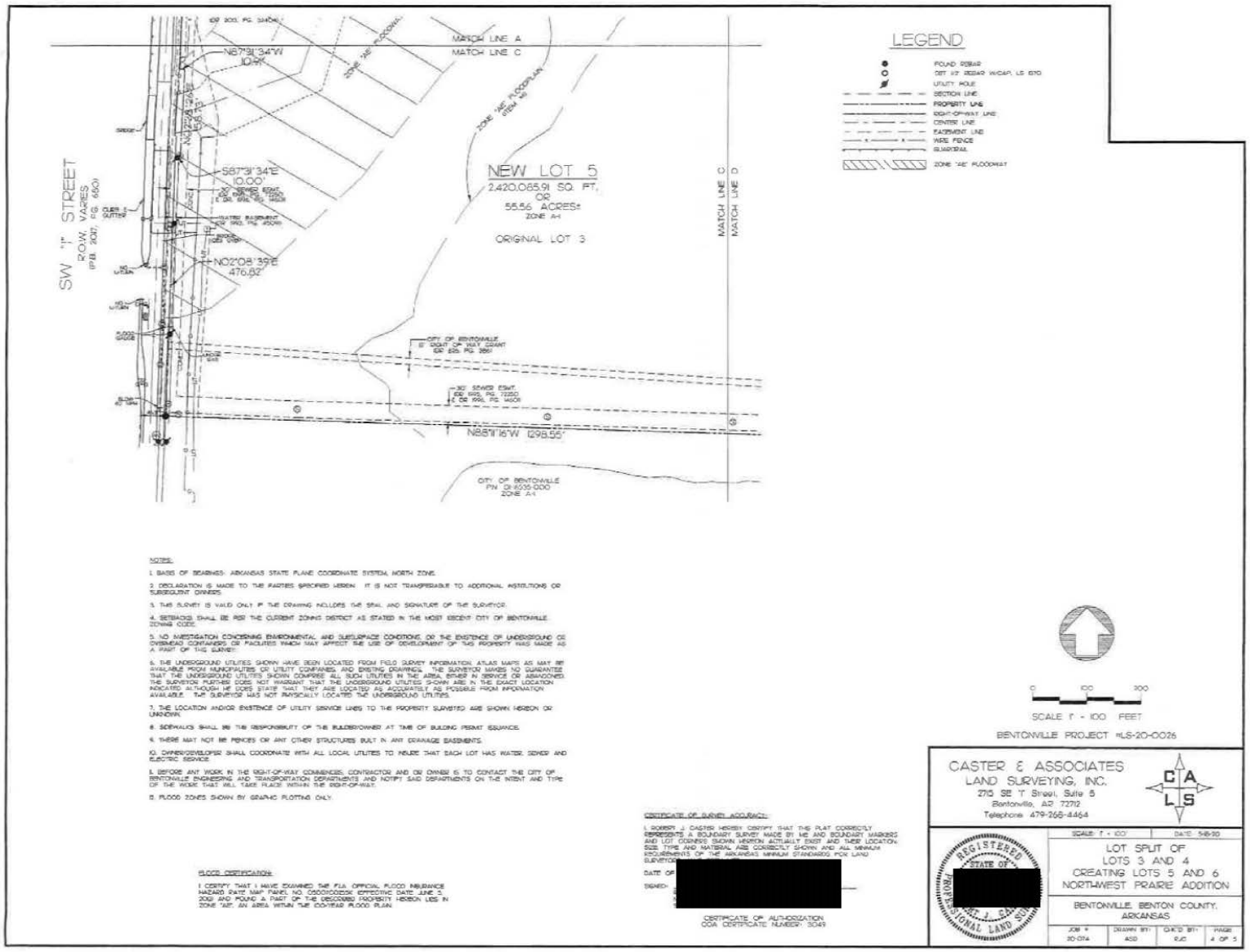
SCALE: 1" = 100' | DATE: 5-19-20

LOT SPLIT OF
LOTS 3 AND 4
CREATING LOTS 5 AND 6
NORTHWEST PRAIRIE ADDITION

BENTONVILLE, BENTON COUNTY, ARKANSAS

JOB #	DRAWN BY:	CHK'D BY:	PAGE
20-0014	ASD	RJC	1 OF 3


C/L SW 14TH STREET
(ARKANSAS HWY. 102)
R.O.W. VARIES
(AHTD JOB #090138)
P.O.B.
LOT 5
NEW LOT 5
2,420,085.91 SQ. FT.
OR
55.56 ACRES±
ZONE A-1
ORIGINAL LOT 3
R.O.W. DEDICATED PER THIS PLAT
SW 15TH ST.
50' R.O.W.
GEN. UE. PER THIS PLAT
MATCH LINE A
MATCH LINE B
MATCH LINE C
MATCH LINE D
ZONE "AE" FLOODWAY
INSET
405.21'
GEN. UE. PER THIS PLAT
161.87'
243.00'
8'
R.O.W. DEDICATED PER THIS PLAT
304.28'
3.06'
150.52'
154.25'
GEN. UE. PER THIS PLAT
NEW LOT 5
NEW LOT 6
LEGEND
FOUND REBAR
SET 1/2" REBAR W/CAP, LS 1270
UTILITY POLE
SECTION LINE
PROPERTY LINE
RIGHT-OF-WAY LINE
CENTER LINE
EASEMENT LINE
WIRE FENCE
GUARDRAIL
ZONE "AE" FLOODWAY
LINE TABLE
LINE # | BEARING | DISTANCE
L1 | N87°27'27"W | 161.87'
L2 | S01°32'33"W | 30.00'
L3 | S87°27'27"E | 80'
L4 | S87°27'27"E | 150.55'
0 100 200
SCALE 1" = 100' FEET
BENTONVILLE PROJECT #LS-20-0026
CASTER & ASSOCIATES
LAND SURVEYING, INC.
275 SE 'I' Street, Suite 5
Bentonville, AR 72712
Telephone 479-268-4464
REGISTERED
STATE OF
PROFESSIONAL LAND SURVEYOR
SCALE: 1" = 100'
DATE: 9-8-20
LOT SPLIT OF
LOTS 3 AND 4
CREATING LOTS 5 AND 6
NORTHWEST PRAIRIE ADDITION
BENTONVILLE, BENTON COUNTY,
ARKANSAS
JOB # 20-074
DRAWN BY: ASR
CHK'D BY: RJC
PAGE 3 OF 5



NOTES:

1. BASIS OF BEARINGS: ARKANSAS STATE PLANE COORDINATE SYSTEM, NORTH ZONE.
2. DECLARATION IS MADE TO THE PARTIES SPECIFIED HEREON. IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.
3. THIS SURVEY IS VALID ONLY IF THE DRAWING INCLUDES THE SEAL AND SIGNATURE OF THE SURVEYOR.
4. SETBACKS SHALL BE PER THE CURRENT ZONING DISTRICT AS STATED IN THE MOST RECENT CITY OF BENTONVILLE ZONING CODE.
5. NO INVESTIGATION CONCERNING ENVIRONMENTAL AND SUBSURFACE CONDITIONS, OR THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONTAINERS, OR FACILITIES WHICH MAY AFFECT THE USE OR DEVELOPMENT OF THIS PROPERTY WAS MADE AS A PART OF THIS SURVEY.
6. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION, ATLAS MAPS AS MAY BE AVAILABLE FROM MUNICIPALITIES OR UTILITY COMPANIES, AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES STATE THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.
7. THE LOCATION AND/OR EXISTENCE OF UTILITY SERVICE LINES TO THE PROPERTY SURVEYED ARE SHOWN HEREON OR UNKNOWN.
8. SIDEWALKS SHALL BE THE RESPONSIBILITY OF THE BUILDER/OWNER AT TIME OF BUILDING PERMIT ISSUANCE.
9. THERE MAY NOT BE FENCES OR ANY OTHER STRUCTURES BUILT IN ANY DRAINAGE EASEMENTS.
10. OWNER/DEVELOPER SHALL COORDINATE WITH ALL LOCAL UTILITIES TO INSURE THAT EACH LOT HAS WATER, SEWER AND ELECTRIC SERVICE.
11. BEFORE ANY WORK IN THE RIGHT-OF-WAY COMMENCES, CONTRACTOR AND OR OWNER IS TO CONTACT THE CITY OF BENTONVILLE ENGINEERING AND TRANSPORTATION DEPARTMENTS AND NOTIFY SAID DEPARTMENTS ON THE INTENT AND TYPE OF THE WORK THAT WILL TAKE PLACE WITHIN THE RIGHT-OF-WAY.
12. FLOOD ZONES SHOWN BY GRAPHIC PLOTTING ONLY.

FLOOD CERTIFICATION:

I CERTIFY THAT I HAVE EXAMINED THE F.I.A. OFFICIAL FLOOD INSURANCE HAZARD RATE MAP PANEL NO. 0500100025B, EFFECTIVE DATE JUNE 5, 2002 AND FOUND A PART OF THE DESCRIBED PROPERTY HEREON LIES IN ZONE "AE", AN AREA WITHIN THE 100-YEAR FLOOD PLAIN.

CERTIFICATE OF SURVEY ACCURACY:

I, ROBERT J. CASTER, HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A BOUNDARY SURVEY MADE BY ME AND BOUNDARY MARKERS AND LOT CORNERS SHOWN HEREON ACTUALLY EXIST AND THEIR LOCATION, SIZE, TYPE AND MATERIAL ARE CORRECTLY SHOWN AND ALL MINIMUM REQUIREMENTS OF THE ARKANSAS MINIMUM STANDARDS FOR LAND SURVEYING

DATE OF [redacted]

SIGNED: [redacted]

CERTIFICATE OF AUTHORIZATION
COA CERTIFICATE NUMBER: 3049

BENTONVILLE PROJECT #LS-20-0026

CASTER & ASSOCIATES
LAND SURVEYING, INC.
2710 SE "I" Street, Suite 5
Bentonville, AR 72712
Telephone 479-268-4464

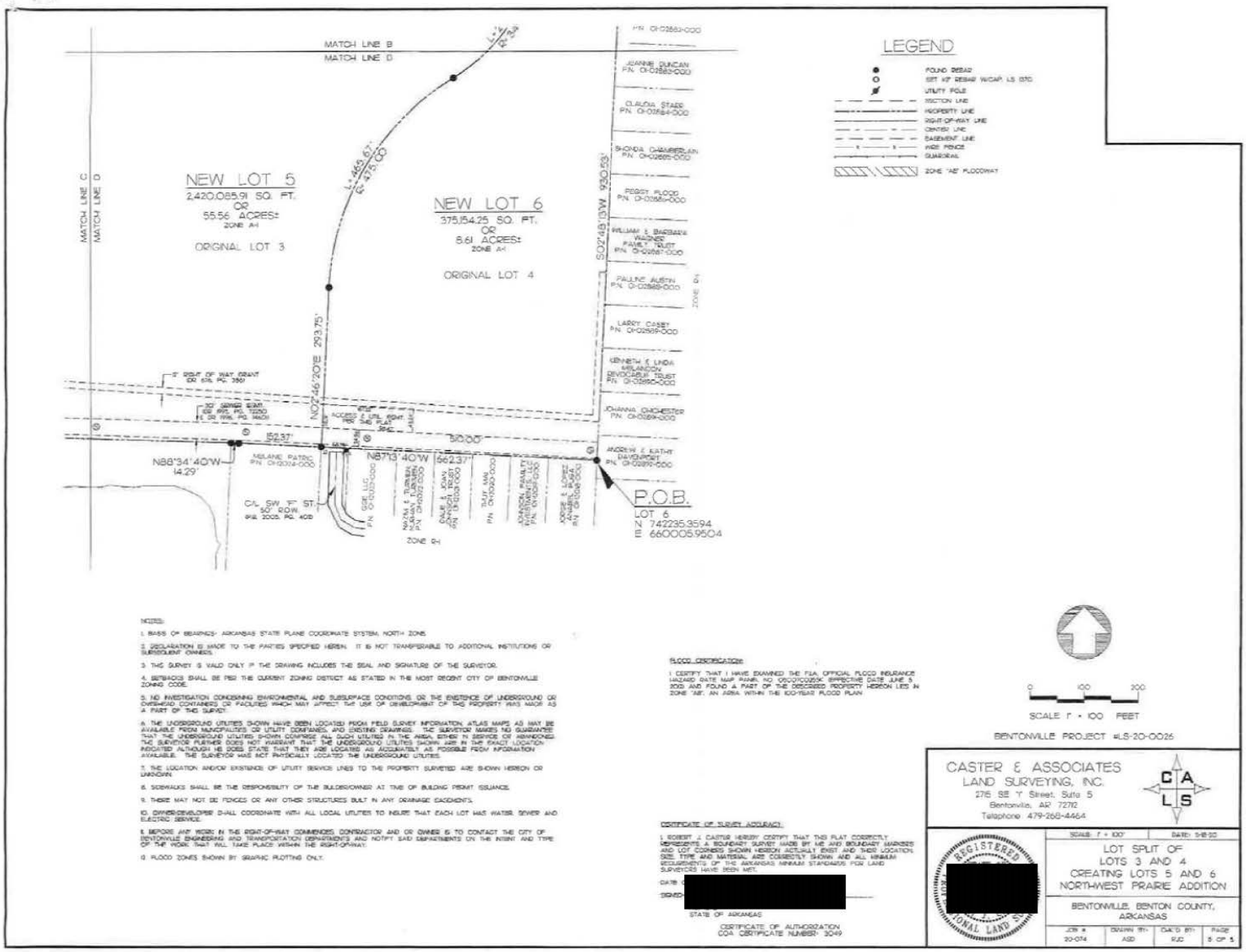
REGISTERED [redacted] STATE OF ARKANSAS PROFESSIONAL LAND SURVEYOR

SCALE: 1" = 100' | DATE: 5-18-20

LOT SPLIT OF
LOTS 3 AND 4
CREATING LOTS 5 AND 6
NORTHWEST PRAIRIE ADDITION

BENTONVILLE, BENTON COUNTY, ARKANSAS

JOB #	DRAWN BY:	CHK'D BY:	PAGE
20-074	ASD	RJC	4 OF 5



NOTES:

1. BASIS OF BEARINGS: ARKANSAS STATE PLANE COORDINATE SYSTEM, NORTH ZONE.
2. DECLARATION IS MADE TO THE PARTIES SPECIFIED HEREIN. IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.
3. THIS SURVEY IS VALID ONLY IF THE DRAWING INCLUDES THE SEAL AND SIGNATURE OF THE SURVEYOR.
4. SETBACKS SHALL BE PER THE CURRENT ZONING DISTRICT AS STATED IN THE MOST RECENT CITY OF BENTONVILLE ZONING CODE.
5. NO INVESTIGATION CONCERNING ENVIRONMENTAL AND SUBSURFACE CONDITIONS, OR THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONTAINERS OR FACILITIES WHICH MAY AFFECT THE USE OR DEVELOPMENT OF THIS PROPERTY WAS MADE AS A PART OF THIS SURVEY.
6. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION, ATLAS MAPS AS MAY BE AVAILABLE FROM MUNICIPALITIES OR UTILITY COMPANIES, AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES STATE THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.
7. THE LOCATION AND/OR EXISTENCE OF UTILITY SERVICE LINES TO THE PROPERTY SURVEYED ARE SHOWN HEREON OR UNKNOWN.
8. SIDEWALKS SHALL BE THE RESPONSIBILITY OF THE BUILDER/OWNER AT TIME OF BUILDING PERMIT ISSUANCE.
9. THERE MAY NOT BE FENCES OR ANY OTHER STRUCTURES BUILT IN ANY DRAINAGE EASEMENTS.
10. OWNER-DEVELOPER SHALL COORDINATE WITH ALL LOCAL UTILITIES TO INSURE THAT EACH LOT HAS WATER, SEWER AND ELECTRIC SERVICE.
11. BEFORE ANY WORK IN THE RIGHT-OF-WAY COMMENCES, CONTRACTOR AND OR OWNER IS TO CONTACT THE CITY OF BENTONVILLE ENGINEERING AND TRANSPORTATION DEPARTMENTS AND NOTIFY SAID DEPARTMENTS ON THE INTENT AND TYPE OF THE WORK THAT WILL TAKE PLACE WITHIN THE RIGHT-OF-WAY.
12. FLOOD ZONES SHOWN BY GRAPHIC PLOTTING ONLY.

FLOOD CERTIFICATION:

I CERTIFY THAT I HAVE EXAMINED THE FIA OFFICIAL FLOOD INSURANCE HAZARD RATE MAP PANEL NO. 05007C0025K EFFECTIVE DATE JUNE 5, 2012 AND FOUND A PART OF THE DESCRIBED PROPERTY HEREON LIES IN ZONE "AE", AN AREA WITHIN THE 100-YEAR FLOOD PLAIN

CERTIFICATE OF SURVEY ACCURACY:

I, ROBERT J. CASTER HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A BOUNDARY SURVEY MADE BY ME AND BOUNDARY MARKERS AND LOT CORNERS SHOWN HEREON ACTUALLY EXIST AND THEIR LOCATION, SIZE, TYPE AND MATERIAL ARE CORRECTLY SHOWN AND ALL MINIMUM REQUIREMENTS OF THE ARKANSAS MINIMUM STANDARDS FOR LAND SURVEYORS HAVE BEEN MET.

DATE: [redacted]
SIGNED: [redacted]

STATE OF ARKANSAS

CERTIFICATE OF AUTHORIZATION
COA CERTIFICATE NUMBER: 3049

CASTER & ASSOCIATES
LAND SURVEYING, INC.
2715 SE 'I' Street, Suite 5
Bentonville, AR 72712
Telephone 479-268-4464

REGISTERED [redacted] NATIONAL LAND SURVEYOR

SCALE: 1" = 100' | DATE: 9-8-20

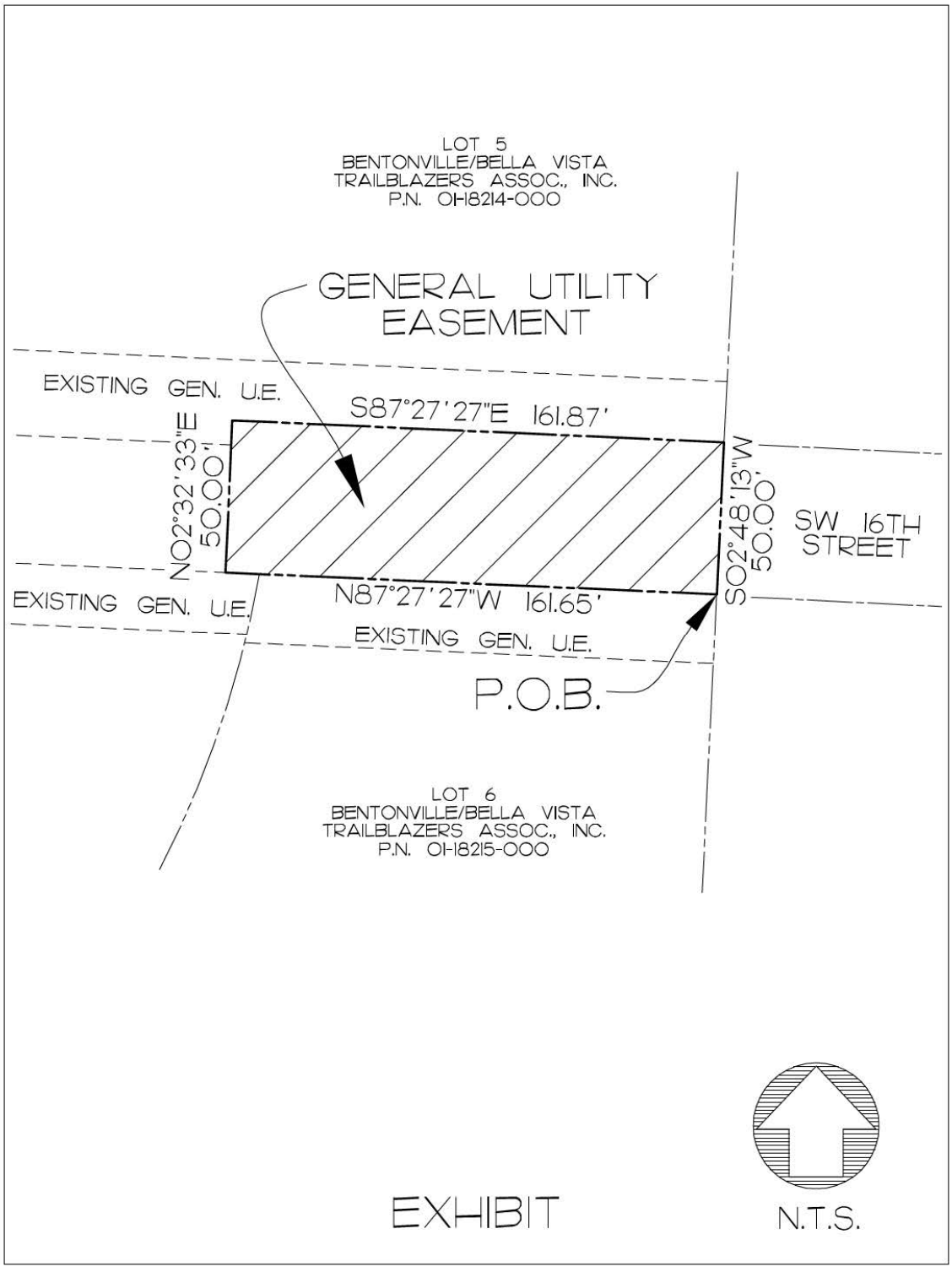
LOT SPLIT OF
LOTS 3 AND 4
CREATING LOTS 5 AND 6
NORTHWEST PRAIRIE ADDITION

BENTONVILLE, BENTON COUNTY, ARKANSAS

JOB #	DRAWN BY:	CHK'D BY:	PAGE
20-074	ASD	RJC	5 OF 5



CERTIFICATE OF RECORD
STATE OF ARKANSAS, COUNTY OF BENTON
I hereby certify that this instrument was
Filed and Recorded in the Official Records
in **Doc Num L202042094**
07/16/2020 08:05:43 AM
Brenda DeShields
BENTON COUNTY Circuit Clerk & Recorder


LOT 5
BENTONVILLE/BELLA VISTA
TRAILBLAZERS ASSOC., INC.
P.N. 01-18214-000
GENERAL UTILITY
EASEMENT
EXISTING GEN. U.E.
S87°27'27"E 161.87'
N02°32'33"E
50.00'
S02°48'13"W
50.00'
SW 16TH
STREET
EXISTING GEN. U.E.
N87°27'27"W 161.65'
EXISTING GEN. U.E.
P.O.B.
LOT 6
BENTONVILLE/BELLA VISTA
TRAILBLAZERS ASSOC., INC.
P.N. 01-18215-000
EXHIBIT
N.T.S.

ORDINANCE NO_____

ORDINANCE VACATING RIGHT OF WAY AND ESTABISHING A UTILITY EASEMENT LOCATED AT LOT 6 OF NORTHWEST PRAIRIE ADDITION TO THE CITY OF BENTONVILLE, ARKANSAS, BENTON COUNTY ARKANSAS.

WHEREAS, a petition was filed by Northwest Trailblazers with the City Council of the City of Bentonville, Arkansas, asking the City Council to vacate Right of way and establish a public utility easement located in the City of Bentonville, Benton County, Arkansas, which portion is more particularly described as follows:

PART OF A 50 FOOT STREET RIGHT-OF-WAY, AND BEING MORE PARTICULARLY DESCRIBED AS:
BEGINNING AT THE NE CORNER OF LOT 6 OF NORTHWEST
PRAIRIE ADDITION, CITY OF BENTONVILLE, BENTON COUNTY,
ARKANSAS, AS SHOWN ON DOCUMENT #L202042094, THENCE
N87 027'27"W 161.65 FEET; THENCE N02032'33"E 50.00 FEET;
THENCE S87 027'27"E 161.87 FEET; THENCE S02048'13"W 50.00 FEET TO THE POINT OF BEGINNING, CONTAINING 8,087.99 SQUARE FEET OR 0.19 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 right of way.

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 right of way subject to the condition that the public utility easement is reserved for the city designated as follows:

PART OF A 50 FOOT STREET RIGHT-OF-WAY, AND BEING MORE PARTICULARLY DESCRIBED AS:
BEGINNING AT THE NE CORNER OF LOT 6 OF NORTHWEST

PRAIRIE ADDITION, CITY OF BENTONVILLE, BENTON COUNTY,
ARKANSAS, AS SHOWN ON DOCUMENT #L202042094, THENCE
N87 027'27"W 161.65 FEET; THENCE N02032'33"E 50.00 FEET;
THENCE S87 027'27"E 161.87 FEET; THENCE S02048'13"W 50.00 FEET TO THE POINT OF BEGINNING, CONTAINING 8,087.99 SQUARE FEET OR 0.19 ACRES, MORE OR LESS.

Section 2: Concurrently, The City of Bentonville Arkansas establishes a permanent utility easement to lay, construct, remove, relay, enlarge, maintain, inspect, repair and operate all municipally owned and franchised/permitted utilities including but not limited to water and sewer line or lines, manholes, sewer force main, fire hydrants, poles, electric lines and other appurtenances thereto, with right of ingress and egress to and from the same, on over, across and under the following described real estate to-wit:

PART OF A 50 FOOT STREET RIGHT-OF-WAY, AND BEING MORE PARTICULARLY DESCRIBED AS:
BEGINNING AT THE NE CORNER OF LOT 6 OF NORTHWEST
PRAIRIE ADDITION, CITY OF BENTONVILLE, BENTON COUNTY,
ARKANSAS, AS SHOWN ON DOCUMENT #L202042094, THENCE
N87 027'27"W 161.65 FEET; THENCE N02032'33"E 50.00 FEET;
THENCE S87 027'27"E 161.87 FEET; THENCE S02048'13"W 50.00 FEET TO THE POINT OF BEGINNING, CONTAINING 8,087.99 SQUARE FEET OR 0.19 ACRES, MORE OR LESS.

Section 3: 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 4: 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 _____, 2021, at a regular meeting of the City Council of the City of Bentonville, Arkansas.

Kirby Romines, City Clerk and Recorder for the City of Bentonville, Arkansas	**STEPHANIE ORMAN, Mayor City of Bentonville, Arkansas**

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Transportation**
Submitted by	**Dennis Birge**
Phone	**(479) 271-5964**

Item Type: ***(Check All That Apply)***

☐ Budget Adjustment	☐ Change Order	☐ Informational	☑ Ordinance	☐ Resolution	☐ Bid Award

Recommendation/Suggested Action ***(Enter recommendation in space below):***

Ordinance allowing the approval of an agreement with Ozark Regional Transit Service in the amount of $144,063.00 to provide transit service to Bentonville citizens in calendar year 2021 and waiving the requirement of competitive bidding.

Estimated Cost	**$144,063**
Is this Item Budgeted?	☑ Yes ☐ No

If no, please explain how item will be funded ***(briefly explain in space below)*** **:**

Waiver of Bid Request

Date of City Council Meeting	**3/9/2021**
Department	**Transportation**
Submitted by	**Dennis Birge**
Phone	**(479) 271-5964**

Vendor	**Ozark Regional Transit**
Total Cost	**$144,063.00**

Description of Purchase *(This should include a detailed description of the type of material, equipment or service that is being requested including make, model, year & options if applicable. Enter details in space below):*

The purchase is a public transit service that will serve the City of Bentonville through ORT with a combination of City funding and Federal grant funding.

Justification *(Enter justification in space below):*

The purchase is a public transit service that is only offered by Ozark Regional Transit in the Northwest Arkansas area. We request the waiver of bid in order to sanction the selection process and to facilitate the contract with Ozark Regional Transit.



To: Mayor Orman, City Council Members and City Clerk
From: Dennis Birge, Transportation Director
Subject: Ozark Regional Transit 2021 Contract
CC Date: March 9, 2021

Staff requests City Council approval of an agreement with Ozark Regional Transit Service, a public transit authority, and requesting a waiver of bid. For the fixed sum of $144,063.00 ORT will provide transit services to Bentonville citizens. These services include a fixed route, ADA Para-Transit service, and Demand Response service for those citizens that are not covered by the ADA Para-Transit service. The term of the agreement is from January 1, 2021 to December 31, 2021.

Staff also requests a waiver from the requirement of competitive bidding since ORT is the only public transit provider in the Northwest Arkansas area.

Thanks for your consideration and please contact me with any questions. I can be reached by phone at 479-271-5964 or email at dbirge@bentonvillear.com.

AGREEMENT FOR TRANSIT SERVICES

WHEREAS, Ozark Regional Transit (ORT), is a public transit authority organized and existing pursuant to A.C.A 14-334-101 et. seq., and;

WHEREAS, the City of Bentonville, Arkansas (City) is a member of said authority; and,

WHEREAS, ORT has been providing public transportation to the citizens of the City; and,

WHEREAS, the City has agreed to provide funding for transit services from its General Fund; and,

WHEREAS, the City is agreeable to such.

NOW, THEREFORE, IT IS AGREED:

1. ORT will continue to provide services to the citizens of the City of Bentonville as has been traditionally provided in the past.
2. For the sum of $144,063.00, ORT will provide services as follows:
    a. Fixed route services within the City.
    b. Associated ADA Para-Transit services.
    c. Available Demand Response services to those citizens that are not covered by the ADA Para-Transit service.
3. It is anticipated that the revenue to fund these activities will be approximately $144,063.00. If the City's share of the state sales tax enacted pursuant to Amendment 91 tax generates more than this amount then any such overage will be retained by the City. If the anticipated revenue is less than $144,063.00 then the City shall pay the difference from other funding sources.
4. The revenue referred to herein shall be remitted in 1 installment. The lump sum shall be due to ORT before May 21, 2021.
5. The term of this Agreement shall be from January 1, 2021 through December 31, 2021; however, said Agreement may be terminated by either party upon sixty (60) days written notice.
6. ORT shall make monthly reports to the City and furnish any and all information request by the City.
7. The term of this Agreement shall be from January 1, 2021, through December 31, 2021. However, it shall renew annually and automatically and include any pay increases approved by the City Council, unless agreed to otherwise by the parties.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the ___2nd_____ day of _____March_____, 20_21_

Ozark Regional Transit

[redacted]

Joel Gardner
Executive Director
Ozark Regional Transit

City of Bentonville, Arkansas

By:_____

Mayor, City of Bentonville, Arkansas

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN AGREEMENT WITH OZARK REGIONAL TRANSIT (ORT) TO PROVIDE PUBLIC TRANSIT SERVICE WITHIN THE CITY OF BENTONVILLE AND WAIVING THE REQUIREMENT OF COMPETITIVE BIDDING.

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

Section 1. That the Mayor and City Clerk should be and are hereby authorized to enter into an agreement with Ozark Regional Transit (ORT) for transit services for a fixed amount not to exceed $144,063.00 as per the agreement attached hereto as Exhibit "A."

Section 2. Because Ozark Regional Transit is the only public transit provider in Northwest Arkansas, it would be neither practical nor feasible to advertise for competitive bidding, and that requirement is herein waived.

PASSED and APPROVED this _____ day of _____, 2021.

APPROVED:

_____
Mayor Stephanie Orman

ATTEST:

_____
Kirby Romines, City Clerk

Agenda Item Form

Date of City Council Meeting	**3/9/2021**
Department	**Finance**
Submitted by	**Jake Harper**
Phone	**479-271-6781**

Item Type: (*Check All That Apply*)

☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☑ Resolution	☐ Bid Award

Recommendation/Suggested Action (*Enter recommendation in space below*):

Resolution authorizing Mayor Stephanie Orman, Jessica Thurman (Assistant Finance Director) and Jake Harper (Director of Finance and Administration) to be named as Responsible Parties in regards to operating brokerage accounts with Arvest Wealth Management. The purpose of the brokerage account will be to allow the receipt and liquation of stock gifts to the City from donors after approval of the gift from City Council. Funds would be transferred to City bank accounts after liquidation. Please see attached letter from Arvest.

Estimated Cost	**$**
Is this Item Budgeted?	☐ Yes ☐ No

If no, please explain how item will be funded (*briefly explain in space below*) **:**

MEMORANDUM

TO: Mayor Orman
City Council

FROM: Jake Harper, Director of Finance and Administration

DATE: March 3, 2020

SUBJECT: Resolution regarding establishing a brokerage account with Arvest Bank

City Staff recommends approval of a resolution that would allow the City to establish a brokerage account with Arvest Bank. This account would be used to accept donations of stock approved by City Council and then immediately liquidate (sale) the stock and transfer the proceeds to City bank accounts.

The City has been approached recently and in the past about stock donations. This resolution would provide the brokerage account necessary to facilitate a gift when and if one occurs. No gift would be accepted without the permission of City Council.

This resolution is similar to the trust account resolution utilized when we hired Arvest as an Investment Advisor. This resolution would name Mayor Orman, Jake Harper and Jessica Thurman as responsible parties to establish the account with Arvest.

The account would have dual control authority and would allow the "responsible parties" to perform the following actions on behalf of the City:

- Establishing, consolidating or terminating accounts for receiving and liquidating donated, publicly traded securities; and
- The account shall not be used for any investment purpose other than the sale of securities.
- Sale proceeds shall be transferred upon settlement to a pre-identified bank account controlled by the City.

March 2, 2021

arvest.com/wealth

TRUST & WEALTH MANAGEMENT | ARVEST

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

Re: Establishing a brokerage account to receive donations of stock in support of the City of Bentonville.

Dear Mayor Orman:

The City of Bentonville desires to establish a brokerage account or accounts with Arvest Wealth Management (AWM) for the purpose of selling securities donated to the City in support of various projects or initiatives. AWM requests the City set up any account by City Resolution which shall be subject to dual control relating to the following actions on behalf of the City:

- Establishing, consolidating or terminating accounts for receiving and liquidating donated, publicly traded securities; and
- The account shall not be used for any investment purpose other than the sale of securities.
- Sale proceeds shall be transferred upon settlement to a preidentified bank account controlled by the City.

The City shall designate by City Resolution the Responsible Parties who will be authorized to perform such actions under dual control.

Arvest Wealth Management will provide the following services:

- Receive donations of securities on behalf of the City;
- Sale of donated securities at the direction of a designated Responsible Party; and
- Transfer funds after settlement of sale to designated City-controlled bank account.

Finally, the fee for this type of account is based on a flat transaction fee basis. Arvest Wealth Management's fee schedule is published online at https://www.arvest.com/pdfs/aam/wealthmanagement-fee-schedule.pdf.

Sincerely,

[redacted]

Hunter Gehring
Client Advisor

[redacted]

Ben McLintock, J.D., LL.M., CFP, CFRE®
Vice President
Senior Wealth Advisor

Mailing address: PO BOX 2389, Bentonville, AR 72712

Investment products and services provided by Arvest Investments, Inc., doing business as Arvest Wealth Management, member FINRA/SIPC, an SEC registered investment adviser and a subsidiary of Arvest Bank. Insurance products made available through Arvest Insurance, Inc., which is registered as an insurance agency. Insurance products are marketed through Arvest Insurance, Inc. but are underwritten by unaffiliated insurance companies. Trust services provided by Arvest Bank.

Investments and Insurance Products: Not a Deposit | Not Guaranteed by the Bank or its Affiliates
Not FDIC Insured | Not Insured by Any Federal Government Agency | May Go Down in Value

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF CERTAIN ACCOUNTS WITH ARVEST BANK AND NAMING RESPONSIBLE PARTIES TO PERFORM ACTIONS ON SAID ACCOUNTS FOR THE CITY OF BENTONVILLE, ARKANSAS.

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

Section 1: That the establishment of accounts with Arvest Bank for the purpose of establishing, consolidating and terminating accounts for receiving and liquidating donated, publicly traded securities should be and the same is hereby authorized.

Section 2: That Jake Harper (Director of Finance and Administration), Jessica Thurman (Assistant Finance Director) and Mayor Stephanie Orman should be and the same are hereby named as responsible parties to perform the following actions on behalf of the City of Bentonville (subject to dual control):

1. Establishing, consolidating or terminating accounts for receiving and liquidating donated, publicly traded securities; and
2. The account shall not be used for any investment purpose other than the sale of securities.
3. Sale proceeds shall be transferred upon settlement to a pre-identified bank account controlled by the City.

Section 3: This resolution shall be in full force and effect from and after the date of its passage.

PASSED and APPROVED this _____ day of _____, 2021.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK